

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

-and-

HORSESHOE VALLEY LANDS LTD.

Respondent

**MOTION RECORD OF THE RECEIVER,
ROSEN GOLDBERG INC.**

December 19, 2016

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I N D E X

Tabs Document

1. Notice of Motion
2. First Report of Rosen Goldberg Inc. dated December 19, 2016
- A Appendix "A" - Receivership Order
- B Appendix "B" - Site Plan
- C Appendix "1" - Confidential Appendix – Grandview Agreement of Purchase and Sale
- D Appendix "2" - Confidential Appendix - First View Offer dated October 26, 2016

Tab 1

Court File No. CV-16-11468-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)**

IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 C. C.43, AS AMENDED

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

HORSESHOE VALLEY LANDS LTD.

Respondent

NOTICE OF MOTION

Rosen Goldberg Inc., in its capacity as receiver and manager (the “**Receiver**”) of Horseshoe Valley Lands Ltd. (the “**Debtor**”) will make a motion before a Judge of the Ontario Superior Court of Justice, Commercial List on the December 22, 2016, at 10:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario, M5G 1E6.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR an order, *inter alia* :

- (a) abridging the time for service of the Notice of Motion and the Motion Record, if necessary, and declaring that this motion is properly returnable on December 22, 2016, and dispensing with further service thereof;
- (b) authorizing the Receiver to disclaim the Agreement of Purchase and Sale dated as of July 6, 2016 entered into by Horseshoe Valley Lands Ltd., as Seller, and Garo

Bostajian (“**Grandview Homes**”), in trust for a company to be incorporated, with respect to 29 Single Family Lots on a residential development site owned by the Debtor (the “**Single Family Lots**”);

- (c) approving the First Report of the Receiver dated December 19, 2016, and the activities of the Receiver described therein;
- (d) sealing the confidential appendices to the Receiver’s Report and the Agreement of Purchase and Sale dated July 6, 2016 between the Debtor and Grandview Homes, attached as Exhibit “A” to the Affidavit of Jim Cooper sworn herein on November 16, 2016; and
- (e) such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE:

- (a) prior to the Receiver’s appointment, the Debtor carried out an extensive marketing program in an effort to sell the Single Family Lots;
- (b) notwithstanding the extensive marketing process, which included contacting numerous well known real estate brokers with experience in residential land sales, the only transaction generated was at a purchase price substantially less than fair market value and substantially below the purchase price contained in an offer to purchase the Single Family Lots submitted to the Debtor by First View Homes (Scarborough) Inc. (“**First View**” and the “**First View Offer**”);
- (c) in light of the results of the extensive marketing process previously conducted by the Debtor, the Receiver is of the view that a further marketing and sale process in respect of the Single Family Lots is unlikely to generate recoveries in excess of the purchase price under the First View Offer;
- (d) the Receiver is of the view that the First View Offer is commercially reasonable and is currently negotiating an agreement with First View in an effort to preserve the First View Offer for the benefit of the estate;

- (e) the Debtor's only secured creditor is in favour of the Receiver's acceptance of the First View Offer and the disclaimer of the Grandview Agreement;
- (f) the confidential appendices to the Receiver's First Report contain commercially sensitive information which could prejudice the stakeholders in the event that the First View Offer fails to close; and
- (g) such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used in support of this motion:

- (a) the First Report of Rosen Goldberg Inc. in its capacity as Receiver of Horseshoe Valley Lands Ltd., and the Appendices thereto; and
- (b) such further and other material as counsel may advise and this Honourable Court may permit.

Date: December 19, 2016

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ROMSPEN INVESTMENT CORPORATION
Applicant

-and-

HORSESHOE VALLEY LANDS LTD.
Respondents

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
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PROCEEDING COMMENCED AT
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Tab 2



ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

HORSESHOE VALLEY LANDS LTD.

Respondent

FIRST REPORT OF ROSEN GOLDBERG INC.

I. INTRODUCTION

1. By Order of the Honourable Mr. Justice Newbould dated November 29, 2016 (the "**Appointment Order**"), Rosen Goldberg Inc. was appointed receiver and manager ("**Receiver**") of all of the assets, undertakings and properties of Horseshoe Valley Lands Ltd. (the "**Debtor**"), acquired for or used in connection with a business carried on by the Debtor. A copy of the Appointment Order is attached as **Appendix "A"**.



II. THE PURPOSES OF THIS REPORT

2. The purposes of this report are to:

- (a) provide background information regarding the Lands (hereinafter defined), the Debtor and its working relationship with Horseshoe Ridge Homes Inc. (“HRH”);
- (b) summarize the Receiver’s activities since its appointment;
- (c) summarize a marketing process carried out by the Debtor, prior to the Receiver’s appointment, to sell 29 single family lots on a residential development site owned by the Debtor in the Township of Oro-Medonte (the “**Single Family Lots**”);
- (d) provide information regarding the Receiver’s negotiations with First View Homes (Scarborough) Inc. (“**First View**”) with respect to the sale of the Single Family Lots.
- (e) subject to the Receiver entering into an agreement of purchase and sale with First View with respect to the sale of the Single Family Lots, recommend that this Honourable Court grant an Order authorizing the Receiver to disclaim an agreement of purchase and sale entered into by the Debtor, prior to the Receiver’s appointment, for the sale of the Single Family Lots to Garo Bostajian, in trust for a company to be incorporated (“**Grandview**” and the “**Grandview APS**”).

III. RESTRICTIONS

3. In preparing this report, the Receiver has relied upon unaudited financial information of the Debtor and has not performed an audit or other verification of such information. The Receiver expresses no opinion or other form of assurance with respect to the financial information presented in this report.



ROSEN GOLDBERG

INSOLVENCY & RESTRUCTURING
IV. BACKGROUND

4. The Debtor's real estate assets, all of which are subject to the Receiver's administration, consist of vacant lands (the "**Lands**") in the Township of Oro-Medonte, in the vicinity of the Horseshoe Valley Resort. The Lands include:

- (a) the Single Family Lots, on the south side of Horseshoe Valley Road;
- (b) 19 townhouse lots on the south side of Horseshoe Valley Road, 9 of which are serviced and 11 of which are unserviced;
- (c) 1 unserviced single family lot on the south side of Horseshoe Valley Road;
- (d) 1 unserviced commercial/institutional lot on the south side of Horseshoe Valley Road;
- (e) 67 acres approved for 789 residential units on the south side of Horseshoe Valley Road;
- (f) 109.9 acres zoned 50% rural agricultural and 50% environmental on the north side of Horseshoe Valley Road;
- (g) 3.91 acres zoned for agricultural uses on the south side of Horseshoe Valley Road;
- (h) 52.75 acres, substantially all of which are zoned for residential development, on the north side of Horseshoe Valley Road;

5. Prior to the Receiver's appointment, the Debtor had been developing the Lands for residential use. A site plan of the Debtor's planned development, as appears on its website, is attached as **Appendix "B"**.

6. The Appointment Order was granted upon the application of Romspen Investment Corporation ("**Romspen**"), the Debtor's only secured creditor, who was owed in excess of \$23 million. The Receiver has obtained an opinion from its independent counsel which, subject to



ROSEN GOLDBERG

INSOLVENCY & RESTRUCTURING

the customary qualifications, confirms that Romspen holds valid and enforceable security over all of the Debtor's real and personal property.

V. RECEIVER'S ACTIVITIES

7. Since its appointment, the Receiver's activities have included:
 - (a) taking possession of the Lands;
 - (b) reviewing financial and other information regarding the Debtor's business;
 - (c) meeting with principals of the Debtor;
 - (d) meetings with consultants regarding development activities;
 - (e) communicating with engineers, planners and other consultants regarding the development process;
 - (f) preparing of the statutory receiver's report;
 - (g) dealing with creditors;
 - (h) arranging Receiver's borrowings;
 - (i) communicating with interested parties;
 - (j) reviewing materials regarding ongoing litigation involving the Debtor; and
 - (k) consulting with counsel, as required.



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ROSEN GOLDBERG
INSOLVENT & RESTRUCTURING

VI. HORSESHOE RIDGE HOMES INC.

8. HRH is a company affiliated with the Debtor which was incorporated for the purpose of building homes on the Lands.
9. HRH is registered with Tarion Home Warranty Corporation (“**Tarion**”) and has provided a deposit of \$860,000 to Tarion to secure its obligations to Tarion in respect to prior construction of homes upon the Lands. The Receiver has been advised that Tarion is in the process of deregistering HRH.
10. Prior to the Receiver’s appointment, the Debtor was undertaking a program to remedy deficiencies in homes constructed by HRH for the purpose of securing the release of the deposit funds held by Tarion. The Receiver intends to continue with those remediation efforts.
11. The Receiver understands that pursuant to an agreement between the Debtor and HRH, the Debtor granted HRH exclusive rights to build and sell homes on the Lands, and upon the sale of each home, HRH agreed to pay the net sale proceeds, after payment of construction loans owing by HRH, to the Debtor.
12. HRH entered into preconstruction agreements of purchase and sale in the spring of 2015 in respect to 19 townhomes on the Lands. Based upon the Receiver’s preliminary analysis, it would appear that the sale prices under each of the 19 agreements of purchase and sale entered into by HRH would, if completed, yield a loss of more than \$100,000 per unit. The Receiver understands that some of the purchasers under these 19 agreements intend to repudiate their obligations under their agreements of purchase and sale. The Receiver further understands that the deposits paid by the purchasers of the townhomes under their agreements of purchase and sale may be segregated in a separate account of HRH.
13. HRH constructed two (2) custom homes on the Lands, which are complete, subject to deficiencies being remedied. The Receiver understands that the sales of both homes have closed, and the purchasers are in possession. The Receiver further understands that there is approximately \$200,000 owing to HRH by the purchasers on account of the purchase prices



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ROSEN GOLDBERG

INSOLVENCY AND RESTRUCTURING

payable by them. It would appear that the purchasers have withheld payment due to uncertainty surrounding the Debtor's financial position and the Debtor's connection to HRH.

14. In addition, the Receiver understands that certain construction trades claim to have outstanding accounts owing by HRH, although no construction liens have been registered against the Lands.

VI. PRE-RECEIVERSHIP MARKETING PROCESS RELATING TO SINGLE FAMILY LOTS

15. Based on the Receiver's communications with Jim Cooper, the Debtor's President and one of its principals, commencing in late August 2015 and continuing through the summer of 2016, the Debtor engaged in an extensive marketing process to sell the Single Family Lots. In connection with that marketing process, the Debtor approached numerous real estate brokers with experience in residential land sales, both in Oro-Medonte, as well as in the GTA, including brokers with CBRE, Devencore Realty, Sutton Group, Royal Le Page, Hassey Realty and Eleven Eleven Realty.

16. According to Mr. Cooper, through those brokers, 26 different builders were contacted, including, Tribute Homes, Sedona Homes, Far Sight Homes, Treasure Hill Homes, Losani Homes, Starwood Homes, IVest Property, London Property, Minto, Vanguard Realty, Brookfield Homes, Genstar, Mattamy Homes, Paramount Equity, Grandview, Baycrest, First View, Sean Homes, Mason Homes, Stonegate, Lancaster, San Diego Homes, Democrat, Mountain View Homes and Watson Group.

17. In July of 2016, Mr. Cooper, on behalf of HRH, and Grandview entered into the Grandview APS, a copy of which is attached as **Confidential Appendix 1**. Although the Grandview APS (unredacted) was previously filed in these proceedings in an Affidavit Mr. Cooper swore on November 16, 2016, the Receiver is of the view that the Grandview APS should be sealed in order to avoid suppressing realizations.

18. Based on its review of the affidavits exchanged between Romspen and the Debtor prior to the Receiver's appointment, and the Receiver's discussions with Mr. Cooper, it would appear



ROSEN GOLDBERG

INSOLVENCY & RESTRUCTURING

that Mr. Cooper executed the Grandview APS on behalf of the Debtor in the hope that Romspen would forbear from taking further enforcement proceedings under its security.

19. On October 26, 2016, First View submitted an offer to the Debtor to purchase the Single Family Lots (the “**First View Offer**”) at a purchase price which is materially higher than the purchase price under the Grandview Agreement. A copy of the First View Offer dated October 26, 2016 is attached as **Confidential Appendix 2**.

VI. FIRST VIEW

20. In view of the extensive marketing process previously carried out by the Debtor, the Receiver believes that it is unlikely that any further marketing of the Single Family Lots will generate recoveries in excess of the purchase price under the First View Offer.

21. In addition, Romspen, the Debtor’s only secured creditor, is in favour of a sale of the Single Family Lots by the Receiver at the price offered under the First View Offer.

22. Accordingly, the Receiver is in the process of negotiating a transaction for the sale of the Single Family Lots to First View, subject to approval by this Honourable Court. Should the Receiver enter into an agreement with First View prior to the hearing of Romspen’s application to extend Rosen Goldberg Inc.’s appointment as receiver of the assets of HRH, the Receiver will file a Supplementary Report.

VII. CONFIDENTIAL APPENDICES

23. The Receiver seeks an Order sealing the Confidential Appendices, as the information contained in the Confidential Appendices is commercially sensitive information, which if disclosed prior to completion of a sale of the Single Family Lots, may prejudice realizations.

VIII. CONCLUSION AND RECOMMENDATION

24. Based on the foregoing, the Receiver respectfully recommends that the Court make an Order approving the Receiver’s First Report and the activities of the Receiver described herein.



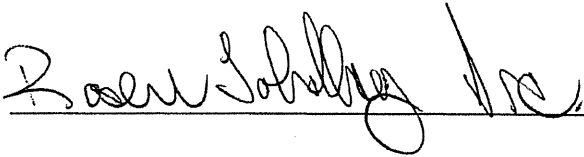
ROSEN GOLDBERG

INSOLVENCY & RESTRUCTURING

All of which is respectfully submitted,

Dated at Toronto, Ontario, this 19th day of December 2016.

**ROSEN GOLDBERG INC., SOLELY IN ITS CAPACITY AS
COURT-APPOINTED RECEIVER AND MANAGER OF
HORSESHOE VALLEY LANDS LTD**



Tab A

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) TUESDAY, THE 29TH
JUSTICE *NEUBOLD*)
) DAY OF NOVEMBER, 2016
)

BETWEEN:

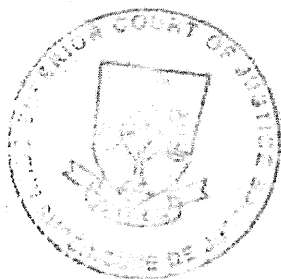
ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

HORSESHOE VALLEY LANDS LTD.

Respondent



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

**ORDER
(appointing Receiver)**

THIS MOTION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing Rosen Goldberg Inc. as receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of Horseshoe Valley Lands Ltd. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Mark Hilson sworn July 22, 2016 (the "**First Hilson Affidavit**") and the Exhibits thereto, the supplementary affidavit of Mark Hilson sworn November 15, 2016 (the "**Second Hilson Affidavit**") and the Exhibits thereto, including the

- 2 -

consent to the within application executed by the Debtor's lawyer, as set out at Exhibit "A" to the Second Hilson Affidavit, the affidavit of Jim Cooper sworn November 16, 2016 and the exhibits thereto, the Affidavit of Bill Ulicki sworn November 21, 2016 and the exhibits thereto, and the affidavit of Paul Grespan sworn November 25, 2016, and the exhibit thereto, and on hearing the submissions of counsel for the Applicant, counsel for the Debtor, and counsel for Lotco Limited, no one else appearing for any other person on the service list, although properly served with the Supplementary Application Record as appears from the affidavit of Patricia Keane sworn November 15, 2016, filed, and the Second Supplementary Application Record as appears from the affidavit of Patricia Keane sworn November 25, 2016, and on reading the consent of Rosen Goldberg Inc. to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application, the Application Record dated July 22, 2016, and the Supplementary Application Record dated November 15, 2016 is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Rosen Goldberg Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- 3 -

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;

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- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to make an assignment into bankruptcy on behalf of the Debtor;
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and,
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;

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- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate

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access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

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CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in

respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (collectively, the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or

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anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

18. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

24. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service->

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protocol/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL http://www.rosengoldberg.com/company-files.php?company_id=30.

25. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

26. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.


28. 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.

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29. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

30. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

31. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



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

NOV 29 2016

PER / PAR: 

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number ___-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20__.

[RECEIVER'S NAME], solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

ROMSPEN INVESTMENT CORPORATION
Applicant

- and -

Court File No. CV-16-11468-00CL
HORSESHOE VALLEY LANDS LTD.
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER
(appointing receiver)

BLANEY MCMURTRY LLP
Barristers & Solicitors
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Toronto ON M5C 3G5

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Lawyers for the Applicant

Tab B



Horseshoe Ridge - HOMES -

Site Plan

Highlands
Golf Course

Existing
Residential

Existing
Residential

Highlands
Golf Course

Homes at
Landscape
Ridge

towns.
Landscape Ridge
PHASE 2

Homes at
Landscape
Ridge

towns.
Landscape Ridge
PHASE 1
SOLD OUT

Future
Residential

Future
Residential

Future
Residential

towns.
Landscape Ridge
PHASE 2

Future
Residential

Highlands
Golf Course

BOVILLE
COURT

ESTATES

PONY TAIL
COURT

SOLD
SOLD
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SOLD

HILTON NORTH

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LANDSCAPE DRIVE

HORSESHOE RIDGE WAY

LANDSCAPE DRIVE

CRANFORD AVENUE

Tab C

**Confidential Appendix 1 – omitted
Sealed at Receiver's request.**

Tab D

**Confidential Appendix 2 – omitted
Sealed at Receiver's request.**

ROMSPEN INVESTMENT CORPORATION
Applicant

-and-
Respondents

HORSESHOE VALLEY LANDS LTD.

Court File No. CV-16-11468-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

DICKINSON WRIGHT LLP

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199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario, M5L 1G4

DAVID P. PREGER (36870L)

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LISA S. CORNE (27974M)

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Lawyers for the Receiver