



ROSEN GOLDBERG
BANKRUPTCY AND INSOLVENCY

File No. CV-21-00660056-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

BETWEEN:

**DORR CAPITAL CORPORATION,
COMMUNITY TRUST COMPANY and
2098535 ALBERTA LTD.**

Applicants

-and-

MILL STREET VENTURES GP LTD.

Respondent

APPLICATION UNDER Section 47 of the *Bankruptcy and Insolvency Act*
R.S.C.1985 c. B-3, as amended

THIRD REPORT OF ROSEN GOLDBERG INC.

August 6, 2021

I INTRODUCTION

1. By Order of the Honourable Mr. Justice Pattillo dated April 20, 2021 (the “**Appointment Order**”), Rosen Goldberg Inc. was appointed as non-possessory interim receiver (in such capacity, the “**Interim Receiver**”) of certain real property of the Respondent municipally known as 305 Mill Street, in Angus, Ontario (the “**Real Property**”) pursuant to section 47 of the *Bankruptcy and Insolvency Act* (the “**BIA**”). A copy of the Appointment Order is attached as **Appendix “A”**.



II TERMS OF REFERENCE

2. In preparing this Third Report, the Interim Receiver has relied upon information from third party sources (collectively, the “**Information**”). Certain information contained in this Third Report may refer to, or be based on, the Information. As the Information has been provided by other parties, or obtained from documents filed with the Court in this matter, the Interim Receiver has relied on this Information, and to the extent possible reviewed the Information for reasonableness. However, the Interim Receiver has not audited or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Interim Receiver expresses no opinion or other form of assurance in respect of the Information.

III PURPOSE OF THIS REPORT

3. The purpose of this Third Report is to:
 - (a) provide the Court with information on the current status of the Real Property;
 - (b) report on and seek approval of the Interim Receiver’s activities, and its proposed activities; and
 - (c) seek approval of the Interim Receiver’s interim statement of receipts and disbursements.

IV BACKGROUND

4. The Real Property comprises a 5.3 acre lot located on a main thoroughfare in the



- neighbourhood of Angus in the Township of Essa.
5. The land is partially improved, and is being developed into a 45,600 square foot mixed-use office and retail plaza.
 6. At the date of the Interim Receiver's appointment, the first phase of construction ("**Phase 1**"), being construction of a gas station, convenience store, and three other fully leased buildings, was nearly complete. Of the three leased buildings, one is to be occupied by Starbucks and Mucho Burrito restaurants. The other two buildings are to be occupied as standalone KFC and A&W restaurants. As of the date of the Interim Receiver's appointment, construction of Phase 1 was nearly complete, though the gas station required more work to complete than the other three buildings.
 7. The second phase of construction ("**Phase 2**") is not yet fully planned, though work has commenced. Completed improvements in respect of Phase 2 are limited to certain internal servicing, including storm-water receptors, sanitary pipes, and fire hydrants. We understand planners and consultants have been retained in respect of seeking site plan approval.
 8. The Interim Receiver's appointment was sought, in part, given that construction on Phase 1 had been halted because DUCA Financial Services Credit Union Ltd. ("**DUCA**"), the first-ranking secured creditor, had ceased funding under its construction loan, and made demand in for repayment in full of that loan.
 9. The Interim Receiver's primary mandate in this administration is to ensure that construction of Phase 1 resumes and is completed, although the Appointment Order prohibits the Interim Receiver from taking possession of the Real Property without further Order of this Honourable Court.



10. Pursuant to the endorsement of the Honourable Mr. Justice Pattillo dated June 28, 2021, the Interim Receiver was to return to this Honourable Court on August 9, 2021, to provide a further status update at a Chambers' Appointment scheduled for 2:00 p.m.

V INTERIM RECEIVER'S ACTIVITIES TO DATE

11. Since the date of its last report dated June 24, 2021, the Interim Receiver has undertaken the following activities:
 - Reviewing and processing payment requests;
 - Dealing with contactors and other suppliers on an ongoing basis;
 - Attendance at site on several occasions;
 - Dealing with PetroMaxx Petroleum Contractors Ltd., the project manager and supervisor, on an ongoing basis in respect of all matters relating to the Phase 1 construction;
 - Dealing with water and sanitary contractors retained to complete Phase 1 connections to the municipal water and sanitary main lines;
 - Communication with construction professional retained by the Interim Receiver;
 - Communications with project engineer;
 - Ongoing consultations with legal counsel;
 - Ongoing communications with the Real Property's first and second-ranking secured lenders;
 - Ongoing communications with the Interim Receiver's lender;
 - Communicating with other stakeholders; and
 - Dealing with banking and bookkeeping.



VI PHASE 1 CONSTRUCTION

Site Services

12. As reported in the Interim Receiver's first report dated May 11, 2021 (the "**First Report**") and the second report dated June 24, 2021 (the "**Second Report**"), the installation of a sanitary pumping station and a water main were required be undertaken immediately in order to progress with the completion of Phase 1. Copies of the First Report and Second Report are attached hereto as **Appendix "B"** and **Appendix "C"**, respectively. The water main installation has been completed, however, as a result of certain delays experienced by the water main and sanitary contractor, the water main has yet to be connected to the town water supply. We understand that a new water main and sanitary contractor has been retained to complete the work that was not completed by the original contractor. It is anticipated that the water main connections and chlorination will be completed by the end of the second week of August 2021.
13. Surface works, including installing granular base, curbs, sidewalks and the asphalt surface, are in the process of being completed. It is anticipated that the work will be completed by the end of the fourth week of August 2021. This timeline is dependent on the result of engineering reviews that are currently being finalized to confirm that the civil work and services were constructed according to the approved engineering design. The delay in the completion of the surface works is attributable to delays in the installation and connection of the water main and sanitary pumping station, and engineer review of the topographical study taking longer than initially anticipated.
14. The connection/testing/commissioning of the water system and sanitary pump station, and the completion of the surface works, are required to obtain the requisite occupancy permits



for the site so that the tenants can begin operations. As noted previously, the surface works are anticipated to be completed by the end of the fourth week of August, with a target to obtain occupancy permits of the week of August 30, 2021. We are advised that the engineer from the Township of Essa has been on site, and that the required approvals can be issued in a timely manner once the works are completed to meet this schedule.

Restaurant Buildings

15. We understand that KFC, A&W and Starbucks have completed the interior work in their respective buildings and will commence commissioning of their equipment upon completion of the water and sanitary connections.
16. We further understand that Mucho Burrito has yet to commence its tenant improvements. We are advised that a matter related to an amendment to the Mucho Burrito lease has yet to be finalized, but that Mucho Burrito does intend to commence improvements once the matter is resolved.

Gas Station and Convenience Store

17. The exterior of the convenience store is mostly complete. Construction of the interior work has not yet commenced. The curbs and sidewalks must be completed. The remaining construction related to the gas station and installation of the equipment is unlikely to be completed until there is an agreement with a fuel supplier in place.

Completion of Phase 1 work

18. On the basis of the work that has been completed since the Interim Receiver's appointment, and the expected work schedule, the Interim Receiver understands that all Phase 1 work will



be completed by the end of the fourth week of August 2021, with occupancy permits to be issued during the week of August 30.

19. We do not believe that we have sufficient funds to complete the gas station.

VII INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

20. The Interim Receiver's statement of receipts and disbursements for the period from April 20, 2021 to August 5, 2021 is attached as **Appendix "D"**.

VIII FURTHER ACTIONS OF THE INTERIM RECEIVER

21. The Interim Receiver will continue to attend at the construction site as required to monitor construction activities and deal with suppliers and other stakeholders on an ongoing basis.

IX RECOMMENDATION

22. As described above, there is still work required to complete Phase 1. For this reason, the Interim Receiver respectfully requests that the Court make an Order:
 - (a) approving the Interim Receiver's actions as described in this Third Report;
 - (b) approving the Interim Receiver's statement of receipts and disbursements for the period from April 20, 2021 to August 5, 2021; and
 - (c) for such further and other relief as counsel may advise and this Court may permit.

All of which is respectfully submitted.



ROSEN GOLDBERG

ADVISORS & FINANCIAL PLANNERS

Dated at Toronto, Ontario, this 6th day of August 2021.

**ROSEN GOLDBERG INC., SOLELY IN ITS CAPACITY AS
COURT-APPOINTED NON-POSSESSORY INTERIM RECEIVER OF
CERTAIN REAL PROPERTY OF MILL STREET VENTURES GP LTD.;
NOT IN A PERSONAL OR CORPORATE CAPACITY**


