

No. VLC-S-S-231065
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

PEAKHILL CAPITAL INC.

PETITIONER

AND:

SOUTHVIEW GARDENS LIMITED PARTNERSHIP, SOUTHVIEW GARDENS BT LTD.,
SOUTHVIEW GARDENS PROPERTIES LTD., ZHEN YU ZHONG, JUNCHAO MO,
COROMANDEL PROPERTIES (2016) LTD., BAYSHORE PROPERTIES (2016) LTD., AND
COROMANDEL HOLDINGS LTD.

RESPONDENTS

ORDER MADE AFTER APPLICATION

APPROVAL AND VESTING ORDER

BEFORE THE HONOURABLE)
JUSTICE LOO) 25/August/2023
)

ON THE APPLICATION of KSV Restructuring Inc., in its capacity as Court-appointed receiver (in such capacity, the “**Receiver**”) of all assets, undertakings, and businesses of Southview Gardens BT Ltd. (the “**Nominee**”), Southview Gardens Limited Partnership (the “**LP**”), and Southview Gardens Properties Ltd. (the “**GP**”, and together with the Nominee and the LP, the “**Debtors**”) as they relate to the land legally described as Lot 14, District Lot 334, Plan 13993, PID 007-982-160 and the buildings thereon, including proceeds thereof, coming on for hearing on the 13th day of July, 2023 and the 4th day of August, 2023; **AND UPON HEARING** Vicki Tickle, counsel for the Receiver, and those other counsel and parties listed on **Schedule “A”** hereto; **AND UPON READING** the material filed, including the Second Report of the Receiver (the “**Second Report**”), the confidential supplement to the Second Report (the “**Confidential Supplement**”), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court; *AND JUDGMENT BEING RESERVED TO THIS DATE;*

THIS COURT ORDERS AND DECLARES THAT:

DEFINITIONS

1. Capitalized terms used but not otherwise defined in this Order have the meaning given to them in the Agreement of Purchase and Sale dated for reference June 14, 2023 between the Receiver and Cenyard Southview Gardens Ltd., a copy of which is attached as Appendix “B” to the Second Report, as amended by the Amendment to Agreement of Purchase and Sale dated for reference July 13, 2023, a copy of which is attached hereto as **Schedule “B”** (as amended, the “**Sale Agreement**”), which was subsequently assigned to Cenyard Investments Ltd. (the “**Purchaser**”) by way of an Assignment of Agreement of Purchase and Sale dated effective September 1, 2023.

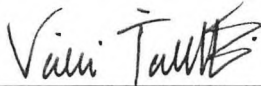
APPROVAL OF THE TRANSACTION

2. The sale transaction (the “**Transaction**”) contemplated by the Sale Agreement is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such amendments as the Receiver and the Purchaser may agree to. 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 to the Purchaser of the Purchased Assets.
3. Upon delivery by the Receiver to the Purchaser of a certificate substantially in the form attached as **Schedule “C”** hereto (the “**Receiver’s Certificate**”), all of the right, title and interest of the LP and the GP in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser in fee simple, 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 Order of this Court dated February 16, 2023; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (iii) those Claims listed on **Schedule “D”** 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 “E”** hereto), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.
4. Upon presentation for registration in the Land Title Office for the Land Title District of Vancouver of a certified copy of this Order, together with a letter from Cassels Brock & Blackwell LLP, solicitors for the Receiver, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed, having considered the interest of third parties, to discharge, release, delete and expunge from title to the Lands all of the registered Encumbrances except for those listed in **Schedule “E”**.

5. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver's Certificate all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.
6. The Receiver is directed to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof to the Purchaser.
7. Pursuant to Section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* or Section 18(10)(o) of the *Personal Information Protection Act* of British Columbia, the Receiver is hereby authorized and permitted to disclose and transfer to the Purchaser: (i) all human resources and payroll information in the company's records pertaining to the Debtors' past and current employees; and (ii) all personal and banking information in the Debtors' records pertaining to Tenants in relation to the Leases and the Accounts Receivable. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtors.
8. Subject to the terms of the Sale Agreement, possession of the Purchased Assets, including any real property (subject to the Leases), shall be delivered by the Receiver to the Purchaser at 12:00 noon on the Closing Date (as defined in the Sale Agreement), subject to the permitted encumbrances as set out in the Sale Agreement and listed on **Schedule "E"**.
9. The Receiver, with the consent of the Purchaser, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court.
10. Notwithstanding:
 - (a) these proceedings;
 - (b) any applications for a bankruptcy order in respect of the Debtors or any of them now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made by or in respect of the Debtors or any of them,the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* 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.

11. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, 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.
12. The Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.
13. Endorsement of this Order by counsel appearing on this application, other than counsel for the Receiver, is hereby dispensed with.

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 Vicki Tickle
Lawyer for the Receiver

BY THE COURT



REGISTRAR

Schedule "A"

(List of Counsel)

Counsel name/litigant	Party represented
Jordan Schultz/Emma Newbery	Cenyard Pacific Developments Inc.
Alexis Teasdale	Cenyard Southview Gardens Ltd.
Owen James/Ray Power	His Majesty the King in Right of the Province of British Columbia
Elie Laskin	Peakhill Capital Inc.

Schedule "B"

**Amendment to Agreement of Purchase and Sale
dated for reference July 13, 2023**

AMENDMENT TO AGREEMENT OF PURCHASE AND SALE

THIS AMENDMENT (this “**Agreement**”) dated for reference the 13th day of July 2023

BETWEEN:

KSV RESTRUCTURING INC., in its capacity as Court-appointed receiver and manager of the Receivership Property

(the “**Receiver**”)

-and-

CENYARD SOUTHVIEW GARDENS LTD.

(the “**Purchaser**”, and together with the Receiver, the “**Parties**”)

WHEREAS:

- A. On March 23, 2023, the Court pronounced an Order authorizing and directing the Receiver to carry out a sale process for the solicitation of offers to purchase all or substantially all of the Receivership Property.
- B. On June 14, 2023, the Parties entered into an Agreement of Purchase and Sale (the “**RVO Sale Agreement**”).
- C. By Order dated July 13, 2023, the Court approved the transaction contemplated by the Agreement of Purchase and Sale dated June 14, 2023 between the parties, as amended by an Amendment to Agreement of Purchase and Sale dated for reference July 13, 2023, subject only to judicial determination on or after August 4, 2023 that the transaction (the “**Transaction**”) contemplated by the RVO Sale Agreement, as amended by this Agreement, be approved.
- D. The Parties have agreed to amend the RVO Sale Agreement to reflect the provisions of the Alternative AVO on the terms and conditions set out herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in the Sale Agreement and this Agreement, including the Purchase Price and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

**Article 1
INTERPRETATION**

- 1.1 All capitalized terms used and not otherwise defined herein shall have the meanings given to them in the RVO Sale Agreement.

**Article 2
AMENDMENTS**

- 2.1 The Sale Agreement is hereby amended as follows:

- (a) The following definition of “**Alternative AVO**” is inserted into Section 1.1, after the definition of “**Agreement**”):

““**Alternative AVO**” means the approval and vesting Order granted by the Court on July 13, 2023;”

- (b) The definition of “**Closing Date**” is deleted in its entirety and replaced with the following:

““**Closing Date**” means September 12, 2023, being the date that is the first Business Day following the date that is 60 days following the date on which the Alternative AVO was granted by the Court, or such other date as may be agreed in writing by the Parties.”

- (c) Section 3.2(b)(ii) is deleted in its entirety and replaced with the following:

“(ii) [Intentionally Deleted];”

Article 3 GENERAL

3.1 Sale Agreement

Except as expressly provided herein, all of the terms and provisions of the Sale Agreement are and shall remain in full force and effect.

3.2 Applicable Law

This Agreement shall be construed and enforced in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein;

3.3 Time of the Essence

Time shall be of the essence of this Agreement.

3.4 Further Assurances

Each of the Parties shall from time-to-time hereafter and upon any reasonable request of the other, execute and deliver, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

3.5 Successors and Assigns

This Agreement shall be binding on the Parties and their respective heirs, executors, successors and permitted assigns.

3.6 Counterparts; Electronic Transmission

- 3.7 This Agreement may be executed in any number of counterparts, all of which taken together shall be deemed to constitute one and the same agreement. The Parties agree that this Agreement may be transmitted by electronic transmission via email and that the reproduction of signatures by way of electronic transmission via email will be treated as

though such reproduction were executed originals and each Party undertakes to provide the other with a copy of this Agreement bearing original signatures within a reasonable time after the date of execution.

[Signature page follows]

IN WITNESS WHEREOF the Parties thereto have executed this Agreement under seal as evidenced by their properly authorized officers in that behalf as of the day and year first above written.

CENYARD SOUTHVIEW GARDENS LTD.

Per: 

Name: Xintai Liu
Title: Director

I have the authority to bind the corporation

KSV RESTRUCTURING INC., solely in its capacity as the Receiver and not in its personal or corporate capacity

Per: _____
Name:
Title:

I have the authority to bind the corporation

IN WITNESS WHEREOF the Parties thereto have executed this Agreement under seal as evidenced by their properly authorized officers in that behalf as of the day and year first above written.

CENYARD SOUTHVIEW GARDENS LTD.

Per: _____
Name: Xintai Liu
Title: Director

I have the authority to bind the corporation

KSV RESTRUCTURING INC., solely in its capacity as the Receiver and not in its personal or corporate capacity

Per: _____
Name: Noah Goldstein
Title: Managing Director

I have the authority to bind the corporation

Schedule “C”

**No. VLC-S-S-231065
Vancouver Registry**

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

PEAKHILL CAPITAL INC.

PETITIONER

AND:

SOUTHVIEW GARDENS LIMITED PARTNERSHIP, SOUTHVIEW GARDENS BT LTD., SOUTHVIEW GARDENS PROPERTIES LTD., ZHEN YU ZHONG, JUNCHAO MO, COROMANDEL PROPERTIES (2016) LTD., BAYSHORE PROPERTIES (2016) LTD., AND COROMANDEL HOLDINGS LTD.

RECEIVER’S CERTIFICATE

A. Pursuant to an Order of the Honourable Justice Loo of the Supreme Court of British Columbia (the “**Court**”) dated February 16, 2023, KSV Restructuring Inc. was appointed as the receiver and manager (in such capacity, the “**Receiver**”) of all the assets, undertakings and businesses of Southview Gardens Limited Partnership (the “**LP**”), Southview Gardens Properties Ltd. (the “**GP**”), and Southview Gardens BT Ltd. as they relate to the land legally described as Lot 14, District Lot 334, Plan 13993, PID 007-982-160 and the buildings thereon (the “**Land**”), together with the Land itself, and including all proceeds thereof;

B. Pursuant to an Order of the Court dated August 25, 2023, the Court, among other things, approved the Agreement of Purchase and Sale dated for reference June 14, 2023 between the Receiver and Cenyard Southview Gardens Ltd., a copy of which is attached as Appendix “B” to the Second Report, as amended by the Amendment to Agreement of Purchase and Sale dated for reference July 13, 2023 (as amended, the “**Sale Agreement**”), which was subsequently assigned to Cenyard Investments Ltd. (the “**Purchaser**”) by way of an Assignment of Agreement of Purchase and Sale dated effective September 1, 2023, and the transactions contemplated thereby, and provided for the vesting in the Purchaser of the right, title and interest in the Purchased Assets of the LP and the GP, which vesting is to be effective with respect to the Purchased Assets upon delivery by the Receiver to the Purchaser of a certificate confirming (i) payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 4 of 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, the capitalized terms have the meanings set out in the Sale Agreement.

THE RECEIVER HEREBY CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing set out in Article 4 of 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 _____ on _____, 2023.

KSV RESTRUCTURING INC., in its capacity as Receiver of Southview Gardens Limited Partnership, Southview Gardens Properties Ltd., and Southview Gardens BT Ltd. as they relate to the Land, together with the Land itself, and the proceeds thereof, and not in its personal capacity.

Per: _____
Name:
Title:

Schedule "D"
Claims to be Deleted/Expunged from Title to the Lands

Land Title Office	
3240, 3260 and 3280 East 58 th Avenue	
PID: 007-982-160	
Registration Number / Charge	Registered Owner
CA7524425 Mortgage	WOODBOURNE CANADA IV GP ULC WB CANADA PARTNERS IV (INT) MF CORP. WB CANADA PARTNERS IV MF, LLC
CA7524426 Assignment of Rents	WOODBOURNE CANADA IV GP ULC WB CANADA PARTNERS IV (INT) MF CORP. WB CANADA PARTNERS IV MF, LLC
CA8598034 Mortgage	PEAKHILL CAPITAL INC.
CA8598035 Assignment of Rents	PEAKHILL CAPITAL INC.
CA8606271 Priority Agreement	PEAKHILL CAPITAL INC.
CA9812473 Mortgage	CENYARD PACIFIC DEVELOPMENTS INC.
CA9812474 Assignment of Rents	CENYARD PACIFIC DEVELOPMENTS INC.
CA9813856 Priority Agreement	CENYARD PACIFIC DEVELOPMENTS INC.
CA9813857 Priority Agreement	CENYARD PACIFIC DEVELOPMENTS INC.

Schedule "E"
Permitted Encumbrances, Easements and
Restrictive Covenants related to the Lands

1. The reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown of any of the Lands and the statutory exceptions to title currently applicable to the Lands;
2. A claim of right, title or jurisdiction which may be made or established by any aboriginal peoples by virtue of their status as aboriginal peoples on or over any Lands;
3. Liens for taxes, assessments, rates, duties, charges or levies not at the time due, which related to obligations or liabilities assumed by the Purchaser;
4. The encumbrances listed below with respect to the Lands:
 - (a) Right of Way 548725M in favor of the City of Vancouver;
 - (b) Easement and Indemnity Agreement 551204M in favour of the City of Vancouver;
 - (c) Right of Way 560698M in favour of British Columbia Hydro and Power Authority transferred to Statutory Right of Way GB111848; and
 - (d) Statutory Right of Way GB111848 in favour of B.C. Gas Inc. and British Columbia Hydro and Power Authority.