

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



THE HONOURABLE)
JUSTICE *HAINES*)

WEDNESDAY THE 16TH
DAY OF NOVEMBER, 2016

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF URBANCORP TORONTO
MANAGEMENT INC., URBANCORP (ST. CLAIR VILLAGE)
INC., URBANCORP (PATRICIA) INC., URBANCORP
(MALLOW) INC., URBANCORP (LAWRENCE) INC.,
URBANCORP DOWNSVIEW PARK DEVELOPMENT INC.,
URBANCORP (952 QUEEN WEST) INC., KING
RESIDENTIAL INC., URBANCORP 60 ST. CLAIR INC.,
HIGH RES. INC., BRIDGE ON KING INC. (Collectively the
"Applicants") AND THE AFFILIATED ENTITIES LISTED IN
SCHEDULE "A" HERETO

**APPROVAL AND VESTING ORDER
[Urbancorp (Lawrence) Inc.]**

THIS MOTION, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), for an order, *inter alia*, approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale between Urbancorp (Lawrence) Inc. ("**UC Lawrence**") and Fernbrook Homes Limited, In Trust for a company to be incorporated and without personal liability ("**Fernbrook**") dated August 16, 2016, as assigned by Fernbrook to, and assumed by, Fernbrook Homes (Lawrence) Limited (the "**Purchaser**"), and as reinstated and amended by a Reinstatement and Amending Agreement between UC Lawrence and the Purchaser made as of November 11, 2016 (as amended

and reinstated, the “**Sale Agreement**”), and appended as a Confidential Appendix to the Ninth Report of KSV Kofman Inc., the Applicants’ Court-appointed Monitor (“**KSV**” or the “**Monitor**”), dated November 11, 2016 (the “**Ninth Report**”), and vesting the purchased assets as described in the Sale Agreement and in Schedule “**B**” hereto (the “**Purchased Assets**”) in the Purchaser, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Ninth Report and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, and those other parties listed on the counsel slip, no one else appearing for any other person although duly served as appears from the affidavit of service of Danny Nunes sworn November 14, 2016, filed.

1. **THIS COURT ORDERS** that the time for service of the Applicants’ Notice of Motion and Motion Record in respect of this motion be and it is hereby abridged and that the motion is properly returnable today and that the service of the Notice of Motion and Motion Record herein as effected by the Applicants is hereby validated in all respects and this Court 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 Monitor on behalf of UC Lawrence is hereby authorized and approved, with such minor amendments as the Monitor may deem necessary. The Monitor on behalf of UC Lawrence 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 Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor’s certificate to the Purchaser substantially in the form attached as Schedule “**C**” hereto (the “**Monitor’s Certificate**”), the Purchased Assets shall vest absolutely in the Purchaser, free and clear of and from: (i) any encumbrance, lien, charge, hypothec, pledge, mortgage, title retention agreement, security interest of any nature, adverse claim, exception, reservation, easement, encroachment, servitude, restriction on use, any matter capable of registration against title, option, right of first offer or refusal or similar right, restriction on voting (in the case of any voting or equity interest), right of pre-emption or privilege or any contract creating any of the foregoing (collectively, “**Encumbrances**”) listed on Schedule “**D**” hereto (the “**Expunged Encumbrances**”),

which term shall not include the permitted Encumbrances described on Schedule “E” hereto (“**Permitted Encumbrances**”); (ii) all court ordered charges in these proceedings; and (iii) any right of occupation or right of possession of the Property and, for greater certainty, this Court orders that all of the Expunged Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

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* and/or the *Land Registration Reform Act* with respect to the real property which is identified in Schedule “B” hereto (the "**Property**"), the Land Registrar is hereby directed to enter the Purchaser as the owner of the Property in fee simple, and is hereby directed to delete and expunge from title to the Property all of the Expunged Encumbrances listed in Schedule “D” hereto.

5. **THIS COURT ORDERS** that the Monitor or the Purchaser with the prior written consent of the Monitor shall be authorized to take all steps as may be necessary to effect the discharge of the Expunged Encumbrances.

6. **THIS COURT ORDERS** that, without in any way limiting the efficacy of paragraph 3 of this Order, the Purchaser shall not assume or be deemed to have assumed any obligations in respect of or pursuant to the Excluded Assets (as defined in the Sale Agreement, being the right, title and interest of UC Lawrence in and to all leases, licenses, agreements or contracts affecting the Property and any agreements of purchase and sale entered into by UC Lawrence with respect to the Property or any dwellings or structures to be constructed on the Property), no rights in respect of or pursuant to any Excluded Assets are or have been assigned to the Purchaser, all Excluded Assets are hereby terminated in all respects as against the Property and the Purchaser, and no party to any Excluded Asset shall have any right, interest or claim thereunder as against the Property or the Purchaser. For greater certainty, this Court orders that any and all claims against the Property or the Purchaser from any purchasers of dwellings or other structures to be constructed on the Property by UC Lawrence or any other party be and are hereby terminated.

7. **THIS COURT ORDERS** that 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 that from and after the delivery of the Monitor's Certificate all Expunged Encumbrances 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 that possession or control immediately prior to the sale.

8. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

9. **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 UC Lawrence and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of UC Lawrence;

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 UC Lawrence and shall not be void or voidable by creditors of UC Lawrence, 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.

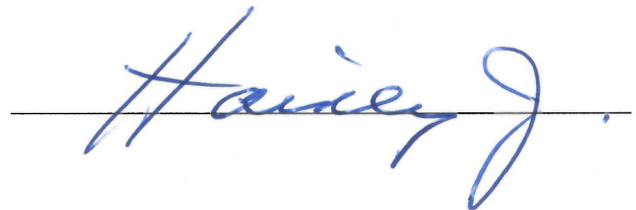
10. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

11. **THIS COURT ORDERS** that the Monitor or the Purchaser with the prior written consent of the Monitor shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.

12. **THIS COURT ORDERS** that the Confidential Appendices to the Ninth Report be kept confidential and under seal pending closing of the Transaction.

13. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or Israel to give effect to this Order and to assist the Urbancorp CCAA Entities, the Monitor and their respective 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 Urbancorp CCAA Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Urbancorp CCAA Entities and the Monitor and their respective agents in carrying out the terms of this Order.

14. **THIS COURT ORDERS** that each of the Urbancorp CCAA Entities and the Monitor shall be at liberty and are 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.



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

NOV 16 2016

PER / PAR:



SCHEDULE "A"

List of Non Applicant Affiliates

Urbancorp Power Holdings Inc.

Vestaco Homes Inc.

Vestaco Investments Inc.

228 Queens Quay West Limited

Urbancorp Cumberland 1 LP

Urbancorp Cumberland 1 GP Inc.

Urbancorp Partner (King South) Inc.

Urbancorp (North Side) Inc.

Urbancorp Residential Inc.

Urbancorp Realtyco Inc.

SCHEDULE "B"

PURCHASED ASSETS/PROPERTY

MUNICIPAL ADDRESS: 1780 LAWRENCE AVENUE WEST, TORONTO, ONTARIO

LEGAL DESCRIPTION OF THE LANDS: PIN 10330-0233(LT)

Part Block A, Plan 2525 North York as in NY66298 & NY14061; S/T NY396185; Toronto (North York); City of Toronto

SCHEDULE C

FORM OF MONITOR'S CERTIFICATE

Court File No.: CV-16-11389-00CL

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS
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**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF URBANCORP TORONTO
MANAGEMENT INC., URBANCORP (ST. CLAIR
VILLAGE) INC., URBANCORP (PATRICIA) INC.,
URBANCORP (MALLOW) INC., URBANCORP
(LAWRENCE) INC., URBANCORP DOWNSVIEW PARK
DEVELOPMENT INC., URBANCORP (952 QUEEN WEST)
INC., KING RESIDENTIAL INC., URBANCORP 60 ST.
CLAIR INC., HIGH RES. INC., BRIDGE ON KING INC.
(Collectively the "Applicants") AND THE AFFILIATED
ENTITIES LISTED IN SCHEDULE "A" HERETO**

**MONITOR'S CERTIFICATE
(Re: Urbancorp (Lawrence) Inc.)**

RECITALS

A. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated May 18, 2016, KSV Kofman Inc. was appointed as the Applicants' monitor (the "Monitor").

B. Pursuant to an Order of the Court dated November 16, 2016, the Court approved the agreement of purchase and sale dated August 16, 2016 between Urbancorp (Lawrence) Inc. ("UC Lawrence") as seller and Fernbrook Homes Limited, In Trust for a company to be incorporated and without personal liability ("Fernbrook"), as assigned by Fernbrook to, and

assumed by, Fernbrook Homes (Lawrence) Limited (the “**Purchaser**”), and as reinstated and amended by a Reinstatement and Amending Agreement between UC Lawrence and the Purchaser made as of November 11, 2016 (as amended and reinstated, the “**Sale Agreement**”) and provided for the vesting of the Purchased Assets in the Purchaser, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the 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 Monitor on behalf of UC Lawrence and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid and UC Lawrence has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement.
2. The conditions to Closing as set out in Article 4 of the Sale Agreement have been satisfied or waived by the Monitor on behalf of UC Lawrence and the Purchaser.
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ on ● _____, 2016.

KSV KOFMAN INC., in its capacity as CCAA
Monitor of the Urbancorp CCAA Entities and
not in its personal capacity

Per: _____
Name:
Title:

SCHEDULE D

EXPUNGED ENCUMBRANCES

Instrument No. AT3393441

Instrument No. AT4212755

Instrument No. AT4231629

Instrument No. AT4279934

SCHEDULE E
PERMITTED ENCUMBRANCES

Instrument No. NY396185

Instrument No. AT2343343

All Encumbrances other than Expunged Encumbrances

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
PROCEEDINGS COMMENCED AT TORONTO

APPROVAL AND VESTING ORDER
RE: URBANCORP (LAWRENCE) INC.

WEIRFOULDS LLP
Barristers and Solicitors
The TD Bank Tower, Suite 4100
66 Wellington Street West
Toronto, ON M5K 1B7
Edmond F.B. Lamek (LSUC No. 33338U)
Tel: 416.947.5042
Fax: 416.365.1876
Email: elamek@weirfoulds.com

Danny M. Nunes (LSUC No. 53802D)
Tel: 416.619.6293
Fax: 416.365.1876
Email: dnunes@weirfoulds.com

Lawyers for the Urbancorp CCAA Entities