

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) WEDNESDAY, THE 29th
)
CHIEF JUSTICE GEOFFREY B.)
MORAWETZ) DAY OF DECEMBER, 2021



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

THIS MOTION, made by KSV Restructuring Inc. (formerly KSV Kofman Inc.) in its capacity as the Court-appointed Monitor (the "**Monitor**") of the Applicants and the affiliated entities listed on Schedule "A" (collectively, the "**CCAA Entities**", and each individually a "**CCAA Entity**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Monitor, as vendor, and Mattamy (Downsview) Limited, as purchaser (the "**Purchaser**") dated November 17, 2021 and appended to the Forty-Ninth Report of the Monitor dated November 17, 2021 (the "**Report**"), and vesting in the Purchaser, Urbancorp Downsview Park Development Inc.'s ("**Downsview**") right, title and

interest in and to the Purchased Assets (as defined in the Sale Agreement), was heard on December 7, 2021 by judicial videoconference via Zoom due to the COVID-19 pandemic.

ON READING the Report and on hearing the submissions of counsel for the Monitor, counsel for the Purchaser, counsel to the Foreign Representative, and no one appearing for any other person on the service list, although properly served:

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record in support of this Motion and the Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS AND DECLARES that unless otherwise indicated herein, capitalized words and terms have the meanings given to them in the Sale Agreement.
3. THIS COURT ORDERS AND DECLARES that the Sale Process in respect of the Downsview Interest, as defined and approved pursuant to the Order of the Honourable Chief Justice Morawetz dated June 30, 2021 (the “**Sale Process Order**”) be and is hereby terminated.
4. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Monitor for and on behalf of Downsview is hereby authorized and approved, with such minor amendments as the Monitor may deem necessary. The Monitor 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.
5. THIS COURT ORDERS AND DECLARES that upon the delivery of a Monitor’s certificate to the Purchaser substantially in the form attached as Schedule “B” hereto (the “**Monitor’s Certificate**”), all of Downsview’s right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser, 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 any Order in these proceedings; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; (all of which are collectively referred to as the “**Encumbrances**”,) 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.

6. THIS COURT ORDERS AND DECLARES that conditional and with effect upon the delivery of the Monitor’s Certificate, the credit facility in the amount of \$11,000,000.00 (the “**DHI Facility**”) made available to Downsview by the Purchaser pursuant to the terms of a single advance credit facility term sheet as approved by Order of this Court dated June 15, 2016 (the “**DIP Order**”), and as amended by further Order of this Court dated November 9, 2020 (the “**DIP Amendment Order**”) shall be deemed to be fully and indefeasibly repaid.
7. THIS COURT ORDERS AND DIRECTS the Monitor to file with the Court a copy of the Monitor’s Certificate, forthwith after delivery thereof.
8. 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 Downsview and any bankruptcy order issued pursuant to any such applications; and
 - c) any assignment in bankruptcy made in respect of Downsview;
 - d) 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 Downsview and shall not be void or voidable by creditors of Downsview, 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.

9. THIS COURT ORDERS that this Order is made without prejudice to any procedural or substantive right or position of UTMI with respect to its claim for entitlement to the Management Fees (as defined in the Report).
10. 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 Monitor 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.



Chief Justice G.B. Morawetz

SCHEDULE "A"

LIST OF NON APPLICANT AFFILIATES

Urbancorp Power Holdings Inc.
Vestaco Homes Inc.
Vestaco Investments Inc.
228 Queen's 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"

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 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

MONITOR'S CERTIFICATE

RECITALS

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

B. Pursuant to an Order of the Court dated December 29, 2021, the Court approved the agreement of purchase and sale made as of November 17, 2021 (the "**Sale Agreement**") between the Monitor, as vendor and Mattamy (Downsview) Limited, as purchaser (the "**Purchaser**") and provided for the vesting in the Purchaser of Urbancorp Downsview Park Development Inc.'s right, title and interest in and to the Purchased Assets, 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) payment by the Purchaser of the Monitor's fees and costs to conduct the Sale Process, including the costs of the Monitor's legal counsel (iii) that the conditions to Closing as set out in sections 3.2 and 3.3 of the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser; and (iv) that 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 the Monitor has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The Purchaser has paid the Monitor's fees and costs to conduct the Sale Process;
3. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser; and
4. The Transaction has been completed to the satisfaction of the Monitor.
5. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

**KSV RESTRUCTURING INC., in its capacity
as the court-appointed Monitor of
URBANCORP DOWNSVIEW PARK
DEVELOPMENT INC., and not in its
personal capacity**

Per: _____

Name:

Title:

SCHEDULE "A"

LIST OF NON APPLICANT AFFILIATES

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Vestaco Investments Inc.
228 Queen's 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.

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

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ET AL.

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

(PROCEEDING COMMENCED AT TORONTO)

Sale Approval and Vesting Order

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