

**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

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**MOTION RECORD  
OF THE MONITOR**

(Motion Returnable October 22, 2018 – Vesting Order for Curve  
Condominium Geothermal Room Units)

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**TAB 1**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**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**

**NOTICE OF MOTION**

(Returnable October 22, 2018 – Vesting Order for Curve Condominium Geothermal Room Units)

KSV Kofman Inc. ("**KSV**"), 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**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**") will make a motion to Mr. Justice Fred Myers, sitting as a judge presiding on the Commercial List, on October 22, 2018 at 9:00 a.m., or as soon thereafter as the motion can be heard, at the Courthouse located at 330 University Avenue, Toronto, Ontario, Canada.

**PROPOSED METHOD OF HEARING:**

The motion is to be heard orally.

**THE MOTION IS FOR AN ORDER:**

1. if necessary, validating and abridging the time of service of the Notice of Motion and Motion Record and directing that any further service of the Notice of Motion and Motion Record be dispensed with such that this Motion is properly returnable on the date scheduled for the hearing of this Motion; and

2. vesting in and to Toronto Standard Condominium Corporation No. 2355 ("**TSCC 2355**") Unit 13, Level A and Unit 77, Level C in Toronto Standard Condominium Plan No. 2355 and all appurtenant interests (being Parcel Identifier Numbers 76355-0148 LT and 76355-0302 LT) being the Geothermal Room Units as defined and described in the declaration made pursuant to the *Condominium Act, 1998*, S.O. 1998, C.19 dated as of October 30, 2013 and registered on title to the lands and premises municipally known as 170 Sudbury Street, Toronto, Ontario as instrument number AT3505198 on January 24, 2014 (the "**Declaration**") together with any and all assets and property comprising the Building Energy Distribution System and Geothermal Energy System (as defined in the geothermal energy supply agreement dated for reference as of December 1, 2010 between Urbancorp Renewable Power Inc. ("**URPI**") and Westside Gallery Lofts Inc. ("**WGLI**") and as assigned by WGLI to TSCC 2355 and assumed by TSCC 2355 by an assumption agreement between WGLI and TSCC 2355 dated as of January 24, 2014) to the extent not already forming part of the Geothermal Room Units (collectively, the "**Geothermal System Assets**").

**THE GROUNDS FOR THE MOTION ARE:**

1. Minutes of Settlement between URPI and TSCC 2355 in the receivership proceedings of URPI bearing Court File No. CV-18-600624-00CL (the "**Settlement**") have been approved by this Court;
2. The Settlement requires the vesting of the Geothermal System Assets in and to TSCC 2355 pursuant to a vesting order substantially in the same form as that attached to the Settlement;
3. The registered owner of the Geothermal Room Units, being Unit 13, Level A and Unit 77, Level C in Toronto Standard Condominium Plan No. 2355 and all appurtenant interests (being Parcel Identifier Numbers 76355-0148 LT and 76355-0302 LT), is Vestaco Investments Inc.;
4. Vestaco Investments Inc. is an affiliated entity subject to these proceedings;
5. KSV Kofman Inc. is the Monitor in these proceedings and the court-appointed receiver of URPI (the "**Receiver**");
6. Any distribution of the Settlement Amount (as defined in the Settlement) will be the subject of a further order of this Court once the Monitor and Receiver have made a determination as to an appropriate allocation of same;
7. Sections 9-11 of the CCAA and this Court's equitable and statutory jurisdiction thereunder;
8. Rules 1.04, 2.03, 3.02, 16.04 and 37 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
9. Such further and other grounds as counsel may advise and this Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

1. the Thirtieth Report of the Monitor and First Report of the Receiver dated October 17, 2018, filed separately; and
2. such further material as counsel may advise and this Court may permit.

October 17, 2018

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Lawyers for the Monitor

**TO:** The E-Service List found at:

<http://www.ksvadvisory.com/assets/Uploads/insolvency-case-documents/Urbancorp%20Group/CCAA%20Proceedings/Service%20List/Urbancorp%20CCAA%20Service%20List%20updated%20June%2015%2C%202108.pdf>



**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.

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., ET AL.

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

**(PROCEEDING COMMENCED AT TORONTO)**

**NOTICE OF MOTION**  
(Returnable October 22, 2018 – Vesting Order for  
Curve Condominium Geothermal Room Units)

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**Lawyers for the Monitor**

**TAB 2**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. )  
 )  
JUSTICE MYERS )  
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 )

MONDAY, THE 22<sup>ND</sup>  
DAY OF OCTOBER, 2018

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

**VESTING ORDER  
(Curve Settlement)**

**THIS MOTION**, made by KSV Kofman Inc., in its capacity as 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**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**") for an order, among other things, vesting in and to Toronto Standard Condominium Corporation No. 2355 ("**TSCC 2355**") the Geothermal System Assets (as defined below), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Notice of Motion of the Monitor and the Thirtieth Report of the Monitor dated October 17, 2018 (the "**Report**") and on hearing the submissions of respective counsel for the Monitor, TSCC 2355 and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service as filed:

1. **THIS COURT ORDERS AND DECLARES** that upon the delivery of the Receiver's Certificate to TSCC 2355 in accordance with paragraph 3 of the Order of this Court made today in the receivership proceedings bearing Court File No. CV-18-600624-00CL (the "**Receiver's Certificate**"), Unit 13, Level A and Unit 77, Level C in Toronto Standard Condominium Plan No. 2355 and all appurtenant interests (being Parcel Identifier Numbers 76355-0148 LT and 76355-0302 LT) being the Geothermal Room Units as defined and described in the declaration made pursuant to the *Condominium Act*, 1998, S.O. 1998, C.19 dated as of October 30, 2013 and registered on title to the lands and premises municipally known as 170 Sudbury Street, Toronto, Ontario as instrument number AT3505198 on January 24, 2014 (the "**Declaration**") together with any and all assets and property comprising the Building Energy Distribution System and Geothermal Energy System (as defined in the geothermal energy supply agreement dated for reference as of December 1, 2010 between Urbancorp Renewable Power Inc. and Westside Gallery Lofts Inc. ("**WGLI**") and as assigned by WGLI to TSCC 2355 and assumed by TSCC 2355 by an assumption agreement between WGLI and TSCC 2355 dated as of January 24, 2014) to the extent not already forming part of the Geothermal Room Units (collectively, the "**Geothermal System Assets**") shall vest absolutely in TSCC 2355, 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 made in these proceedings or the receivership proceedings bearing Court File No. CV-18-600624-00CL; (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; and (iii) those Claims listed in Schedule “B” hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed in Schedule “C” hereto pertaining to the Geothermal System Assets (the “**Permitted Encumbrances**”)) and, for greater certainty, this Court orders that all of the Encumbrances (other than the Permitted Encumbrances) affecting or relating to the Geothermal System Assets are hereby expunged and discharged as against the Geothermal System Assets.

2. **THIS COURT ORDERS** that upon the registration in The Land Registry Office for the Land Titles Division of Toronto (No. 80) (“**LRO**”) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* (Ontario), together with the Receiver’s Certificate, the LRO is hereby directed to enter TSCC 2355 as the owner of Unit 13, Level A and Unit 77, Level C in Toronto Standard Condominium Plan No. 2355 and all appurtenant interests (being PIN 76355-0148 LT and 76355-0302 LT) (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the

Real Property all of the Claims listed in Schedule "B" hereto pertaining to the Real Property.

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

4. **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 any of the CCAA Entities and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of any of the CCAA Entities;

the vesting of any Geothermal System Assets in TSCC 2355 pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the CCAA Entities and shall not be void or voidable by creditors of any of the CCAA Entities, 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.

5. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada 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.

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**Schedule "A"**  
**All Affiliated Entities**

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"**  
**Claims to be deleted and expunged from title to the Real Property**

1. Instrument No. AT3520017, registered February 13, 2014 being a Notice of Geothermal Energy Supply Agreement between Urbancorp Renewable Power Inc. and Westside Gallery Lofts Inc.

## Schedule "C"

### Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property

1. Instrument No. E4939AZ, registered May 14, 1996 is an Application to Annex Restrictive Covenants.
2. Instrument No. E362019, registered October 3, 2000 is a Notice of Section 37 Agreement in favour of the City of Toronto.
3. Instrument No. AT1719790, registered February 27, 2008 is Notice of Agreement between by Westside Gallery Lofts Inc., Greater Toronto Transit Authority and Canadian National Railway Company.
4. Instrument No. AT1784893, registered May 22, 2008 is a Transfer of Easement in favour of Rogers Cable Communications Inc.
5. Instrument No. AT1929991, registered October 22, 2008 is a Transfer of Easement in favour of Greater Toronto Transit Authority and Canadian National Railway Company.
6. Instrument No. AT2198441, registered October 7, 2009 is an Application General by Westside Gallery Lofts Inc. regarding Part 4, Plan 66R17071 regarding Instrument No. WF27767.
7. Instrument No. AT2483854, registered August 23, 2010 is a Notice of Agreement granted by Westside Gallery Lofts Inc. and Distance Road Co. Inc. in favour of the City of Toronto.
8. Instrument No. AT2483856, registered August 23, 2010 is a Postponement of Instrument No. AT1784893 to AT2483854.
9. Instrument No. AT2497740, registered September 3, 2010 is a Notice of Shared Facilities Agreement between Westside Gallery Lofts Inc. and Toronto Artscape Inc.
10. Instrument No. AT2497741, registered September 3, 2010 is Notice of Three Way Shared Facilities Agreement between Westside Gallery Lofts Inc., as owner of the Curve Lands as defined therein, and owner of the Westside Lands as defined therein and Toronto Artscape Inc.
11. Instrument No. AT2498238, registered September 7, 2010 is a Postponement in favour of Lombard General Insurance Company of Canada.
12. Instrument No. AT2498239, registered September 7, 2010 is a Postponement in favour of Lombard General Insurance Company of Canada.
13. Instrument No. AT2675027, registered April 27, 2011 is Notice of Site Plan Agreement in favour of the City of Toronto.
14. Instrument No. AT3070814, registered July 11, 2012 is Notice of Crane/Piling and Tie Back Agreement between Westside Gallery Lofts Inc. and Edge on Triangle Park Inc.
15. Instrument No. AT3070815, registered July 11, 2012 is Notice of Crane/Piling and Tie Back Agreement between Westside Gallery Lofts Inc. and Epic On Triangle Park Inc.
16. Instrument No. AT3094240, registered August 3, 2012 is Application to Annex Restrictive Covenants by Westside Gallery Lofts Inc.

17. Instrument No. AT3103107, registered August 16, 2012 is Notice of Shared Facilities Agreement between Toronto Standard Condominium Corporation No. 2249 and Westside Gallery Lofts Inc.
18. Instrument No. TCP2355, registered January 24, 2014 is Standard Condominium Plan TCP2355.
19. Instrument No. AT3505198, registered January 24, 2014 is the Condominium Declaration to create Toronto Standard Condominium Corporation No. 2355 ("**TSCP 2355**").
20. Instrument No. AT3519988, registered February 13, 2014 is Notice of Shared Facilities Agreement between Toronto Standard Condominium Corporation No. 2249, Westside Gallery Lofts Inc., Epic on Triangle Park Inc., Abell Investments Limited and St. Clare's Mulifaith Housing Society.
21. Instrument No. AT3521955, registered February 18, 2014 is TSCP 2355 Condo By-law No. 1;
22. Instrument No. AT3521969, registered February 18, 2014 is TSCP 2355 Condo By-law No. 2;
23. Instrument No. AT3521980, registered February 18, 2014 is TSCP 2355 Condo By-law No. 3;
24. Instrument No. AT3522562, registered February 18, 2014 is a Transfer Release and Abandonment of Easement WF27767 by Edge on Triangle Park Inc.
25. Instrument No. AT3522908, registered February 19, 2014 is a Transfer Release and Abandonment of Easement WF27767 by Epic on Triangle Park Inc.

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MANAGEMENT INC., ET AL.**

**ONTARIO  
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(COMMERCIAL LIST)  
  
(PROCEEDING COMMENCED AT TORONTO)**

**ORDER  
(Vesting Order for Curve Condominium Geothermal  
Room Units)**

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