

Court File No. BK-21-02734090-0031
Court of Appeal No. COA-22-CV-0451

COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C
1985, c. B-3 AS AMENDED

**IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.**

EXHIBIT BOOK of the APPELLANTS

YongeSL Investment Limited Partnership, 2124093 Ontario Inc., SixOne Investment Ltd.,
E&B Investment Corporation, and TaiHe International Group Inc.
(the “YongeSL LPs”)

January 23, 2023

THORNTON GROUT FINNIGAN LLP
100 Wellington Street West
Suite 3200, TD West Tower
Toronto ON M5K 1K7

Deborah E. Palter (LSO# 37962K)
Tel: 416-304-0148
Email: dpalter@tgf.ca

Alexander Soutter (LSO# 72403T)
Tel: (416) 304-0595
Email: asoutter@tgf.ca

Lawyers for the Appellants

TO: **AIRD & BERLIS LLP**
Brookfield Place
1800-181 Bay Street
Toronto, ON M5J 2T9

Harry Fogul
Tel No: 416-865-7773
Email: hfogul@airdberlis.com

Lawyers for YSL Residences Inc., YG Limited Partnership, Cresford Capital Corporation and for Cresford (Rosedale) Developments Inc.

AND TO: **KSV RESTRUCTURING INC.**
150 King Street West, Suite 2308
Toronto, ON M5H 1J9

Bobby Kofman
Tel No.: 416-932-6228
Email: bkofman@ksvadvisory.com

Mitch Vininsky
Tel No.: 416-932-6013
Email: mvininsky@ksvadvisory.com

Proposal Trustee for YSL Residences Inc. and YG Limited Partnership

AND TO: **DAVIES WARD PHILLIPS & VINEBERG LLP**
155 Wellington Street West
Toronto, ON M5V 3J7

Robin B. Schwill
Tel No: 416-863-5502
Email: rschwill@dwpv.com

Chenyang Li
Tel No.: 416-367-7623
Email: cli@dwpv.com

Lawyers for KSV Restructuring Inc. in its capacity as Proposal Trustee

AND TO: **LAX O'SULLIVAN LISUS GOTTLIEB LLP**
2750-45 King Street West
Toronto, ON M5H 1J8

Shaun Laubman
Tel No: 416-360-8481
Email: slaubman@lolg.ca

Xin Lu (Crystal) Li
Tel No: 416-956-0112
Email: cli@lolg.ca

Lawyers for 2504670 Canada Inc., 8451761 Canada Inc. and Chi Long Inc.

AND TO: **BENNETT JONES LLP**
2500-666 Burrard Street
Vancouver, BC V6C 2X8

David E. Gruber
Tel No: 604-891-5150
Email: gruberd@bennettjones.com

Jesse Mighton
Tel No: 416-777-6255
Email: mightonj@bennettjones.com

Jason Berall
Tel No: 416-777-5480
Email: berallj@bennettjones.com

Lawyers for Concord Property Developments Corp.

AND TO: **NAYMARK LAW**
171 John Street, Suite 101
Toronto, ON M5T 1X3

Daniel Naymark
Tel No.: 416-640-6078
Email: dnaymark@naymarklaw.com

James Gibson
Tel No.: 416-640-1592
Email: jgibson@naymarklaw.com

Lawyers for Mssrs. Cicekian, Catsiliras, Giannaakopoulos, Mancuso and Millar

AND TO: **GOODMANS LLP**
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Mark Dunn
Tel No.: 416.849.6895
Email: mdunn@goodmans.ca

Sarah Stothart
Tel No. 416.597.4200
Email: sstothart@goodmans.ca

Lawyers for Maria Athanasoulis

AND TO: **MCCAGUE BORLACK LLP**
130 King St., W, Suite 2700
Toronto, ON M5X 1C7

Howard Borlack
Tel No.: 416.860.0054
Email: hbborlack@mccagueborlack.com

Lawyers for Harbour International Investment Group Inc. and Yulei (Henry) Zhang

AND TO: **GOWLING WLG (CANADA) LLP**
Suite 1600, 1 First Canadian Place
100 King Street West
Toronto ON M5X 1G5

Haddon Murray
Tel No.: 416-862-3604
Email: haddon.murray@gowlingwlg.com

Lawyers for CBRE Limited

INDEX

Court File No. BK-21-02734090-0031
 Court of Appeal No. COA-22-CV-0451

COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C
 1985, c. B-3 AS AMENDED

**IN THE MATTER OF THE NOTICES OF INTENTION
 TO MAKE A PROPOSAL OF
 YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.**

INDEX

Tab	Description	Page No.
1.	Affidavit of Casey Gallagher sworn July 21, 2022	11
A	Exhibit “A” : Email from Casey Gallagher to Ted Dowbiggin dated January 30, 2020 re Reconnect	26
B	Exhibit “B” : Email from Casey Gallagher to Ted Dowbiggin dated February 12, 2020 re Meeting re YSL (Ted Dowbiggin CBRE)	28
C	Exhibit “C” : Snapshot of CBRE's dataroom	30
D	Exhibit “D” : Non-Disclosure Agreement dated February 24, 2020 re 363-391 Yonge Street and 3 Gerrard Street East	32
E	Exhibit “E” : Email from Kai Tai to Alan and Peter Mendes dated February 13, 2020 re YSL Condos info	37
F	Exhibit “F” : Electronic Meeting notice from Vanessa Pinto to C. Gallagher, T. Dowbiggin, C. Wein, P. Senst dated February 19, 2020	51
G	Exhibit “G” : Non-Disclosure Agreement dated February 20, 2020 re 363-391 Yonge Street and 3 Gerrard Street East	53
H	Exhibit “H” : Email from Casey Gallagher to T. Dowbiggin, cc P. Senst & M. Kazandji dated February 21, 2020 re Mandate letter and listing agreement	58

I	Exhibit “I”: Letter from Peter Senst & Casey Gallagher to Ted Dowbiggin dated February 21, 2020 re 365-385 Yonge	60
J	Exhibit “J”: Exclusive Sales Listing Agreement dated February 21, 2020 re 363-391 Yonge St and 3 Gerrard St East	64
K	Exhibit “K”: Email from Casey Gallagher to Ted Dowbiggin dated February 24, 2020 re Terry Hui - Concord Adex	69
L	Exhibit “L”: Email from Gabriel Leung to Ted Dowbiggin, cc C. Gallagher dated February 25, 2020 re Call re Yonge-Gerrard	71
M	Exhibit “M”: Email from Kai Tai to Gabriel Leung, cc C. Gallagher dated February 24, 2020 re YSL Condos – NDA	74
N	Exhibit “N”: Email from Peter Senst to Casey Gallagher; cc V. Pinto dated February 27, 2020 re Catch Up	80
O	Exhibit “O”: Email from Gabriel Leung to Vanessa Pinto; cc C. Gallagher dated February 26, 2020 re Vancouver Meeting	86
P	Exhibit “P”: Email from Vanessa Pinto to Casey Gallagher dated February 26, 2020 re FW Vancouver Meeting	89
Q	Exhibit “Q”: Email from Casey Gallagher to Ted Dowbiggin dated February 27, 2020 re Terry	92
R	Exhibit “R”: Email from Casey Gallagher to Ted Dowbiggin dated March 9, 2020 re Concord deal	94
S	Exhibit “S”: Email from Kai Tai to Julie DiLorenzo, cc C. Gallagher dated February 27, 2020 re YSL - architectural plans SPA Resubmission	96
T	Exhibit “T”: Email from Ian MacLeod to Casey Gallagher with attachment dated March 5, 2020	114
U	Exhibit “U”: Email from Andrew Joyner to Casey Gallagher dated March 5, 2020 re Cresford	116
V	Exhibit “V”: Email from Peter Senst to Casey Gallagher dated March 24, 2020 re My formal expression of interest to purchase Cressford's Yorkville assets	118
W	Exhibit “W”: Email from Ted Dowbiggin to Casey Gallagher dated March 24, 2020 re Rob Hiscox	121

X	Exhibit “X”: Email from Christopher Wein to Richard & Casey Gallagher dated March 4, 2020 re Ted Dowbiggin, Christopher Wein, et al	124
Y	Exhibit “Y”: Electronic Meeting notice from Casey Gallagher to Ted Dowbiggin and Peter Senst dated May 14, 2020	129
Z	Exhibit “Z”: Transaction Summary dated July 22, 2021 re 363-385 Yonge Street, RealNet	131
AA	Exhibit “AA”: CBRE Invoice #20210100750 dated October 13, 2021	135
BB	Exhibit “BB”: Legal Demand letter dated November 26, 2021 sent to Cresford Developments	137
CC	Exhibit “CC”: Demand Letter dated January 25, 2022 from Gowling to Cresford Developments, with enclosures	145
DD	Exhibit “DD”: Email from Casey Gallagher to Elie Laskin dated March 11, 2022 re Screenshot at 11.46.23 AM (redacted)	167
2.	Affidavit of Heyla Vettyvel sworn July 22, 2022	171
A	Exhibit “A”: Amended Proposal #3	177
B	Exhibit “B”: Order of Justice Dunphy dated July 16, 2021	200
C	Exhibit “C”: Appendix “F” to the Fourth Report of the Proposal Trustee dated July 14, 2021	229
D	Exhibit “D”: Email from Elie Laskin to Mitch Vininsky dated January 28, 2022 re CBRE’s Proof of Claim re YSL Residences Inc. with enclosures	232
3.	Affidavit of Edward Dowbiggin sworn July 25, 2022	249
A	Exhibit “A”: Email from Dave Mann to Mitch Vininsky dated February 1, 2022 re CBRE’s Proof of Claim re YSL Residences Inc.	257
4.	Supplementary Affidavit of Heyla Vettyvel sworn on July 27, 2022	263
A	Exhibit “A”: Letter from KSV Restructuring Inc. to Gowling WLG (Canada) LLP, with attached Notice of Disallowance	265
B	Exhibit “B”: Email from Jesse Mighton to counsel to CBRE, the Cresford Group and the Proposal Trustee dated February 11, 2022	270

5.	Affidavit of Chris Wai sworn on August 19, 2022	275
6.	Transcript of the Cross-Examination of Ted Dowbiggin conducted on August 31, 2022	281
7.	Transcript of the Cross-Examination of Casey Gallagher conducted on August 31, 2022	297
8.	Seventh Report of the Proposal Trustee to the Court dated September 12, 2022	310
A	Appendix “A” : Interim Decision dated July 2, 2021	321
B	Appendix “B” : Reasons for Decision dated July 16, 2021	343
C	Appendix “C” : Final Proposal	355
D	Appendix “D” : CBRE Notice	378
E	Appendix “E” : Correspondence dated August 18, 2022	383

TAB 1

District of: Ontario
Division No: 09 - Toronto
Consolidated Court File No.: 31-2734090

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3 AS AMENDED

**IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.**

AFFIDAVIT OF CASEY GALLAGHER

I, Casey Gallagher, of the City of Toronto, in the Province of Ontario, MAKE

OATH AND SAY:

1. I am a real estate sales representative at CBRE Limited ("**CBRE**") and, as such, have knowledge of the matters contained in this affidavit. Where I have received and relied on information provided to me by others, I verily believe that information to be true.

Background

2. The applicant, CBRE, is a commercial real estate services firm.
3. I have been a real estate sales representative with CBRE since 2003. I am an Executive Vice President on the National Investment Team at CBRE.

CBRE's Relationship with Cresford and YSL

4. I have known Edward (Ted) Dowbiggin since 2011. Mr. Dowbiggin was the President of Cresford Capital Inc. from 2011 until March 2022. Cresford Capital Inc. is related to Cresford (Rosedale) Developments Inc. ("**Cresford**").
5. I worked primarily with Peter Senst in relation to our work with Cresford. Mr. Senst is another real estate sales representative with CBRE. He advised me that he has known, and worked with, Mr. Dowbiggin since about 1992.
6. Cresford is a real estate developer operating primarily in Ontario. I am aware through Mr. Dowbiggin that, over the last few years, Cresford has had numerous financial difficulties. Cresford was related to corporations that owned development properties located at the following addresses in the city of Toronto:
 - a. 587 Yonge Street ("**Clover**");
 - b. 484 Yonge Street ("**Halo**");
 - c. 33 Yorkville Ave ("**Yorkville**"); and
 - d. 363-391 Yonge Street and 3 Gerrard Street East (the "**YSL Property**").
7. CBRE's relationship with Cresford began when CBRE was the exclusive listing brokerage for the vendors that sold the Halo, Yorkville, and the YSL Property to Cresford between 2011 and 2017. I understand from Mr. Dowbiggin that a Cresford related entity purchased Clover directly from the vendor.

8. As a real estate developer, Cresford related corporations and limited partnerships were created for the purposes of developing each of the above properties. Mr. Dowbiggin informed me that the YG Limited Partnership was formed and YSL Residences Inc. ("YSL") was incorporated for the purpose of developing the YSL Property into a mixed-use office, retail and residential condominium space.

CBRE's Engagement by Cresford as its Exclusive Listing Brokerage

Initial Meetings

9. In late 2019, Maria Athanasoulis, a prior manager at Cresford, reached out to me about selling Cresford's properties, in light of Cresford's financial difficulties. I met with Ms. Athanasoulis at the Four Seasons in Toronto where she explained that Cresford was thinking about selling the YSL Property. There was no formal agreement at this stage as to CBRE's involvement in the sale. Based on our conversation, I understood that Ms. Athanasoulis was simply looking into options to deal with Cresford's financial difficulties.
10. Following my meeting with Ms. Athanasoulis, Mr. Dowbiggin called me in January 2020 to ask if CBRE would act as exclusive listing brokerage for YSL.
11. On the call, Mr. Dowbiggin explained that Cresford/YSL was in financial trouble and wanted to sell the YSL Property to free up equity for the development of Cresford's other properties. Because of Cresford/YSL's financial difficulties and sensitives around sales at the time Mr. Dowbiggin did not want CBRE to go "full market" with the YSL Property, which would mean listing the YSL Property for sale

publicly. Instead, he wanted the sale to be contained and asked CBRE to find a few potential purchasers who could complete the kind of development project intended for the YSL Property. Given the size and value of the YSL Property, there are few real estate developers that would be appropriate candidates.

12. I agreed that CBRE would act as the exclusive listing brokerage and that I would work with Mr. Senst to find a group of potential purchasers to introduce to YSL. The essential terms of our agreement (the "**Oral Agreement**") were as follows:
 - a. CBRE would facilitate introductions between Cresford/YSL and potential purchasers for the YSL Property;
 - b. CBRE's commission would be 0.65% of the purchase price of the YSL Property (the "**Commission**"); and
 - c. CBRE would earn the Commission if the purchaser of the YSL Property was one of the parties CBRE had introduced.

13. Following our call, Mr. Senst and I met with Mr. Dowbiggin on February 3 and 12, 2020 to discuss the YSL Property sale, including what developers, based on CBRE's experience in the industry, would be good candidates to purchase the YSL Property (the "**February Meetings**"). Attached as Exhibit **A** to my affidavit is an email I sent to Ted Dowbiggin arranging the February 3, 2020 meeting at CBRE's office. Attached as **Exhibit B** to my affidavit is a calendar invitation I sent to Mr. Dowbiggin and Mr. Senst for the February 12, 2020 meeting at CBRE's office.

14. During the February Meetings, Mr. Senst and I identified four real estate developers as the best candidates to purchase the YSL Property:
 - a. Concord Adex ("**Concord**");
 - b. Menkes Developments Ltd. ("**Menkes**");
 - c. Lanterra Developments Ltd. ("**Lanterra**"); and
 - d. Westbank Corp. ("**Westbank**").

15. Mr. Dowbiggin directed Mr. Senst and me to reach out to these potential purchasers as Cresford/YSL's exclusive listing brokerage.

CBRE Began Work after the Initial Meetings

16. Mr. Senst and I began work almost immediately after our meetings with Mr. Dowbiggin. Following our initial meeting on February 3, 2020, CBRE created a dataroom which contained information about the YSL Property for potential purchasers. The dataroom included: the tender schedule, sales grid, permit drawings, contracts, construction schedule, section 37 agreement, permit summaries, and the heritage easement agreement. A snapshot of the dataroom CBRE created is attached as **Exhibit C** to my affidavit.

17. CBRE also prepared a form non-disclosure agreement ("**NDA**") for the purposes of the sale of the YSL Property. A copy of the NDA is attached as **Exhibit D** to my affidavit.

18. Around February 13, 2020, CBRE met with Menkes and introduced Mr. Dowbiggin to Alan and Peter Menkes to discuss a potential sale of the YSL Property. CBRE also provided Menkes access to the data room. The email from Tai Kai Li of CBRE to Messrs. Menkes dated February 13, 2020, providing them access to the data room is attached as **Exhibit E** to my affidavit.
19. CBRE arranged a meeting between Mr. Dowbiggin and Christopher Wein, Chief Operating Officer of Lanterra to discuss a potential sale of the YSL Property. This meeting took place on February 20, 2020 at Cresford's office. The meeting invitation listing Ted Dowbiggin, Christopher Wein, and Peter Senst is attached as **Exhibit F** to my affidavit.
20. This meeting resulted in Lanterra executing the NDA prepared by CBRE in respect of the YSL Property. The NDA dated February 20, 2020 and executed by Lanterra is attached as **Exhibit G** to my affidavit.

The Written Agreement and Mandate Letter

21. On February 21, 2020, after CBRE had already begun work as YSL's exclusive listing brokerage, I sent Mr. Dowbiggin an email containing an exclusive listing agreement dated February 20, 2020 and CBRE's mandate letter dated February 21, 2020 for the YSL Property (the "**February 21, 2020 Email**"). Attached as **Exhibit H** to my affidavit is the February 21, 2020 Email. The following documents which were attached to the email are included as separate exhibits to my affidavit for ease of reference:

- a. **Exhibit I** – CBRE's mandate letter for the YSL Property dated February 21, 2020 ("**Mandate Letter**"); and
 - b. **Exhibit J** – the exclusive listing agreement dated February 20, 2020 (the "**Written Agreement**")
22. The Written Agreement provides that YSL would pay CBRE the Commission if CBRE found a purchaser for the YSL Property. Article 4 of the Written Agreement is a "holdover provision" (the "**Holdover Provision**") which provides, among other things, that CBRE is entitled to the Commission if, during the 90 days after the expiration of the Term, negotiations continued which led to the execution of a binding agreement of purchase and sale of the YSL Property with any person or entity introduced by CBRE.
23. The intent of the Holdover Provision is to ensure that CBRE does not lose the Commission simply because negotiations between YSL and a purchaser continued for longer after the term set out in the Written Agreement. Based on my experience with large commercial sales, negotiations between vendors and purchasers can often take months to complete. The Holdover Provision is meant to account for those circumstances.
24. The Mandate Letter identified the potential purchasers that Mr. Senst and I had already discussed with Mr. Dowbiggin: Concord, Menkes, Lanterra, and Westbank. Consistent with Mr. Dowbiggin's instructions to CBRE at the February Meetings, the Mandate Letter explained that CBRE had already begun work and was in contact with these potential purchasers about purchasing the YSL Property.

25. Although Mr. Dowbiggin did not execute the Written Agreement, he has at all times continued to act in accordance with our Oral Agreement that Cresford/YSL act as CBRE's exclusive listing brokerage for the YSL Property and has, since then, confirmed that CBRE is entitled to the Commission.

CBRE continued to market the YSL

26. Following the February 21 Email, CBRE continued to market the YSL Property and introduce Cresford/YSL to potential purchasers, including Concord, the ultimate purchaser.
27. Around mid-February 2020, I reached out to Concord about the YSL Property sale.
28. Around February 23, 2020, I spoke to Gabriel Leung, Vice President of Development at Concord, about the sale of the YSL Property. On the call, I explained CBRE's role as the exclusive listing brokerage for YSL.
29. Following my initial discussion with Mr. Leung, on February 24, 2020, Terry Hui, Chief Executive Officer of Concord, asked if it was possible to meet with a representative of Cresford about purchasing the YSL Property. I emailed Mr. Dowbiggin to relay this information and helped him arrange the meeting. My email to Mr. Dowbiggin on February 24, 2020 is attached as **Exhibit K** to my affidavit.
30. I knew through Mr. Dowbiggin that he was in Mexico at this time so we decided that a conference call would be a good first meeting between Cresford/YSL and Concord.

31. On February 25, 2020, I arranged a conference call between myself, Mr. Senst, Mr. Dowbiggin, and Mr. Leung. This was the first introduction between Cresford/YSL and Concord, as a potential purchaser for the YSL Property. Attached as **Exhibit L** to my affidavit is an email from Mr. Leung dated February 25, 2020 confirming, and thanking CBRE for arranging, the call.
32. Also on February 25, 2020, CBRE sent Mr. Leung CBRE's NDA with respect to the YSL Property. Attached as **Exhibit M** to my affidavit is an email from Tai Kai Li of CBRE to Mr. Leung dated February 24, 2020, attaching the NDA.
33. Around February 26, 2020, CBRE arranged a meeting between Cresford/YSL and Westbank. Attached as **Exhibit N** is an email I sent to Ian Duke (founder of Westbank) dated February 26, 2020 arranging meeting about the YSL Property.
34. On or about February 26, 2020, Mr. Dowbiggin flew to Vancouver in order to meet with Mr. Hui to further discuss the sale of the YSL Property. Mr. Leung confirmed with CBRE that Concord would schedule the meeting between Mr. Hui and Mr. Dowbiggin in Vancouver. Attached as **Exhibit O** to my affidavit is Mr. Leung's email to Vanessa Pinto of CBRE and me dated February 26, 2020.
35. At Concord's advice, CBRE did not attend the meeting in Vancouver because Mr. Leung advised that Concord/YSL would handle meeting. Mr. Leung's email to Ms. Pinto of CBRE dated February 26, 2020 is attached as **Exhibit P** to my affidavit.
36. In addition to arranging the conference call and meeting with Concord, CBRE was also providing Cresford/YSL information about Concord. For example, Mr.

Dowbiggin asked me to send him information about Mr. Hui following their meeting. On February 27, 2020, I emailed Mr. Dowbiggin with two links to information about Mr. Hui. Attached as **Exhibit Q** to my affidavit is my email.

37. Following the meeting in Vancouver, I understand from Mr. Dowbiggin that he continued negotiations directly with Concord. I am advised by Mr. Dowbiggin that he began speaking to Cliff McCracken, Senior Vice President at Cresford. I did not expect CBRE to be involved in the negotiations between Cresford/YSL and the potential purchaser, however, Mr. Senst and I remained open to assist negotiations between Cresford and Concord.
38. Despite CBRE not being involved in negotiations between Cresford/YSL and Concord, Mr. Dowbiggin continued to reach out to CBRE about the status of the YSL Property sale as well as introducing Cresford/YSL to other potential purchasers.
39. In early March 2020, Mr. Dowbiggin reached out to me about the current real estate market, which was being affected by the COVID-19 pandemic. I emailed him on March 9, 2020 that there were major shifts in the market. We spoke by phone the next day, on March 10, 2020, to discuss the status of negotiations with Concord and I provided advice on how I thought the market would be affected by the pandemic. Attached as **Exhibit R** to my affidavit is an email I sent to Mr. Dowbiggin confirming the call.
40. In addition, it became clear around late February / early March 2020, that (a) word was getting out in the industry that Cresford was having financial difficulties and

was selling the YSL Property and (b) CBRE was acting as Cresford/YSL's exclusive listing brokerage. This was apparent because Mr. Senst and I began getting contacted directly from developers looking to purchase YSL and/or other Cresford properties:

- a. Around late February, 2020, Julie Di Lorenzo, Chief Executive Officer of Diamante Development, reached out to me about purchasing the YSL Property and requested we provide the site plan application submissions. On February 27, 2020, CBRE provided Ms. Di Lorenzo with the information she requested. Attached as **Exhibit S** to my affidavit is CBRE's email to Ms. Di Lorenzo.
- b. On March 5, 2020, Ian McLeod, Vice President of One Properties, emailed me about the Cresford properties. We later spoke and he indicated that One Properties was interested in buying the YSL Property. Mr. McLeod's email is attached as **Exhibit T** to my affidavit.
- c. Also on March 5, 2020, Andrew Joyner, Managing Director of Tricon Residential ("**Tricon**"), emailed me about whether YSL was available and if others Cresford properties were as well. We later spoke and he indicated Tricon was interested in purchasing Cresford's properties. Mr. Joyner's email is attached as **Exhibit U** to my affidavit.
- d. On March 22, 2020, Robert Hiscox reached out to me on behalf of the Constantine Enterprises Inc. about potentially acquiring the Cresford properties. He noted he was most interested in Yorkville. I relayed this

information to Mr. Dowbiggin and connected him with Mr. Hiscox. The emails showing that exchange are attached as **Exhibit V** and **W**.

- e. CBRE also continued to communicate with Lanterra. Attached as **Exhibit X** to my affidavit is an email from Mr. Wein of Lanterra to Richard Casey, Ted Dowbiggin, Peter Senst, Tai Kai Li, and myself dated March 4, 2020 requesting details or documentation on the existing and proposed financing for YSL.

- 41. On May 15, 2020, I had a conference call with Mr. Senst and Mr. Dowbiggin. On this call, Mr. Dowbiggin explained that negotiations with Concord remained underway for the purchase of the YSL Property. He also confirmed on this call that CBRE would be entitled to its Commission. Attached as **Exhibit Y** to my affidavit is the calendar invitation for that conference call.
- 42. Around September 2020, I played golf with Mr. Dowbiggin and he again confirmed that the negotiations with Concord were ongoing for the purchase of the YSL Property.

Sale of the YSL Property

- 43. Around August 2021, I heard that the sale of the YSL Property closed on July 22, 2021 and Concord was the purchaser. I confirmed this information by searching on RealNet, which is a website used in the real estate industry to publicize and provide analytics on property sales. The RealNet search result indicates that the YSL Property was sold for a purchase price of \$168,737,563.00 (the "**Purchase**

Price”). Attached as **Exhibit Z** to my affidavit is the RealNet search result for the YSL Property.

44. On October 13, 2021, in accordance with CBRE's agreement with YSL, CBRE sent Mr. Dowbiggin an invoice in respect of the Commission. The invoice was for \$1,239,377.40 which is 0.65% of the Purchase Price of the Property. The invoice is attached as **Exhibit AA** to my affidavit.

Non-Payment of Commission / Proposal

45. On November 26, 2021, CBRE sent a demand letter to YSL demanding payment for the Commission. A copy of the demand letter sent by CBRE, with enclosures, is attached as **Exhibit BB** to my affidavit.
46. On January 25, 2022, CBRE's counsel, Gowling WLG, sent a further demand letter to YSL demanding payment for the Commission. Gowling's demand letter is attached as **Exhibit CC** to my affidavit.
47. Around December 22, 2021, CBRE learned that YSL filed a Proposal under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 on May 27, 2021 (the “**Proposal**”). At this time, CBRE had not received notice of the Proposal and did not know that an amended form of the Proposal had been accepted by creditors or approved by the Court.
48. CBRE then proceeded to file a claim in the Proposal proceedings in respect of the Commission which, I understand, the Proposal Trustee disallowed on February 10, 2022.

Concord Confirmed CBRE's Role as Exclusive Listing Brokerage

49. On February 14, 2022, I contacted Mr. Hui by phone to tell him that CBRE's claim had been disallowed by the Proposal Trustee. I asked if he would confirm with the Proposal Trustee that CBRE did indeed make the introduction between Concord and Cresford in respect of YSL. On February 15, 2022, Mr. Hui sent me a text message saying that his lawyer already confirmed that CBRE introduced Concord to Cresford. A screenshot of Mr. Hui's text message is attached as **Exhibit DD** to my affidavit.

SWORN by video conference by Casey Gallagher at the City of Toronto, in the Province of Ontario before me at the City of Toronto on July 21, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



DocuSigned by:
Elie Laskin
A62687A47FA54DB...

Elie Laskin (LSO#80044Q)
(or as may be)

DocuSigned by:
Casey Gallagher
89DC22068CF3411...

Casey Gallagher

This is "Exhibit "A" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Elin Laskin

A62687A47FA54DB...

A Commissioner for Taking Affidavits

From: Gallagher, Casey @ Toronto DT
To: "Ted Dowbiggin"
Subject: RE: Reconnect
Date: January 30, 2020 9:08:00 AM
Attachments: [image001.jpg](#)

That works.

Casey T. Gallagher | Executive Vice President*
CBRE Limited | Brokerage | National Investment Team
145 King Street West, Suite 1100 | Toronto, ON M5H 1J8
T 416-815-2398 | F 416-362-8085
casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

From: Ted Dowbiggin <dowbigginted@gmail.com>
Sent: Thursday, January 30, 2020 9:02 AM
To: Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>
Subject: Re: Reconnect

External

Your office?

On Thu, Jan 30, 2020 at 8:27 AM Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com> wrote:

How are you for Monday at 2:00?
Casey T. Gallagher | Executive Vice President*
CBRE Limited | Brokerage | National Investment Team
[145 King Street West, Suite 1100 | Toronto, ON M5H 1J8](#)
T 416-815-2398 | F 416-362-8085
casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

From: Ted Dowbiggin <dowbigginted@gmail.com>
Sent: Wednesday, January 29, 2020 10:09 PM
To: Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>
Subject: Re: Reconnect

External

Yes, I'm around.

On Wed, Jan 29, 2020 at 10:08 PM Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>

wrote:

Hi Ted -

Are you free to circle up with Peter and I sometime soon?

Best

Casey T. Gallagher | Executive Vice President*

CBRE Limited | Brokerage | National Investment Team

[145 King Street West, Suite 1100 | Toronto, ON M5H 1J8](#)

T [416-815-2398](tel:416-815-2398) | F [416-362-8085](tel:416-362-8085)

casey.gallagher@cbre.com | www.cbre.com

* Sales Representative

[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges

This is "Exhibit "B" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA54DB..

A Commissioner for Taking Affidavits

From: [Gallagher, Casey @ Toronto DT](#)
To: [Ted Dowbiggin](#); [Sens, Peter @ Toronto DT](#); [Li, Kai Tai @ Toronto DT](#)
Subject: Meeting re: YSL (Ted Dowbiggin/ CBRE)
Start: February 12, 2020 9:30:00 AM
End: February 12, 2020 10:30:00 AM
Location: CBRE | 145 King St West, 11th Floor Reception | Main Boardroom

When February 12, 2020 9:30 AM-10:30 AM **Location** CBRE | 145 King St West, 11th Floor Reception | Main Boardroom

9 ^{AM}	
10	Meeting re: YSL (Ted Dowbiggin/ CBRE) CBRE 145 King St West, 11th Floor Reception Main Boardroom Gallagher, Casey @ Toronto DT
11	

This is "Exhibit "C" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Elin Laskin

A62687A47FA54DB..

A Commissioner for Taking Affidavits

The screenshot displays the CBRE file management interface. On the left, a navigation sidebar includes 'Dashboard', 'Folders', 'Workflows', 'Inbox', and 'Personal Settings'. The main content area shows a folder named 'YSL Condos' containing a list of files. The files are listed in a table with columns for 'File', 'Uploaded', and 'Creator'. Below the table, there is a checkbox for 'Email me when a file is' and a selected option 'Uploaded to this folder'.

File	Uploaded	Creator
Heritage Easement Agreement	2/24/20	K. Li
Permit Summary	2/24/20	K. Li
Section 37 Agreement	2/24/20	K. Li
YSL Construction Schedule	2/24/20	K. Li
YSL Contracts	2/24/20	K. Li
YSL Permit Drawings	2/24/20	K. Li
YSL Sales Grid (to Date)	2/24/20	K. Li
YSL Tender Schedule	2/24/20	K. Li

Email me when a file is: Uploaded to this folder

This is "Exhibit "D" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:
Elin Laskin

A62687A47FA54DB...

A Commissioner for Taking Affidavits

CONFIDENTIALITY AGREEMENT

To: YSL RESIDENCES INC. (the “Vendor”)

And to: CBRE Limited (the “Advisor”)

Re: Confidential Information regarding 363-391 Yonge Street & 3 Gerrard Street East (the “Property”)

Date: February 24, 2020

The Vendor, and/or the Vendor’s Advisor, have agreed to provide _____ (the “**Recipient**”) with certain confidential information regarding the Property for the sole purpose of evaluating its options with respect to a potential acquisition of the Property (the “Purpose”). This letter agreement (the “Agreement”) sets out the terms and conditions upon which the Vendor is willing to disclose to the Recipient, on a confidential basis, such information.

In consideration of the provision of the information by or on behalf of the Vendor and other good and valuable consideration (the receipt and sufficiency of which are specifically acknowledged by the Recipient), by signing and returning a copy of this Agreement, the Recipient covenants and agrees with the Vendor as follows:

1. For the purposes of this Agreement:
 - (a) “Confidential Information” means all information concerning the Property, the Vendor, its businesses and affairs, any pending sales, leasing or other business negotiations, furnished to the Recipient or to any of its Representatives (defined below), whether oral or written or in any other form or media and regardless of the manner in which it is furnished, including any agreements or other communications, verbal or in writing, and any information obtained in meetings with personnel or representatives of the Vendor, together with all analyses, compilations, studies or other documents containing or reflecting such information, whether prepared by any of the Vendor, the Recipient or their respective Representatives or others; and
 - (b) “Representatives” means, the Recipient’s affiliates and its and their respective directors, officers, employees, agents, consultants, financial advisors, and legal counsel.
2. The Recipient and its Representatives will not use the Confidential Information in any manner or for any purpose except as required for the Purpose.
3. The Recipient and its Representatives will keep the Confidential Information confidential. All right, title and interest in and to the Confidential Information will remain the exclusive property of the Vendor. No interest, licence or right respecting the Confidential Information, other than as may be expressly set out herein, is granted to the Recipient or any of its Representatives under this Agreement by implication or otherwise. Except as otherwise specifically permitted herein, the Recipient and its Representatives will not directly or indirectly disclose, allow access to, transmit or transfer any Confidential Information to a third party, without the prior written consent of the Vendor and without a

written commitment from any such third party to receive and use the Confidential Information on a confidential basis on the terms and conditions set forth in a Confidentiality Agreement executed by such third party in favour of the Vendor in form and substance acceptable to the Vendor. The Recipient may disclose the Confidential Information only to those of its Representatives who have a need to know the Confidential Information for the Purpose. Upon the written request of the Vendor, the Recipient will immediately provide a list of such Representatives. Prior to disclosing Confidential Information to such Representative, the Recipient will issue appropriate instructions to such Representative to satisfy its obligations hereunder and obtain the Representative's agreement to receive and use the Confidential Information on a confidential basis on the same conditions as contained in this Agreement and to otherwise comply with the terms hereof; and

4. If the Recipient or any of its Representatives is requested pursuant to, or required by, applicable law, regulation, subpoena or other legal process to disclose any Confidential Information, the existence of this Agreement or any of the terms hereof, the Recipient will provide, to the extent permitted by law, regulation or such legal process, prompt notice to the Vendor of such request or requirement in order to enable the Vendor to seek an appropriate protective order or other remedy at the Vendor's cost, and/or waive compliance with the terms of this Agreement.
5. The obligations of the Recipient and its Representatives set forth in this Agreement will not apply to information which the Recipient can reasonably demonstrate: (i) was in the possession of the Recipient or its Representatives on a non-confidential basis prior to the disclosure of such information hereunder, (ii) was, is or becomes available to the Recipient from a source, other than the Vendor, not known by the Recipient or its Representatives to be bound by a confidentiality agreement with, or subject to any other contractual or legal obligation of confidentiality to, the Vendor or their Representatives with respect to such information, or (iii) was, is or becomes generally available to the public, other than as a result of a disclosure by the Recipient or its Representatives in violation of this Agreement.
6. This Agreement does not constitute any representation, warranty or guarantee by the Vendor or any of their Representatives with respect to the accuracy or completeness of the Confidential Information and the Recipient and its Representatives will not be entitled to rely on the accuracy or completeness of the Confidential Information.
7. At any time upon the written request of the Vendor or any of their Representatives, except as required by law to be maintained, the Recipient and its Representatives shall immediately destroy all Confidential Information, including all copies thereof, and shall destroy or delete all Confidential Information filed or stored in any form whatsoever, including any Confidential Information stored electronically, in a data base or otherwise. If requested by the Vendor, the Recipient shall provide the Vendor with a certificate of one of its senior officers confirming compliance with this provision.
8. Nothing in this Agreement shall be construed, by implication or otherwise, as establishing or recognizing any business relationship or as representing any commitment by any party hereto to enter into any other agreement or by the Recipient to provide any services in respect of the Purpose or otherwise and neither party may bind, nor is it responsible for the acts of, the other party or their respective Representatives.
9. The Recipient agrees that monetary damages may not alone be sufficient to remedy any breach by the Recipient or its Representatives of any term or provision of this Agreement and agrees

that the Vendor will also be entitled to equitable relief, including injunction and specific performance, in the event of any breach or threatened breach hereof and in addition to any other remedy available pursuant to this Agreement or at law or in equity.

10. The Recipient shall indemnify and save harmless the Owner and Advisor and any of their respective representatives from and all actual losses, damages, expenses, liabilities, claims and demands resulting from any breach of this Agreement by us or any of our Representatives.
11. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory between the parties other than as expressly set forth in this Agreement. This Agreement may only be amended, waived or modified by a written agreement signed by each of the parties hereto.
12. Unless otherwise terminated by written agreement between the parties, this Agreement shall continue in effect for the period of 12 months from the date hereof.
13. This Agreement shall be governed by and shall be subject to the laws of the Province of Ontario; and each of the parties hereby attorn to the jurisdiction of the courts of the Province of Ontario with respect to any disputes concerning the interpretation, application and enforcement of this Agreement.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF the Owner and the Consultant agree to the terms and conditions set out herein, and have executed this letter agreement as of the date first written above.

[RECIPIENT LEGAL NAME]

Per: _____
Name:
Title:

YSL RESIDENCES INC.

Per: _____
Name:
Title:

Per: _____
Name:
Title:

This is "Exhibit " E " referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA54DB...

A Commissioner for Taking Affidavits

From: [Li, Kai Tai @ Toronto DT](#)
To: alan.menkes@menkes.com
Cc: peter.menkes@menkes.com; [Senst, Peter @ Toronto DT](#); [Gallagher, Casey @ Toronto DT](#)
Subject: YSL Condos info
Date: February 13, 2020 4:18:51 PM
Attachments: [Yonge and Gerrard FLYER.pdf](#)

Hi Alan and Peter,

As per your conversation with Peter, please find attached the draft flyer from our sale of the site back in Q1 2016. I've also uploaded relevant files from the 2016 sale to an online dataroom – direct link below.

<https://cbrelimited.sharefile.com/f/fo84f73f-ee12-4467-98f9-85b00111832a>

We anticipate receiving additional and updated info from Cresford within the next day or two, which we'll forward along once received.

Please don't hesitate to let us know if you have any questions.

Best

Kai Tai

Kai Tai Li*

CBRE Limited | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T 416 815 2397 | M 647 470 3668

kaitai.li@cbre.com

*Sales Representative

YONGE & GERRARD

363 – 385 YONGE STREET
TORONTO, ONTARIO





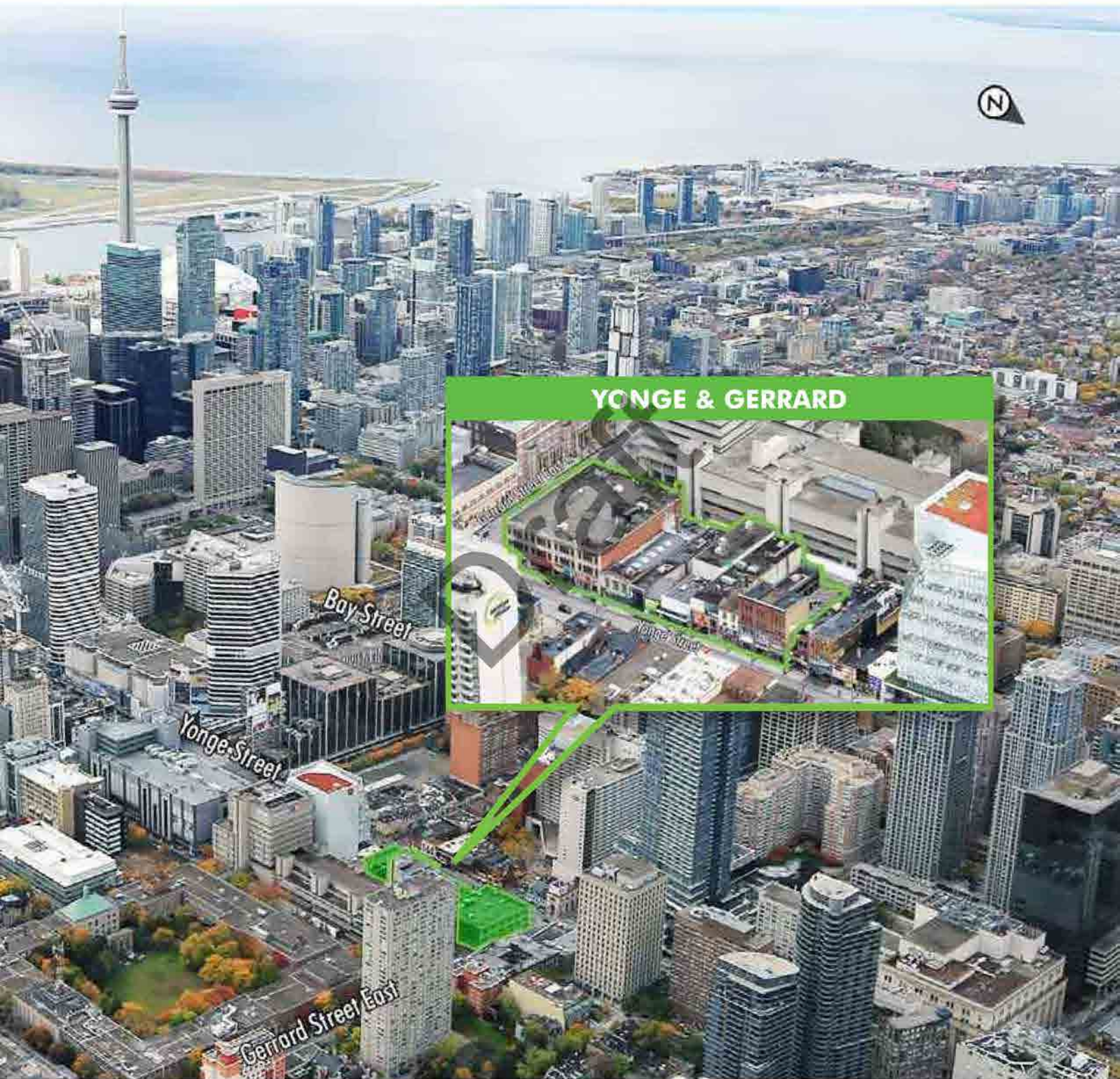
THE OFFERING

CBRE Limited ("CBRE" or "Advisor") on behalf of KingSett Capital (the "Vendor") is pleased to offer for sale a 100% freehold interest in 363-385 Yonge Street, Toronto (the "Property" or the "Site"), a landmark development site comprising 0.92 acres (40,235 sq. ft.) occupying an irreplaceable location on the southeast corner of Yonge Street and Gerrard Street East in Toronto's vibrant Downtown Yonge Corridor.

Representing one of Downtown Toronto's most significant mixed-use development opportunities, the Property provides the potential for approximately 1.2M sq. ft. of mixed-use density combining premier street-front retail and commercial space with highly coveted residential condominium in the heart of the Downtown Core. The Property features over 300 feet of prime frontage along Yonge Street, providing outstanding street-front retail exposure. Overall, the Site's highly centralized location in Downtown Toronto provides all of the features and amenities that the urban lifestyle has to offer including attractive parks, unrivaled transit access and countless amenities.

The Downtown Core is one of the most active residential development locations in Toronto, featuring unmatched transit accessibility, perfect walkability scores and countless amenities. Demand for residential dwellings in the Downtown Core is extremely strong with 19 active projects totaling more than 9,000 new units which are 83% sold and feature average pricing of \$890 per sq. ft.; the second highest in the GTA. The Downtown Core is the heart of the City, featuring Toronto's most dynamic retail, office and residential locations. Home to the Toronto Eaton Centre, Hudson's Bay, Atrium on Bay and Aura, Downtown Yonge is the focus of significant investment in new retail concepts and formats attracting marquee international brands including Sak's Fifth Avenue, Nordstrom's, Uniqlo, Bed Bath & Beyond and Muji.







INVESTMENT HIGHLIGHTS

- + Highly visible ~1 acre (40,235 sq. ft.) site strategically positioned on the south east corner of Yonge Street and Gerrard Street East in downtown Toronto;
- + 1.2 M sq. ft. of density potential in an iconic two-tower configuration with substantial planning work already complete.
- + Proven as a top residential location in Canada with the fastest condominium absorption rates in the GTA and an average sale value of \$890 per square foot – the second highest in the GTA;
- + Efficient, rectangular land configuration boasting over 300 feet of prime Yonge Street retail frontage;
- + High proximity of residential drivers including: the Downtown Financial Core, Toronto Eaton Centre, University of Toronto, Ryerson University and the full downtown Toronto hospital network;
- + Walker's and Rider's Paradise: Transit and walkability scores at 100 and 99 respectively with TTC accessibility at the doorstep.
- + Yonge Street – Canada's Main Street

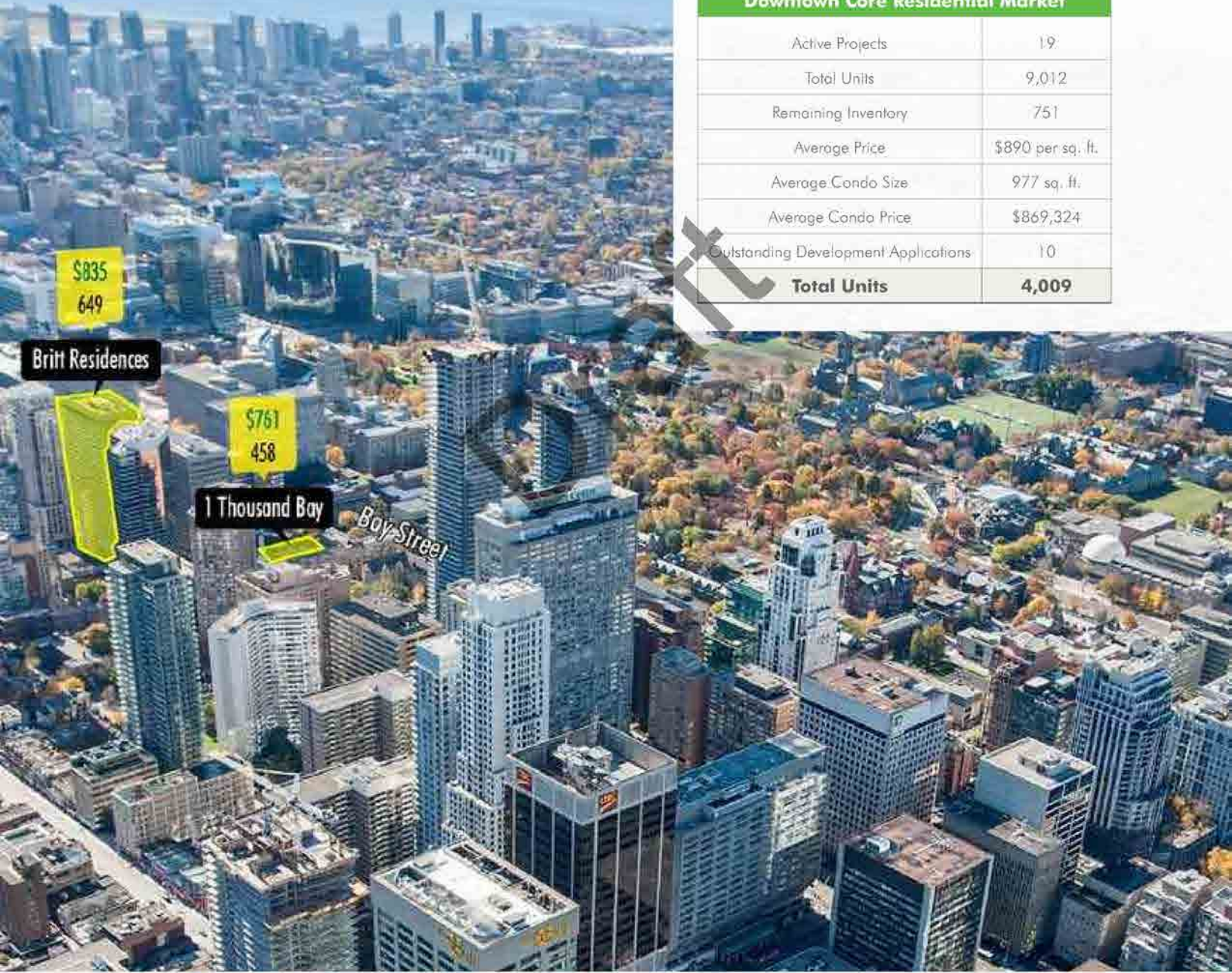






RESIDENTIAL MARKET ACTIVITY





Downtown Core Residential Market	
Active Projects	19
Total Units	9,012
Remaining Inventory	751
Average Price	\$890 per sq. ft.
Average Condo Size	977 sq. ft.
Average Condo Price	\$869,324
Outstanding Development Applications	10
Total Units	4,009



COMMERCIAL MARKET ACTIVITY



DOWNTOWN NORTH OFFICE

OFFICE MARKET



Downtown North Office Market	Class A
# of Buildings	9
Total Inventory	4,510,748 sq. ft.
Vacancy Rate	~5%
Under Construction	0 sq. ft.
Average Net Rent	\$28.49 per sq. ft.
Average Gross Rent	\$50.88 per sq. ft.

24-HOUR VOLUME



DOWNTOWN YONGE RETAIL

RETAIL MARKET

STREET LEVEL

\$80-\$135
PER SQ. FT.

SECOND LEVEL

\$20-\$40
PER SQ. FT.



RECENT/FUTURE ENTRANTS

SAKS
FIFTH
AVENUE



NORDSTROM

MUJI
無印良品

BASIL
BOX



FIVE GUYS
BURGERS and FRIES



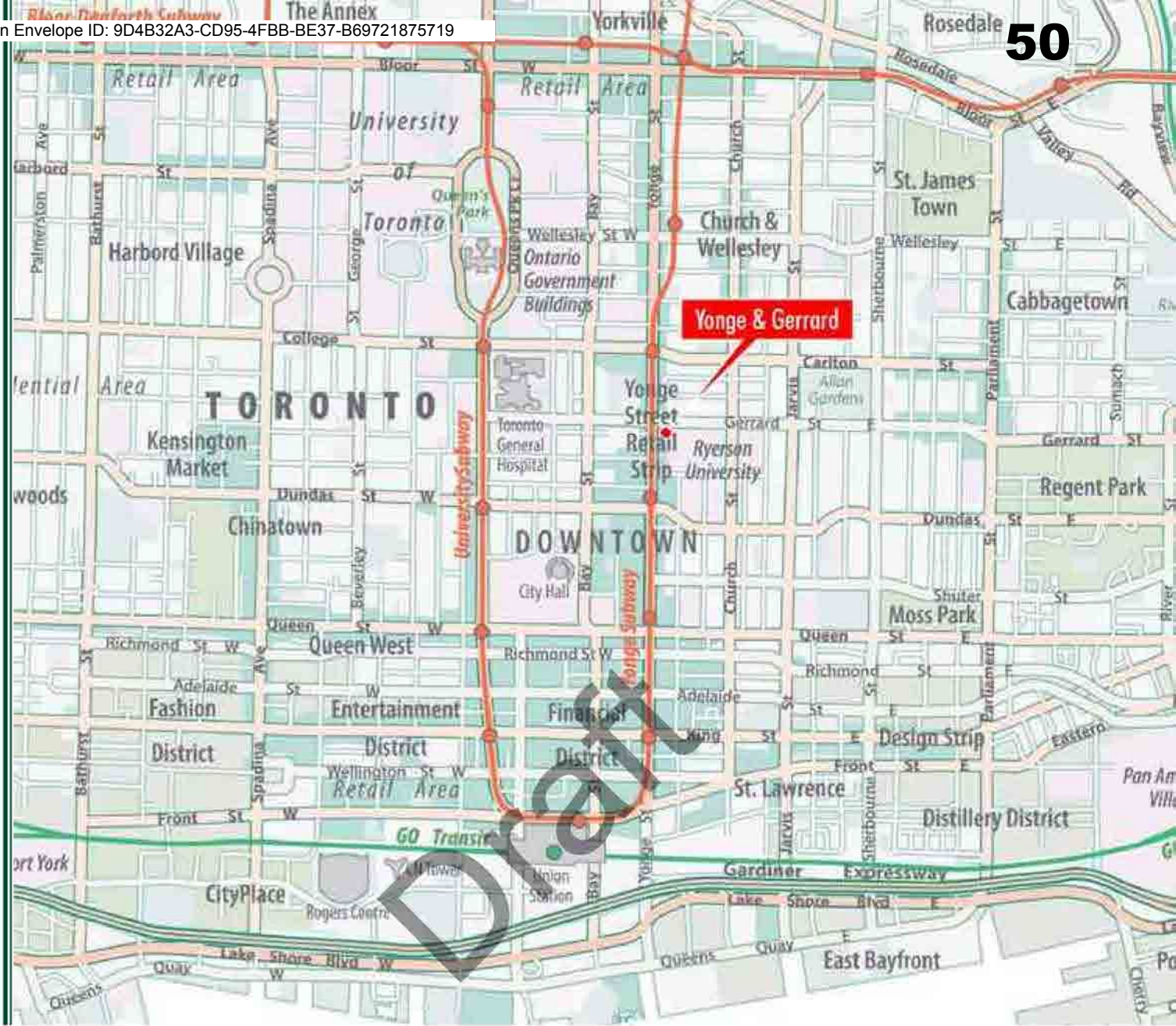


YONGE & GERRARD LUXURY, LOCATION, AND CONVENIENCE

#	Attraction	Distance (M)	Distance (KM)	Walking Time (min)
1	Ryerson University	180	0.18	2
2	Yonge-Dundas Square	350	0.35	4
3	Toronto Eaton Centre	350	0.35	4
4	Maple Leaf Gardens - Mattamy Athletic Centre	450	0.45	6
5	University Street Hospitals	650	0.65	8
6	Church-Wellesley Village	800	0.8	11
7	Nathan Phillips Square (City Hall)	950	0.95	11
8	University of Toronto	1200	1.2	15
9	Queens Park	1200	1.2	16
10	Financial Core (King & Bay)	1300	1.3	16
11	Sony Centre	1500	1.5	18
12	Air Canada Centre	1800	1.8	22
13	Roy Thompson Hall	1900	1.9	23
14	Royal Alexandra Theatre	1900	1.9	24
15	Kensington Market	2000	2	25
16	Princess of Wales Theatre	2100	2.1	26
17	TIFF Lightbox	2200	2.2	27
18	Queen Street West (Shopping)	2200	2.2	27
19	Bloor-Yorkville	2200	2.2	28
20	Toronto Convention Centre	2500	2.5	31
21	CN Tower	2500	2.5	32
22	Ripley's Aquarium	2500	2.5	32
23	Harbourfront	2600	2.6	32
24	Distillery District	2800	2.8	34
25	Rogers Centre	2700	2.7	34
26	Entertainment District	2600	2.6	34
27	Fashion District	2900	2.9	36
28	Toronto Islands	4400	4.4	44
29	Billy Bishop Airport	4100	4.1	51
30	Exhibition Place	4600	4.6	56







CONTACT US

CBRE Limited | 145 King Street West, Suite 600 | Toronto, Ontario | T 416 362 2244 | F 416 362 8085 | www.cbre.com

PETER D. SENST*

President Canadian Capital Markets
416 815 2355
peter.senst@cbre.com

CASEY T. GALLAGHER*

Senior Vice President
416 815 2398
casey.gallagher@cbre.com

*Sales Representative

This disclaimer shall apply to CBRE Limited, Real Estate Brokerage, and to all other divisions of the Corporation ("CBRE"). The information set out herein, including, without limitation, any projections, images, opinions, assumptions and estimates obtained from third parties (the "Information") has not been verified by CBRE, and CBRE does not represent, warrant or guarantee the accuracy, correctness and completeness of the Information. CBRE does not accept or assume any responsibility or liability, direct or consequential, for the information or the recipient's reliance upon the Information. The recipient of the Information should take such steps as the recipient may deem necessary to verify the Information prior to placing any reliance upon the Information. The Information may change and any property described in the information may be withdrawn from the market at any time without notice or obligation to the recipient from CBRE. CBRE and the CBRE logo are the service marks of CBRE Limited and/or its affiliated or related companies in other countries. All other marks displayed on this document are the property of their respective owners. All Rights Reserved.



This is "Exhibit " F " referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.



DocuSigned by:

Elie Laskin

A62687A47FA54DB...

A Commissioner for Taking Affidavits

From: Pinto, Vanessa @ Toronto DT
Subject: Ted Dowbiggin/ Christopher Wein/ Peter Sens/ Casey Gallagher
To: Gallagher, Casey @ Toronto DT; tdowbiggin@cresford.com; 'Christopher J. Wein'; Peter Sens
Sent: February 19, 2020 3:20 PM (UTC+00:00)

To...	<input type="checkbox"/> tdowbiggin@cresford.com ; <input type="checkbox"/> 'Christopher J. Wein' <cwein@lanterradev.com>; <input type="checkbox"/> Peter Sens		
Subject	Ted Dowbiggin/ Christopher Wein/ Peter Sens/ Casey Gallagher		
Location	Cresford, 59 Hayden Street, Suite 200		
Start time	<input type="text" value="Thu 2020-02-20"/> 	<input type="text" value="9:30 AM"/> ▾	<input type="checkbox"/> All day event
End time	<input type="text" value="Thu 2020-02-20"/> 	<input type="text" value="10:30 AM"/> ▾	

This is "Exhibit "G" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

A62687A47FA64DB..

A Commissioner for Taking Affidavits

CONFIDENTIALITY AGREEMENT

To: YSL RESIDENCES INC. (the "Vendor")

And to: CBRE Limited (the "Advisor")

Re: Confidential Information regarding 363-391 Yonge Street & 3 Gerrard Street East (the "Property")

Date: February 20, 2020

The Vendor, and/or the Vendor's Advisor, have agreed to provide Lapra Developments (the "Recipient") with certain confidential information regarding the Property for the sole purpose of evaluating its options with respect to a potential acquisition of the Property (the "Purpose"). This letter agreement (the "Agreement") sets out the terms and conditions upon which the Vendor is willing to disclose to the Recipient, on a confidential basis, such information.

In consideration of the provision of the information by or on behalf of the Vendor and other good and valuable consideration (the receipt and sufficiency of which are specifically acknowledged by the Recipient), by signing and returning a copy of this Agreement, the Recipient covenants and agrees with the Vendor as follows:

1. For the purposes of this Agreement:
 - (a) "Confidential Information" means all information concerning the Property, the Vendor, its businesses and affairs, any pending sales, leasing or other business negotiations, furnished to the Recipient or to any of its Representatives (defined below), whether oral or written or in any other form or media and regardless of the manner in which it is furnished, including any agreements or other communications, verbal or in writing, and any information obtained in meetings with personnel or representatives of the Vendor, together with all analyses, compilations, studies or other documents containing or reflecting such information, whether prepared by any of the Vendor, the Recipient or their respective Representatives or others; and
 - (b) "Representatives" means, the Recipient's affiliates and its and their respective directors, officers, employees, agents, consultants, financial advisors, and legal counsel.
2. The Recipient and its Representatives will not use the Confidential Information in any manner or for any purpose except as required for the Purpose.
3. The Recipient and its Representatives will keep the Confidential Information confidential. All right, title and interest in and to the Confidential Information will remain the exclusive property of the Vendor. No interest, licence or right respecting the Confidential Information, other than as may be expressly set out herein, is granted to the Recipient or any of its Representatives under this Agreement by implication or otherwise. Except as otherwise specifically permitted herein, the Recipient and its Representatives will not directly or indirectly disclose, allow access to, transmit or transfer any Confidential Information to a third party, without the prior written consent of the Vendor and without a

written commitment from any such third party to receive and use the Confidential Information on a confidential basis on the terms and conditions set forth in a Confidentiality Agreement executed by such third party in favour of the Vendor in form and substance acceptable to the Vendor. The Recipient may disclose the Confidential Information only to those of its Representatives who have a need to know the Confidential Information for the Purpose. Upon the written request of the Vendor, the Recipient will immediately provide a list of such Representatives. Prior to disclosing Confidential Information to such Representative, the Recipient will issue appropriate instructions to such Representative to satisfy its obligations hereunder and obtain the Representative's agreement to receive and use the Confidential Information on a confidential basis on the same conditions as contained in this Agreement and to otherwise comply with the terms hereof; and

4. If the Recipient or any of its Representatives is requested pursuant to, or required by, applicable law, regulation, subpoena or other legal process to disclose any Confidential Information, the existence of this Agreement or any of the terms hereof, the Recipient will provide, to the extent permitted by law, regulation or such legal process, prompt notice to the Vendor of such request or requirement in order to enable the Vendor to seek an appropriate protective order or other remedy at the Vendor's cost, and/or waive compliance with the terms of this Agreement.
5. The obligations of the Recipient and its Representatives set forth in this Agreement will not apply to information which the Recipient can reasonably demonstrate: (i) was in the possession of the Recipient or its Representatives on a non-confidential basis prior to the disclosure of such information hereunder, (ii) was, is or becomes available to the Recipient from a source, other than the Vendor, not known by the Recipient or its Representatives to be bound by a confidentiality agreement with, or subject to any other contractual or legal obligation of confidentiality to, the Vendor or their Representatives with respect to such information, or (iii) was, is or becomes generally available to the public, other than as a result of a disclosure by the Recipient or its Representatives in violation of this Agreement.
6. This Agreement does not constitute any representation, warranty or guarantee by the Vendor or any of their Representatives with respect to the accuracy or completeness of the Confidential Information and the Recipient and its Representatives will not be entitled to rely on the accuracy or completeness of the Confidential Information.
7. At any time upon the written request of the Vendor or any of their Representatives, except as required by law to be maintained, the Recipient and its Representatives shall immediately destroy all Confidential Information, including all copies thereof, and shall destroy or delete all Confidential Information filed or stored in any form whatsoever, including any Confidential Information stored electronically, in a data base or otherwise. If requested by the Vendor, the Recipient shall provide the Vendor with a certificate of one of its senior officers confirming compliance with this provision.
8. Nothing in this Agreement shall be construed, by implication or otherwise, as establishing or recognizing any business relationship or as representing any commitment by any party hereto to enter into any other agreement or by the Recipient to provide any services in respect of the Purpose or otherwise and neither party may bind, nor is it responsible for the acts of, the other party or their respective Representatives.
9. The Recipient agrees that monetary damages may not alone be sufficient to remedy any breach by the Recipient or its Representatives of any term or provision of this Agreement and agrees

that the Vendor will also be entitled to equitable relief, including injunction and specific performance, in the event of any breach or threatened breach hereof and in addition to any other remedy available pursuant to this Agreement or at law or in equity.

10. The Recipient shall indemnify and save harmless the Owner and Advisor and any of their respective representatives from and all actual losses, damages, expenses, liabilities, claims and demands resulting from any breach of this Agreement by us or any of our Representatives.
11. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory between the parties other than as expressly set forth in this Agreement. This Agreement may only be amended, waived or modified by a written agreement signed by each of the parties hereto.
12. Unless otherwise terminated by written agreement between the parties, this Agreement shall continue in effect for the period of 12 months from the date hereof.
13. This Agreement shall be governed by and shall be subject to the laws of the Province of Ontario; and each of the parties hereby attorn to the jurisdiction of the courts of the Province of Ontario with respect to any disputes concerning the interpretation, application and enforcement of this Agreement.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF the Owner and the Consultant agree to the terms and conditions set out herein, and have executed this letter agreement as of the date first written above.

[RECIPIENT LEGAL NAME]

Per: 
Name: Christopher J. Wein
Title: President; COO

YSL RESIDENCES INC.

Per: _____
Name:
Title:

Per: _____
Name:
Title:

This is "Exhibit "H" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA64DB...

A Commissioner for Taking Affidavits

From: Gallagher, Casey @ Toronto DT
To: dowbigginted@gmail.com
Cc: peter.senst@cbre.com; Kazandji, Maria @ Toronto DT
Subject: Mandate letter and listing agreement
Date: February 21, 2020 10:05:00 AM
Attachments: [Exclusive Sales Listing Agreement -363-391 Yonge St and 3 Gerrard St East.docx](#)
[image001.jpg](#)
[365-385 Yonge - 2-21-2020.pdf](#)

Ted –

Attached are our mandate letter and listing agreement documents pertaining to YSL at Yonge and Gerrard. We are available at your convenience to address any questions or comments.

Thanks again,

Casey T. Gallagher | Executive Vice President*

CBRE Limited | Brokerage | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T 416-815-2398 | F 416-362-8085

casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

This is "Exhibit " I " referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA54DB..

A Commissioner for Taking Affidavits



145 King Street West
Suite 1100
Toronto, ON M5H 1J8
T 416 362 2244
F 416 362 8085

www.cbre.ca

February 21, 2020

VIA EMAIL

Mr. Ted Dowbiggin
Cresford Developments
59 Hayden Street, Suite 200
Toronto ON M4Y0E7

Dear Ted,

Re: 363-391 Yonge Street & 3 Gerrard Street East Target Partners and Marketing Process

Thank you for working with CBRE Limited ("CBRE") on your development lands at 363-391 Yonge Street & 3 Gerrard Street East, Toronto (the "Property"). As per our discussions, we understand that Cresford Developments ("Cresford") is considering their options for the Property including monetization, equity recapitalization or joint venture.

Given the volume of transactions recently executed by CBRE, we feel we are well-positioned to provide reliable guidance and a broad spectrum of options for Cresford. To best articulate our views, this letter is intended to provide Cresford with our recommended marketing process and targets. We are excited at the prospect of working with Cresford, one of Toronto's most respected developers and a longtime CBRE friend, and we look forward to proceeding in a timely manner.

Targeted Marketing

Given the quality and scale that the Property presents, as well as the sensitive nature of this transaction, we recommend a targeted campaign effort. The primary benefit of this process is CBRE's ability to rapidly identify and reach the key market participants who can execute the land acquisition and development of the Property.

Critical Success Factors

Each marketing campaign is designed around the key attributes of the offering. For the Property, we consider the following as focus elements to source the best partner and maximize value:

- | | |
|---------------|--|
| Prospects | <p>Target active developers with depth of capital and limited sensitivity to risk</p> <ul style="list-style-type: none"> - Time sensitive process to source only capable developer buyers - Primary goal is to maximize pricing and ensure transaction certainty - Provides opportunity for direct discussion on acquisition or JV solution |
| Messaging | <p>Best-in-class Location and Marketplace</p> <ul style="list-style-type: none"> - Entitlements in place - Substantial up-front costs already incurred - High momentum location and exceptionally tight fundamentals - Skyline Toronto profile |
| Due Diligence | <p>All DD details assembled and provided up-front</p> <ul style="list-style-type: none"> - CBRE team to work with Cresford to assemble all relevant DD material - CBRE team Counsel, in conjunction with Cresford, to draft agreements |

Top Partner Candidates

The table below details the primary tranche of recommended target candidates.

Company Name	Comment
Concord Adex	Demonstrated development expertise completing scale projects in Toronto. Seeking additional core opportunities. We have connected with Gabriel Leung and they have expressed initial interest.
Menkes	Demonstrated development expertise completing scale projects in Toronto. Existing BCIMC relationship. We have already met with Peter and Alan Menkes.
Lanterra	Demonstrated development expertise completing scale projects in Toronto. Seeking additional core opportunities having recently dropped Chelsea Hotel. Met with Chris Wein.
Westbank	Demonstrated development expertise completing scale projects in Toronto. Existing relationships with BCIMC and Otera. Seeking additional core opportunities. We have reached out directly to Ian Gillespie

Thank you for considering CBRE and if you have any further questions, please let us know.

Sincerely,



Peter D. Senst
President Canadian Capital Markets



Casey Gallagher
Executive Vice President

This is "Exhibit "J" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

A62687A47FA54DB..

A Commissioner for Taking Affidavits

THIS EXCLUSIVE SALES LISTING AGREEMENT dated February 20, 2020 (the “Agreement”)

BETWEEN

YSL RESIDENCES INC. (the “Owner”)

-and-

CBRE Limited (the “Brokerage”)

WHEREAS the Owner is the legal owner of 363-391 Yonge Street & 3 Gerrard Street East Toronto, Ontario (the “Property”);

AND WHEREAS the Owner wants to retain the Brokerage to serve as the exclusive listing brokerage for the sale of the Property;

AND WHEREAS the Brokerage listing team representing the Owner in the sale of the Property shall consist of Peter D. Senst and Casey Gallagher (the “Listing Team”);

NOW THEREFORE in consideration of the listing for sale of the Property by the Brokerage, and the Brokerage’s efforts to effect a sale of the Property, the Owner and the Brokerage hereby agree as follows:

ARTICLE 1 RECITALS

1.1 The above recitals are true and accurate in all respects.

ARTICLE 2 TERM

2.1 The Owner grants to the Brokerage the exclusive right to sell the Property for a period commencing February 20, 2020 and expiring at midnight on August 20, 2020 (the “Term”).

2.2 Notwithstanding the foregoing, if at any time after the receipt of best-and-final bids, the Owner is not satisfied with pricing, the Owner may terminate this Agreement upon the provision of 10 days’ notice to the Brokerage and all obligations hereunder shall be at an end.

ARTICLE 3 THE BROKERAGE RENUMERATION

3.1 The Owner agrees to pay the Brokerage a commission equivalent to 0.65% of the Gross Sale Price of the Property (the “Commission”). Gross sales price shall include any and all consideration received or receivable, in whatever form, including but not limited to assumption or release of existing liabilities, without any downward adjustments for any capital, environmental issues, mark-to-market adjustment or yield maintenance fees with respect to existing mortgages as adjusted on the closing of the transaction pursuant to an agreement of purchase and sale executed and delivered by Owner. Commission shall be paid and deemed earned if and only if a closing occurs pursuant to a contract of sale executed and delivered by Owner.

3.2 The Commission shall be earned by the Brokerage in the event that during the Term: (a) the Owner enters into a binding agreement of purchase and sale for the Property with a purchaser procured by the Brokerage, the Owner or from any other source whatsoever, and such sale closes; or (b) the Owner is a corporation, partnership or other business entity and an interest in such corporation,

partnership or other business entity is transferred, whether by merger or outright purchase or otherwise in lieu of sale of the Property.

- 3.3 The Commission shall be payable immediately upon closing of the agreement of purchase and sale referred to in section 3.2(a) above; or upon the completion of the transfer referred to in section 3.2(b) above; notwithstanding that the sale may close, or the transfer may be completed, following the expiry of the Term.
- 3.4 The Commission payable herein shall be subject to the payment of Harmonized Sales Tax (HST) thereon by the Owner.

ARTICLE 4 HOLDOVER

- 4.1 The Owner further agrees to pay the Brokerage the Commission if, within 90 calendar days after the expiration of the Term, the Property is sold to, or the Owner enters into an agreement of purchase and sale for the Property with, or negotiations continue, resume or commence and thereafter continue leading to the execution of a binding agreement of purchase and sale for the Property, provided the transaction subsequently closes, with any person or entity (including his/her/its successors, assigns or affiliates) with whom the Brokerage has negotiated (either directly or through another agent) or to whom the Property was introduced or submitted, from any source whatsoever, or to whom the Owner was introduced, from any source whatsoever, prior to the expiration of the Term; with or without the involvement of the Brokerage. The Brokerage is authorized to continue negotiations with such persons or entities. The Brokerage agrees to submit a list of such persons or entities to the Owner within 10 business days following the expiration of the Term, provided, however, that if a written offer has been submitted, then it shall not be necessary to include the offeror's name on the list.

ARTICLE 5 THE OWNER SHALL NOT ENGAGE ANOTHER BROKERAGE DURING THE TERM

- 5.1 The Owner warrants to the Brokerage that, as at the date of execution of this Agreement, the Owner is not a party to a valid listing agreement with any other real estate brokerage with respect to the sale of the Property. The Owner shall not engage the services of another real estate brokerage during the Term with respect to the sale of the Property.
- 5.2 The Owner agrees to cooperate with the Brokerage in bringing about the sale of the Property and to refer immediately to the Brokerage all inquiries of anyone interested in the Property. All negotiations are to be through the Brokerage.
- 5.3 The Owner and the Brokerage hereby acknowledge that this is an exclusive listing and that the Brokerage shall not be required to cooperate with any other brokerage in connection with this exclusive listing. At the sole discretion of the Brokerage, a third-party real estate agent (the "**Cooperating Agent**") may be permitted to cooperate in the sale of the Property and any Cooperating Agent shall comply with the terms of this Agreement.

ARTICLE 6 DUAL AGENCY

- 6.1 The Owner acknowledges and agrees that the Brokerage may represent the Owner and a purchaser in a dual agency relationship. In the event that such dual agency relationship arises, the Listing

Team shall advise the Owner of such dual agency relationship immediately upon becoming aware of the dual agency relationship. The Owner hereby consents to the possibility of a limited dual agency wherein CBRE Limited maintains confidentiality with respect to each pricing intentions, corporate objectives and motivations for both principals to the transaction.

- 6.2 Notwithstanding the foregoing, the members of the Listing Team shall not act adverse in interest to the Owner, nor shall members of the Listing Team represent a purchaser of the Property in a transaction involving the purchase and sale of the Property, during the Term.

ARTICLE 7 GENERAL PROVISIONS

- 7.1 *Authority.* The Owner declares and certifies that it is the owner of the Property and that it has the authority to enter into and execute this Agreement; and this Agreement, once executed by the Owner, shall be legally binding upon the Owner.
- 7.2 *Entire Agreement.* This Agreement constitutes the entire agreement between the Owner and the Brokerage, and supersedes all prior discussions, negotiations and agreements, whether oral or written. In case of any inconsistencies between this Agreement and any commission provisions in the agreement of purchase and sale, the provisions of this Agreement shall govern and be paramount.
- 7.3 *Amendment.* No amendment or alteration of this Agreement shall be valid or binding unless made in writing and signed by the Owner and the Brokerage.
- 7.4 *Severability.* Should any provision of this Agreement be unenforceable at law, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall continue in force and shall be binding as though such provision had not been included.
- 7.5 *Interpretation.* The headings inserted in this Agreement are for convenience of reference only and, in no way define, limit or enlarge the scope or meaning of any of the terms and conditions contained in this Agreement. The preamble to this Agreement forms an integral part of this Agreement and shall be used in its interpretation.
- 7.6 *Jurisdiction.* This Agreement shall be governed by, and shall be subject to, the laws of the Province of Ontario; and the Owner and the Brokerage hereby attorn to the jurisdiction of the courts of the Province of Ontario with respect to any dispute concerning the interpretation, application and enforcement of this Agreement.
- 7.7 *Counterparts:* This agreement may be executed in counterparts and may be transmitted by email.

[this space intentionally left blank; signatures appear on next page]

IN WITNESS WHEREOF the Owner and the Brokerage agree to the terms and conditions as set out herein; and have executed this Agreement as of the date first written above.

YSL RESIDENCES INC. (the “**Owner**”)

Per:

I have authority to bind the company

Print Name: _____

CBRE Limited (the “**Brokerage**”)

Per:

I have authority to bind the company

Print Name: _____

This is "Exhibit "K" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

A62687A47FA54DB..

A Commissioner for Taking Affidavits

From: [Gallagher, Casey @ Toronto DT](#)
To: ["Ted Dowbiggin"](#)
Cc: [Sens, Peter @ Toronto DT](#)
Subject: Terry Hui - Concord Adex
Date: February 24, 2020 3:57:00 PM
Attachments: [image001.jpg](#)

Ted –

Terry Hui of Concord Adex is in town tomorrow and has asked if it's possible to meet with a principal at Cresford. We understand you're out of town, is Dan or anyone else available?

Thanks,

Casey T. Gallagher | Executive Vice President*

CBRE Limited | Brokerage | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T 416-815-2398 | F 416-362-8085

casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

This is "Exhibit "L" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA54DB...

A Commissioner for Taking Affidavits

From: [Gabriel Leung](#)
To: [Ted Dowbiggin](#)
Cc: [Gallagher, Casey @ Toronto DT](#); [Senst, Peter @ Toronto DT](#)
Subject: Re: Call re Yonge-Gerrard
Date: February 25, 2020 10:16:27 AM

External

Call confirmed from our end. Thanks Casey for setting this up.

On Feb 25, 2020, at 10:15 AM, Ted Dowbiggin <dowbigginted@gmail.com> wrote:

Sounds good, talk to you then.

On Tue, Feb 25, 2020 at 9:02 AM Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com> wrote:

Dial-In: 888-535-0454

Code: 548 670 2445

iPhone friendly: 18885350454,, 5486702445#

From: Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>

Sent: Tuesday, February 25, 2020 7:41 AM

To: Ted Dowbiggin <dowbigginted@gmail.com>;

gabriel.leung@concordadex.com

Cc: Senst, Peter @ Toronto DT <Peter.Senst@cbre.com>; Pinto, Vanessa @ Toronto DT <Vanessa.Pinto@cbre.com>

Subject: Call re Yonge-Gerrard

Gabriel and Ted -

We can host a call today at 3:45pm if that timing works for you both and Terry. Vanessa can reach our and help set a time.

Best,

Casey T. Gallagher | Executive Vice President*
CBRE Limited | Brokerage | National Investment Team
[145 King Street West, Suite 1100 | Toronto, ON M5H 1J8](#)
T [416-815-2398](tel:416-815-2398) | F [416-362-8085](tel:416-362-8085)
casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

This communication is for exclusive use of the intended recipient(s) and may contain information which is confidential and/or privileged. Any use, disclosure, dissemination, distribution or reliance on such information by a third party is strictly prohibited. If you have received this e-mail in error, please permanently delete it and destroy all copies and attachments.

WARNING: E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late, incomplete, or contain viruses. The Concord Adex group is not liable for any errors or omissions in the content of this message which arise as a result of e-mail transmission.

This is "Exhibit "M" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

A62687A47FA54DB...

A Commissioner for Taking Affidavits

From: [Li, Kai Tai @ Toronto DT](#)
To: [Gabriel Leung](#)
Cc: [Gallagher, Casey @ Toronto DT](#)
Subject: YSL Condos - NDA
Date: February 24, 2020 7:20:33 PM
Attachments: [NDA- 363-391 Yonge Street & 3 Gerrard Street East.pdf](#)

Hi Gabriel,

Hope you're well.

Please find attached the NDA for YSL condos. Upon receipt of a signed copy, we can provide access to the dataroom.

Best

Kai Tai

Kai Tai Li*

CBRE Limited | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T 416 815 2397 | M 647 470 3668

kaitai.li@cbre.com

*Sales Representative

CONFIDENTIALITY AGREEMENT

To: YSL RESIDENCES INC. (the “Vendor”)

And to: CBRE Limited (the “Advisor”)

Re: Confidential Information regarding 363-391 Yonge Street & 3 Gerrard Street East (the “Property”)

Date: February 24, 2020

The Vendor, and/or the Vendor’s Advisor, have agreed to provide _____ (the “**Recipient**”) with certain confidential information regarding the Property for the sole purpose of evaluating its options with respect to a potential acquisition of the Property (the “Purpose”). This letter agreement (the “Agreement”) sets out the terms and conditions upon which the Vendor is willing to disclose to the Recipient, on a confidential basis, such information.

In consideration of the provision of the information by or on behalf of the Vendor and other good and valuable consideration (the receipt and sufficiency of which are specifically acknowledged by the Recipient), by signing and returning a copy of this Agreement, the Recipient covenants and agrees with the Vendor as follows:

1. For the purposes of this Agreement:
 - (a) “Confidential Information” means all information concerning the Property, the Vendor, its businesses and affairs, any pending sales, leasing or other business negotiations, furnished to the Recipient or to any of its Representatives (defined below), whether oral or written or in any other form or media and regardless of the manner in which it is furnished, including any agreements or other communications, verbal or in writing, and any information obtained in meetings with personnel or representatives of the Vendor, together with all analyses, compilations, studies or other documents containing or reflecting such information, whether prepared by any of the Vendor, the Recipient or their respective Representatives or others; and
 - (b) “Representatives” means, the Recipient’s affiliates and its and their respective directors, officers, employees, agents, consultants, financial advisors, and legal counsel.
2. The Recipient and its Representatives will not use the Confidential Information in any manner or for any purpose except as required for the Purpose.
3. The Recipient and its Representatives will keep the Confidential Information confidential. All right, title and interest in and to the Confidential Information will remain the exclusive property of the Vendor. No interest, licence or right respecting the Confidential Information, other than as may be expressly set out herein, is granted to the Recipient or any of its Representatives under this Agreement by implication or otherwise. Except as otherwise specifically permitted herein, the Recipient and its Representatives will not directly or indirectly disclose, allow access to, transmit or transfer any Confidential Information to a third party, without the prior written consent of the Vendor and without a

written commitment from any such third party to receive and use the Confidential Information on a confidential basis on the terms and conditions set forth in a Confidentiality Agreement executed by such third party in favour of the Vendor in form and substance acceptable to the Vendor. The Recipient may disclose the Confidential Information only to those of its Representatives who have a need to know the Confidential Information for the Purpose. Upon the written request of the Vendor, the Recipient will immediately provide a list of such Representatives. Prior to disclosing Confidential Information to such Representative, the Recipient will issue appropriate instructions to such Representative to satisfy its obligations hereunder and obtain the Representative's agreement to receive and use the Confidential Information on a confidential basis on the same conditions as contained in this Agreement and to otherwise comply with the terms hereof; and

4. If the Recipient or any of its Representatives is requested pursuant to, or required by, applicable law, regulation, subpoena or other legal process to disclose any Confidential Information, the existence of this Agreement or any of the terms hereof, the Recipient will provide, to the extent permitted by law, regulation or such legal process, prompt notice to the Vendor of such request or requirement in order to enable the Vendor to seek an appropriate protective order or other remedy at the Vendor's cost, and/or waive compliance with the terms of this Agreement.
5. The obligations of the Recipient and its Representatives set forth in this Agreement will not apply to information which the Recipient can reasonably demonstrate: (i) was in the possession of the Recipient or its Representatives on a non-confidential basis prior to the disclosure of such information hereunder, (ii) was, is or becomes available to the Recipient from a source, other than the Vendor, not known by the Recipient or its Representatives to be bound by a confidentiality agreement with, or subject to any other contractual or legal obligation of confidentiality to, the Vendor or their Representatives with respect to such information, or (iii) was, is or becomes generally available to the public, other than as a result of a disclosure by the Recipient or its Representatives in violation of this Agreement.
6. This Agreement does not constitute any representation, warranty or guarantee by the Vendor or any of their Representatives with respect to the accuracy or completeness of the Confidential Information and the Recipient and its Representatives will not be entitled to rely on the accuracy or completeness of the Confidential Information.
7. At any time upon the written request of the Vendor or any of their Representatives, except as required by law to be maintained, the Recipient and its Representatives shall immediately destroy all Confidential Information, including all copies thereof, and shall destroy or delete all Confidential Information filed or stored in any form whatsoever, including any Confidential Information stored electronically, in a data base or otherwise. If requested by the Vendor, the Recipient shall provide the Vendor with a certificate of one of its senior officers confirming compliance with this provision.
8. Nothing in this Agreement shall be construed, by implication or otherwise, as establishing or recognizing any business relationship or as representing any commitment by any party hereto to enter into any other agreement or by the Recipient to provide any services in respect of the Purpose or otherwise and neither party may bind, nor is it responsible for the acts of, the other party or their respective Representatives.
9. The Recipient agrees that monetary damages may not alone be sufficient to remedy any breach by the Recipient or its Representatives of any term or provision of this Agreement and agrees

that the Vendor will also be entitled to equitable relief, including injunction and specific performance, in the event of any breach or threatened breach hereof and in addition to any other remedy available pursuant to this Agreement or at law or in equity.

10. The Recipient shall indemnify and save harmless the Owner and Advisor and any of their respective representatives from and all actual losses, damages, expenses, liabilities, claims and demands resulting from any breach of this Agreement by us or any of our Representatives.
11. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory between the parties other than as expressly set forth in this Agreement. This Agreement may only be amended, waived or modified by a written agreement signed by each of the parties hereto.
12. Unless otherwise terminated by written agreement between the parties, this Agreement shall continue in effect for the period of 12 months from the date hereof.
13. This Agreement shall be governed by and shall be subject to the laws of the Province of Ontario; and each of the parties hereby attorn to the jurisdiction of the courts of the Province of Ontario with respect to any disputes concerning the interpretation, application and enforcement of this Agreement.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF the Owner and the Consultant agree to the terms and conditions set out herein, and have executed this letter agreement as of the date first written above.

[RECIPIENT LEGAL NAME]

Per: _____
Name:
Title:

YSL RESIDENCES INC.

Per: _____
Name:
Title:

Per: _____
Name:
Title:

This is "Exhibit "N" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

A62687A47FA54DB..

A Commissioner for Taking Affidavits

From: [Sens, Peter @ Toronto DT](#)
To: [Gallagher, Casey @ Toronto DT](#); [Ian Duke](#)
Cc: [Pinto, Vanessa @ Toronto DT](#)
Subject: RE: Catch Up
Date: February 27, 2020 6:33:34 AM

Thank you both and I don't think I will be clear of a meeting at this time so I will look forward to catching up afterwards.

Peter D. Sens | President, Canadian Capital Markets
CBRE Limited | National Investment Team
145 King Street West, Suite 1100 - Toronto, ON M5H 1J8
Direct: 416-815-2355 | Fax: 416-362-8085
peter.sens@cbre.com | www.cbre.com

From: Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>
Sent: Wednesday, February 26, 2020 9:25 PM
To: Ian Duke <iduke@westbankcorp.com>
Cc: Sens, Peter @ Toronto DT <Peter.Sens@cbre.com>; Pinto, Vanessa @ Toronto DT <Vanessa.Pinto@cbre.com>
Subject: Re: Catch Up
Great. We'll send a dial in.

Casey T. Gallagher | Executive Vice President*
CBRE Limited | Brokerage | National Investment Team
[145 King Street West, Suite 1100 | Toronto, ON M5H 1J8](#)
T [416-815-2398](tel:416-815-2398) | F [416-362-8085](tel:416-362-8085)
casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges

On Feb 26, 2020, at 9:20 PM, Ian Duke <iduke@westbankcorp.com> wrote:

External

12est/9pst works for me.

Sent from my iPhone

On Feb 26, 2020, at 18:17, Gallagher, Casey @ Toronto DT
<Casey.Gallagher@cbre.com> wrote:

Can we do 10:30 or 12?

Casey T. Gallagher | Executive Vice President*
CBRE Limited | Brokerage | National Investment Team
[145 King Street West, Suite 1100 | Toronto, ON M5H 1J8](#)
T [416-815-2398](tel:416-815-2398) | F [416-362-8085](tel:416-362-8085)
casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges

On Feb 26, 2020, at 8:14 PM, Ian Duke
<iduke@westbankcorp.com> wrote:

External

Hi Casey,
For sure. How's 11:30am EST?
Ian

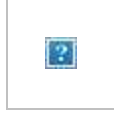
From: Gallagher, Casey @ Toronto DT
<Casey.Gallagher@cbre.com>
Sent: February 26, 2020 4:16 PM
To: Ian Duke <iduke@westbankcorp.com>
Cc: Senst, Peter @ Toronto DT <Peter.Senst@cbre.com>
Subject: Re: Catch Up

Hi Ian -
Are you free to connect tomorrow?
Best,

Casey T. Gallagher | Executive Vice President*

CBRE Limited | Brokerage | National Investment Team
[145 King Street West, Suite 1100 | Toronto, ON M5H 1J8](#)
T [416-815-2398](#) | F [416-362-8085](#)
casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

On Feb 26, 2020, at 7:02 PM, Ian Duke
<iduke@westbankcorp.com> wrote:

External

Hi Peter,
Ian's asked that I connect with you about arranging for me to meet with Casey and Cresford next Tuesday. That day doesn't look great for Ian, but I can certainly be available. Ian will join if he can. Perhaps we could have a call this week to discuss?
Regards,
Ian Duke
Westbank

From: Ian <ig@westbankcorp.com>
Sent: February 26, 2020 1:53 PM
To: Ian Duke <iduke@westbankcorp.com>
Subject: Fwd: Catch Up

IG

Begin forwarded message:

From: Senst, Peter @ Toronto DT
[mailto:Peter.Senst@cbre.com]

Sent: February 26, 2020 4:43 AM

To: Ian Gillespie
<ian@westbankcorp.com>

Subject: RE: Catch Up

Good morning Ian and I hope your day is starting well. One of the files I was reaching out to you on is Cresford. We are selling YSL for them now which is a site at Yonge and Gerrard approved for 1m sq ft of density in an 85 story structure. They are digging and now down 2 levels and the historic façade is strapped and braced. The Cresford leadership team has just booked to be in Vancouver for Tuesday and if your free in the morning I will arrange a meeting for you and I will have Casey Gallagher from here join as well. I will look forward to hearing your thoughts.

Peter

Peter D. Senst | President,
Canadian Capital Markets

**CBRE Limited | National
Investment Team**

145 King Street West, Suite 1100 -
Toronto, ON M5H 1J8

Direct: 416-815-2355 | Fax: 416-
362-8085

peter.senst@cbre.com |
www.cbre.com

From: Ian Gillespie

<ian@westbankcorp.com>

Sent: Friday, February 21, 2020
7:01 PM

To: Senst, Peter @ Toronto DT
<Peter.Senst@cbre.com>

Cc: Anthony DeCarli
<anthony@westbankcorp.com>;

Janice Leung
<Janice@westbankcorp.com>

Subject: RE: Catch Up

External

Peter,
When I'm next in Toronto Janice will try to set us up. I'm there tentatively March 16/17.
Thanks for the note.
ig

From: Senst, Peter @ Toronto DT
[<mailto:Peter.Senst@cbre.com>]

Sent: February 21, 2020 5:48 AM

To: Ian Gillespie
<ian@westbankcorp.com>

Subject: Catch Up

Ian I hope your well and I thought we were over due for a catch up. I have a few significant land situations so when your free please let me know when we could connect.

Regards

Peter

Peter D. Senst | President,
Canadian Capital Markets

**CBRE Limited | National
Investment Team**

145 King Street West, Suite 1100 -
Toronto, ON M5H 1J8

Direct: 416-815-2355 | Fax: 416-
362-8085

peter.senst@cbre.com |
www.cbre.com

This is "Exhibit "O" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Elic Laskin

A62687A47FA54DB...

A Commissioner for Taking Affidavits

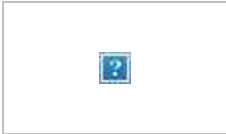
From: [Gabriel Leung](#)
To: [1.Pinto, Vanessa @ Toronto DT](#)
Cc: [Gallagher, Casey @ Toronto DT](#)
Subject: RE: Vancouver Meeting
Date: February 26, 2020 12:18:50 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.jpg](#)

External

Thanks Vanessa for your offer to set this meeting up.
I passed this message to Terry. It will be easier for his office to set the meeting up as his schedule is super difficult to organize, for someone in his position.
No need to get yourself in the middle of this.
Thanks.

Gabriel Leung**Vice President, Development****Concord Adex Inc.**

d 416.813.1028 | f 416.813.0300 | WeChat: gleung0128

www.concordadex.com | www.concordpacific.com

 Please consider the environment before printing this email.

From: Pinto, Vanessa @ Toronto DT [mailto:Vanessa.Pinto@cbre.com]**Sent:** Wednesday, February 26, 2020 10:23 AM**To:** Gabriel Leung <Gabriel.Leung@concordadex.com>**Subject:** RE: Vancouver Meeting

Good morning Gabriel,

Would you like me to reach out to Terry to coordinate on behalf of Ted and Casey?

I'd just need a time on Tuesday morning that they can meet.

Vanessa Pinto | Senior Admin Assistant

CBRE Limited | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T (647) 943-4160

vanessa.pinto@cbre.com | www.cbre.com

[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

CBRE Limited, Real Estate Brokerage. This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

From: Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>**Sent:** Wednesday, February 26, 2020 8:37 AM**To:** gabriel.leung@concordadex.com**Cc:** Senst, Peter @ Toronto DT <Peter.Senst@cbre.com>; Pinto, Vanessa @ Toronto DT

<Vanessa.Pinto@cbre.com>

Subject: Vancouver Meeting

Gabriel –

We connected with Ted Dowbiggin from Cresford last night, following our call with Terry. Ted is going to fly to Vancouver on Monday night and will be available to meet with Terry Tuesday morning. It is likely that Dan Casey (Cresford’s owner) will also make the trip out. Vanessa on our end will help with meeting logistics.

Best,

Casey T. Gallagher | Executive Vice President*

CBRE Limited | Brokerage | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T 416-815-2398 | F 416-362-8085

casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

This communication is for exclusive use of the intended recipient(s) and may contain information which is confidential and/or privileged. Any use, disclosure, dissemination, distribution or reliance on such information by a third party is strictly prohibited. If you have received this e-mail in error, please permanently delete it and destroy all copies and attachments.

WARNING: E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late, incomplete, or contain viruses. The Concord Adex group is not liable for any errors or omissions in the content of this message which arise as a result of e-mail transmission.

This is "Exhibit "P" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA54DB...

A Commissioner for Taking Affidavits

From: [Pinto, Vanessa @ Toronto DT](mailto:Vanessa.Pinto@cbre.com)
To: [Gallagher, Casey @ Toronto DT](mailto:Gabriel.Leung@concordadex.com)
Subject: FW: Vancouver Meeting
Date: February 26, 2020 4:22:46 PM
Attachments: [image001.png](#)
[image002.png](#)

From: Gabriel Leung <Gabriel.Leung@concordadex.com>
Sent: Wednesday, February 26, 2020 4:21 PM
To: Pinto, Vanessa @ Toronto DT <Vanessa.Pinto@cbre.com>
Subject: RE: Vancouver Meeting

OK, let me find out. Setting up & changing schedules for our CEO is a challenge as he is so busy. Let me handle this. Thanks.

Gabriel Leung

Vice President, Development

Concord Adex Inc.

d 416.813.1028 | f 416.813.0300 | WeChat: gleung0128

www.concordadex.com | www.concordpacific.com



 Please consider the environment before printing this email.

From: Pinto, Vanessa @ Toronto DT [<mailto:Vanessa.Pinto@cbre.com>]
Sent: Wednesday, February 26, 2020 3:27 PM
To: Gabriel Leung <Gabriel.Leung@concordadex.com>
Subject: RE: Vancouver Meeting

Hi Gabriel,

Just another heads up if you can forward this to whomever is working on this meeting at Concord.

Ted is hoping to meet on the afternoon Monday, March 2nd instead.

tdowbiggin@cresford.com

Vanessa Pinto | Senior Admin Assistant

CBRE Limited | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T (647) 943-4160

vanessa.pinto@cbre.com | www.cbre.com



[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

CBRE Limited, Real Estate Brokerage. This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

From: Gabriel Leung <Gabriel.Leung@concordadex.com>
Sent: Wednesday, February 26, 2020 12:37 PM
To: Pinto, Vanessa @ Toronto DT <Vanessa.Pinto@cbre.com>
Subject: RE: Vancouver Meeting

Vanessa,

Yes, it is better this way. Also this is such a preliminary high level discussion I am not sure whether it is worth Casey's while to fly there to attend.

Gabriel Leung

Vice President, Development

Concord Adex Inc.

d 416.813.1028 | f 416.813.0300 | WeChat: gleung0128

www.concordadex.com | www.concordpacific.com



 Please consider the environment before printing this email.

This is "Exhibit " Q " referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

A62687A47FA54DB..

A Commissioner for Taking Affidavits

From: Gallagher, Casey @ Toronto DT
To: ["Ted Dowbiggin"](#)
Subject: Terry
Attachments: [image001.jpg](#)

<https://www.vanmag.com/vancouver-magazine-2017-power-50-list>

<https://globalnews.ca/news/4463964/concord-pacific-ceo-terry-hui-redevelop-northeast-false-creek/>

Casey T. Gallagher | Executive Vice President*

CBRE Limited | Brokerage | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T 416-815-2398 | F 416-362-8085

casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

This is "Exhibit "R" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA54DB...

A Commissioner for Taking Affidavits

From: [Gallagher, Casey @ Toronto DT](#)
To: "Ted Dowbiggin"
Subject: Concord deal
Attachments: [image001.jpg](#)

Hi Ted –

We're watching some pretty major shifts in the market right now. Let's connect tomorrow on the status of Concord and your deal.

Best,

Casey T. Gallagher | Executive Vice President*

CBRE Limited | Brokerage | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T 416-815-2398 | F 416-362-8085

casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

This is "Exhibit "S" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA64DB..

A Commissioner for Taking Affidavits

From: [Li, Kai Tai @ Toronto DT](#)
To: [Julie Di Lorenzo](#)
Cc: [Gallagher, Casey @ Toronto DT](#)
Subject: YSL - architectural plans (SPA Resubmission)
Date: February 27, 2020 7:58:36 PM
Attachments: [YSL - SPA Resubmission.Pdf](#)

Hi Julie,

As requested, please find attached a publicly available set of plans for YSL from their Dec 2019 SPA resubmissions.

Best

Kai Tai

Kai Tai Li*

CBRE Limited | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T 416 815 2397 | M 647 470 3668

kaitai.li@cbre.com

*Sales Representative

aA
YSL Residences

383 Yonge St, Toronto, ON.

SITE PLAN APPLICATION RESUBMISSION
2019-12-03

Client
Cresford Development Corporation
59 Hayden Street, Unit 200
Toronto, ON, M4Y 0E7
T: 416.971.7537

Design Architect
Kohn Pedersen Fox Associates PC
11 West 42nd Street
New York, NY 10036, U.S.A
T: 212.977.6500

Architect of Record
architectsAlliance
317 Adelaide Street W.
Suite 205
Toronto, ON, M5V 1P9
T: 416.661.9394



SPA RESUBMISSION DRAWINGS	
DWG. #	DRAWING NAME
	COVER
A1.00	STATISTICS
A1.01	SITE PLAN
A2.01	B04, B05 - PARKING
A2.02	B02, B03 - PARKING
A2.03	B01M, B01 - PARKING/RETAIL/BICYCLE PA.
A2.04	L01 GROUND
A2.05	L02, L03
A2.06	L04, L05
A2.07	L06, L07
A2.08	L08, L08 Mezz., L09
A2.09	L10-14
A2.10	L15, L16-L21
A2.11	L21, L22
A2.12	L23-L28, L29
A2.13	L30-L33, L34
A2.14	L35, L36-L40
A2.15	L41, L42-L45
A2.16	L46, L47-L50
A2.17	L51, L52-L53
A2.18	L54-L55, L56
A2.19	L57-L58, L60
A2.20	L61, L62-L66
A2.21	L69, L70-L73
A2.22	L74, L75
A2.23	L76, L77
A2.24	L78, L79
A2.25	L80, L81
A2.26	L82, L83
A2.27	L84, L85, L86
A2.28	ROOF PLAN
A4.00	NORTH AND WEST ELEVATIONS
A4.01	SOUTH AND EAST ELEVATIONS
A4.10	OVERALL TOWER SECTIONS
A4.20	ENLARGED WEST ELEVATION
A4.21	ENLARGED WEST ELEVATION
A4.22	ENLARGED EAST ELEVATION

1. Copyright of this drawing is reserved by the Architect. The drawing and all associated documents are an instrument of service by the Architect. The drawing and all associated documents shall not be reproduced in whole or in part without prior written permission of the Architect.

2. These Contract Documents are the property of the Architect. The Architect retains the responsibility for the interpretation of these documents by the Contractor. Upon which, regardless of the number of revisions, interpretations or supplementary information regarding the work of the Contract Documents. The Architect will retain the drawings submitted by the Contractor for design and reference only.

3. Drawings are not to be used for construction. The Contractor is to verify all existing conditions and dimensions required to prepare the work and report any discrepancies with the Contract Documents to the Architect before commencing any work.

4. Portions of original building construction or structural details, fittings and fixtures are indicated on architectural drawings. The location shown in the architectural drawings is for informational and historical purposes. These items are clearly marked with a dashed line drawn by the Architect.

5. These drawings are not to be used for construction unless noted below as "Issued for Construction".

6. All work is to be carried out in accordance with the Code and Rules of the authorities having jurisdiction.

7. The Architect of these plans and specifications gives no warranty or representation as to the accuracy, completeness or the suitability of the drawings for the work. All materials and construction shall comply with the applicable building code and all other laws and regulations that apply to the project and shall be subject to the approval of the Architect.

NO. ISSUANCE DATE

NO.	ISSUANCE	DATE

aA

architectsAlliance
206-317 Adelaide St. West
Toronto, Ontario M5V 1P9
416.593.9500
416.593.4911
info@architectsalliance.com

Cresford
Cresford Development Corporation
59 Hayden Street, Unit 200
Toronto, Ontario M4Y 0E7
416.971.7537
info@cresford.com

KPF
Kohn Pedersen Fox
11 West 42nd Street
New York, New York 10036
212.977.8500
212.956.2926

YSL
383 Yonge Street

COVER

JULY 26, 2018

PROJECT STATISTICS

Main project statistics table with columns for Level, Use, Total Area, and various metrics across different building categories like Medium Density, Medium Density, and Medium Density.

Parking Requirements table showing Required vs. Provided spaces for various building types and uses.

Residential Amenity Areas table listing amenities like Bicycle Parking, Storage, etc., with Required and Provided values.

Table with columns for Amenity, Required, and Provided, possibly related to parking or building amenities.

Notes and footnotes regarding parking and amenity area calculations, including references to specific bylaws.

TORONTO GREEN STANDARD STATISTICS

Green Roof Statistics table showing metrics for Green Floor Area, Green Roof Area, and various green infrastructure components.

Table with columns for Use, Required, and Provided, possibly detailing green infrastructure or amenity requirements.

Table with columns for Use, Required, and Provided, detailing metrics related to green roof standards.

BIRD FRIENDLY DESIGN

Bird Friendly Design table showing metrics for Elevation, Glazing, Low-Reflectance, Visual Markers, Shaded, Total Treated Area, and Total Treated Area (%).

GREEN ROOF STATISTICS

Green Roof Statistics table showing metrics for Green Floor Area, Green Roof Area, and various green infrastructure components.

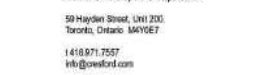
1. Copyright of this drawing is owned by the Architect... 2. These documents are the property of the Architect... 3. Drawing not to be used for construction... 4. All work to be carried out in accordance with the Code and Bylaws of the City of Toronto...

Table with columns for No., Issuance, and Date, listing various regulatory milestones.



Architect Alliance

205-317 Adelaide St. West Toronto, Ontario M5V 1S9 416-593-6500 416-593-4911 info@architectalliance.com



Cresford Development Corporation

59 Hayden Street, Unit 202 Toronto, Ontario M4Y 0E7 416-871-7557 info@cresford.com



Kohn Pedersen Fox

11 West 42nd Street New York, New York 10036 212-977-6500 212-956-2526

STATISTICS

1.0.5928

JULY 26, 2018

A1.00

1. Copyright of this drawing is owned by the Architect. The drawing and all associated documents are an instrument of service by the Architect. The drawing and all information contained herein may not be reproduced in whole or in part without prior written permission of the Architect.

2. These General Documents are the property of the Architect. The Architect retains sole responsibility for the interpretation of these documents by the Contractor. Upon written notification, the Architect will provide photographic justification or explanatory information regarding the intent of the Contract Documents. The Architect will accept such drawings submitted by the Contractor for design and construction only.

3. Drawings are not to be used for construction. The Contractor is to verify all existing conditions and dimensions required to perform the work and report any discrepancies with the Contract Documents to the Architect before commencing any work.

4. A portion of original building construction or structural details, fittings, and fixtures are retained as indicated. The Contractor shall be responsible for the architectural design of any new work to be added and the building shall be designed to meet all applicable codes and standards.

5. Show drawings are not to be used for construction unless noted below in "Notes to the Contractor".

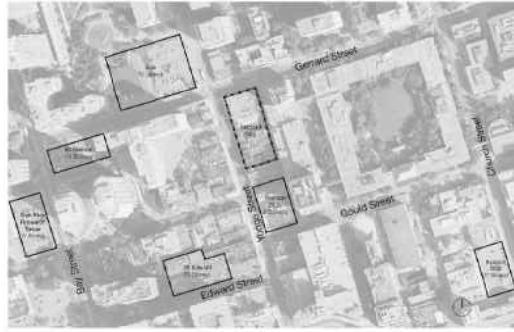
6. All work is to be carried out in accordance with the Code and System of the jurisdiction having jurisdiction.

7. The Architect of these plans and specifications gives no warranty or representation in connection with the construction of the building, construction of any other work, or materials or construction used, unless otherwise stated. The Architect and all those mentioned herein assume no liability for any errors.

8. Vertical datum: 1985



4 CONTEXT PLAN
SCALE: 1:1



3 KEY PLAN
SCALE: 1:1

APPROXIMATE PLAN BY SURVEY OF ALL OF LOTS 22, 23, 24, 25 & 26 PART OF LOT 31, RESERVE PLAN 234, DISTRICT 100, NORTH OF YONGE STREET, CITY OF TORONTO.

SECTION NOTE
SECTION 100 IS A SECTION OF THE CITY OF TORONTO'S RESERVE PLAN 234, DISTRICT 100, NORTH OF YONGE STREET, CITY OF TORONTO. THIS SECTION IS A SURVEY OF THE CITY OF TORONTO'S RESERVE PLAN 234, DISTRICT 100, NORTH OF YONGE STREET, CITY OF TORONTO.

GENERAL NOTE
GENERAL NOTE: THESE ARE APPROXIMATE AND ARE REFERRED TO AS SUCH. THE CITY OF TORONTO'S RESERVE PLAN 234, DISTRICT 100, NORTH OF YONGE STREET, CITY OF TORONTO, IS THE AUTHORITY FOR THE LOCATION AND DIMENSIONS OF ALL WORK SHOWN ON THIS PLAN. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF TORONTO'S RESERVE PLAN 234, DISTRICT 100, NORTH OF YONGE STREET, CITY OF TORONTO.

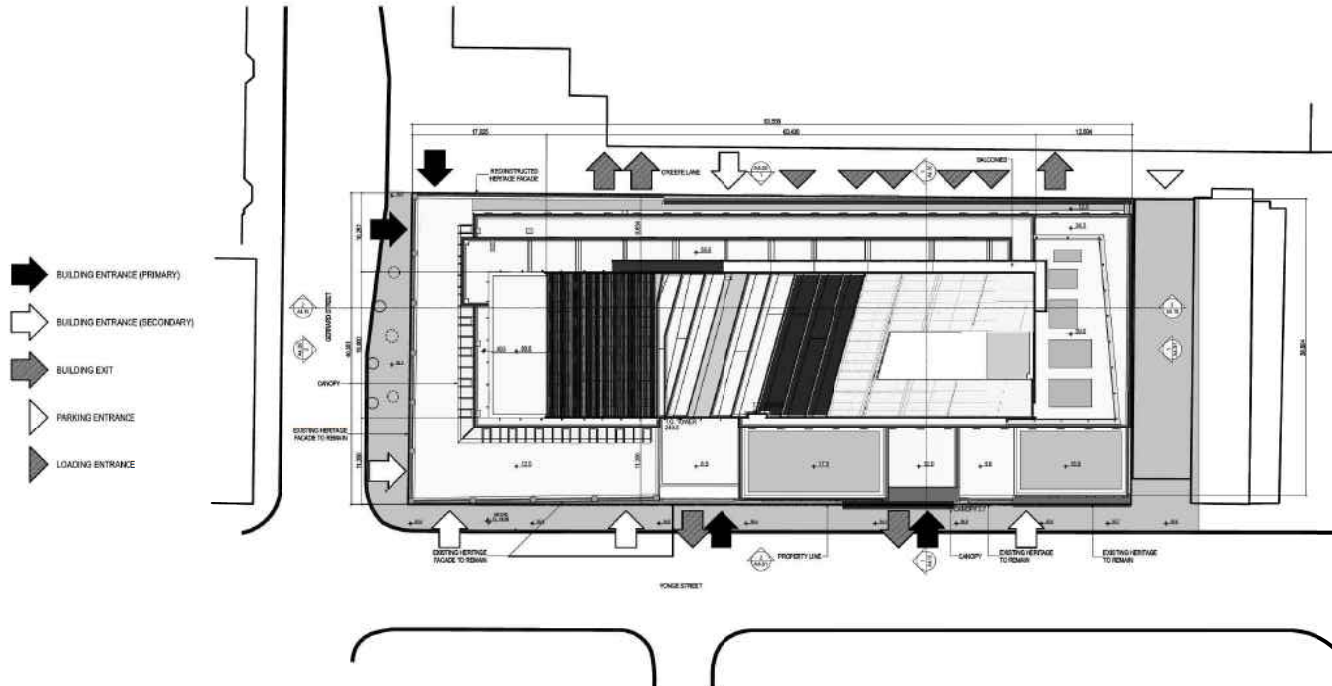
RESERVE PLAN 234, DISTRICT 100, NORTH OF YONGE STREET, CITY OF TORONTO.

RESERVE PLAN 234, DISTRICT 100, NORTH OF YONGE STREET, CITY OF TORONTO.

RESERVE PLAN 234, DISTRICT 100, NORTH OF YONGE STREET, CITY OF TORONTO.

- LEGEND
- 10000 UNDEVELOPED LAND
 - 10100 UNDEVELOPED LAND
 - 10200 UNDEVELOPED LAND
 - 10300 UNDEVELOPED LAND
 - 10400 UNDEVELOPED LAND
 - 10500 UNDEVELOPED LAND
 - 10600 UNDEVELOPED LAND
 - 10700 UNDEVELOPED LAND
 - 10800 UNDEVELOPED LAND
 - 10900 UNDEVELOPED LAND
 - 11000 UNDEVELOPED LAND
 - 11100 UNDEVELOPED LAND
 - 11200 UNDEVELOPED LAND
 - 11300 UNDEVELOPED LAND
 - 11400 UNDEVELOPED LAND
 - 11500 UNDEVELOPED LAND
 - 11600 UNDEVELOPED LAND
 - 11700 UNDEVELOPED LAND
 - 11800 UNDEVELOPED LAND
 - 11900 UNDEVELOPED LAND
 - 12000 UNDEVELOPED LAND
 - 12100 UNDEVELOPED LAND
 - 12200 UNDEVELOPED LAND
 - 12300 UNDEVELOPED LAND
 - 12400 UNDEVELOPED LAND
 - 12500 UNDEVELOPED LAND
 - 12600 UNDEVELOPED LAND
 - 12700 UNDEVELOPED LAND
 - 12800 UNDEVELOPED LAND
 - 12900 UNDEVELOPED LAND
 - 13000 UNDEVELOPED LAND
 - 13100 UNDEVELOPED LAND
 - 13200 UNDEVELOPED LAND
 - 13300 UNDEVELOPED LAND
 - 13400 UNDEVELOPED LAND
 - 13500 UNDEVELOPED LAND
 - 13600 UNDEVELOPED LAND
 - 13700 UNDEVELOPED LAND
 - 13800 UNDEVELOPED LAND
 - 13900 UNDEVELOPED LAND
 - 14000 UNDEVELOPED LAND
 - 14100 UNDEVELOPED LAND
 - 14200 UNDEVELOPED LAND
 - 14300 UNDEVELOPED LAND
 - 14400 UNDEVELOPED LAND
 - 14500 UNDEVELOPED LAND
 - 14600 UNDEVELOPED LAND
 - 14700 UNDEVELOPED LAND
 - 14800 UNDEVELOPED LAND
 - 14900 UNDEVELOPED LAND
 - 15000 UNDEVELOPED LAND
 - 15100 UNDEVELOPED LAND
 - 15200 UNDEVELOPED LAND
 - 15300 UNDEVELOPED LAND
 - 15400 UNDEVELOPED LAND
 - 15500 UNDEVELOPED LAND
 - 15600 UNDEVELOPED LAND
 - 15700 UNDEVELOPED LAND
 - 15800 UNDEVELOPED LAND
 - 15900 UNDEVELOPED LAND
 - 16000 UNDEVELOPED LAND
 - 16100 UNDEVELOPED LAND
 - 16200 UNDEVELOPED LAND
 - 16300 UNDEVELOPED LAND
 - 16400 UNDEVELOPED LAND
 - 16500 UNDEVELOPED LAND
 - 16600 UNDEVELOPED LAND
 - 16700 UNDEVELOPED LAND
 - 16800 UNDEVELOPED LAND
 - 16900 UNDEVELOPED LAND
 - 17000 UNDEVELOPED LAND
 - 17100 UNDEVELOPED LAND
 - 17200 UNDEVELOPED LAND
 - 17300 UNDEVELOPED LAND
 - 17400 UNDEVELOPED LAND
 - 17500 UNDEVELOPED LAND
 - 17600 UNDEVELOPED LAND
 - 17700 UNDEVELOPED LAND
 - 17800 UNDEVELOPED LAND
 - 17900 UNDEVELOPED LAND
 - 18000 UNDEVELOPED LAND
 - 18100 UNDEVELOPED LAND
 - 18200 UNDEVELOPED LAND
 - 18300 UNDEVELOPED LAND
 - 18400 UNDEVELOPED LAND
 - 18500 UNDEVELOPED LAND
 - 18600 UNDEVELOPED LAND
 - 18700 UNDEVELOPED LAND
 - 18800 UNDEVELOPED LAND
 - 18900 UNDEVELOPED LAND
 - 19000 UNDEVELOPED LAND
 - 19100 UNDEVELOPED LAND
 - 19200 UNDEVELOPED LAND
 - 19300 UNDEVELOPED LAND
 - 19400 UNDEVELOPED LAND
 - 19500 UNDEVELOPED LAND
 - 19600 UNDEVELOPED LAND
 - 19700 UNDEVELOPED LAND
 - 19800 UNDEVELOPED LAND
 - 19900 UNDEVELOPED LAND
 - 20000 UNDEVELOPED LAND
 - 20100 UNDEVELOPED LAND
 - 20200 UNDEVELOPED LAND
 - 20300 UNDEVELOPED LAND
 - 20400 UNDEVELOPED LAND
 - 20500 UNDEVELOPED LAND
 - 20600 UNDEVELOPED LAND
 - 20700 UNDEVELOPED LAND
 - 20800 UNDEVELOPED LAND
 - 20900 UNDEVELOPED LAND
 - 21000 UNDEVELOPED LAND
 - 21100 UNDEVELOPED LAND
 - 21200 UNDEVELOPED LAND
 - 21300 UNDEVELOPED LAND
 - 21400 UNDEVELOPED LAND
 - 21500 UNDEVELOPED LAND
 - 21600 UNDEVELOPED LAND
 - 21700 UNDEVELOPED LAND
 - 21800 UNDEVELOPED LAND
 - 21900 UNDEVELOPED LAND
 - 22000 UNDEVELOPED LAND
 - 22100 UNDEVELOPED LAND
 - 22200 UNDEVELOPED LAND
 - 22300 UNDEVELOPED LAND
 - 22400 UNDEVELOPED LAND
 - 22500 UNDEVELOPED LAND
 - 22600 UNDEVELOPED LAND
 - 22700 UNDEVELOPED LAND
 - 22800 UNDEVELOPED LAND
 - 22900 UNDEVELOPED LAND
 - 23000 UNDEVELOPED LAND
 - 23100 UNDEVELOPED LAND
 - 23200 UNDEVELOPED LAND
 - 23300 UNDEVELOPED LAND
 - 23400 UNDEVELOPED LAND
 - 23500 UNDEVELOPED LAND
 - 23600 UNDEVELOPED LAND
 - 23700 UNDEVELOPED LAND
 - 23800 UNDEVELOPED LAND
 - 23900 UNDEVELOPED LAND
 - 24000 UNDEVELOPED LAND
 - 24100 UNDEVELOPED LAND
 - 24200 UNDEVELOPED LAND
 - 24300 UNDEVELOPED LAND
 - 24400 UNDEVELOPED LAND
 - 24500 UNDEVELOPED LAND
 - 24600 UNDEVELOPED LAND
 - 24700 UNDEVELOPED LAND
 - 24800 UNDEVELOPED LAND
 - 24900 UNDEVELOPED LAND
 - 25000 UNDEVELOPED LAND

2 LEGEND (TOPOGRAPHIC) & SURVEY INFORMATION
SCALE: 1:1



1 SITE PLAN
SCALE: 1:300

NO.	ISSUANCE	DATE
01	ISSUED FOR RECONSTRUCTION APPLICATION	17 FEB 17
02	ISSUED FOR RECORDING APPLICATION	16 NOV 18
03	ISSUED FOR SITE PLAN APPROVAL	14 DEC 18
04	ISSUED FOR 3RD PLAN APPROVAL	27 NOV 19

aA

architect Alliance

205-217 Adelaide St. West
Toronto, Ontario M5V 1P9
1418 593 6500
1418 593 4911
info@architectalliance.com

Cresford

Cresford Development Corporation

59 Hayden Street, Unit 202
Toronto, Ontario M4V 6E7
1418 871 7557
info@cresford.com

KPF

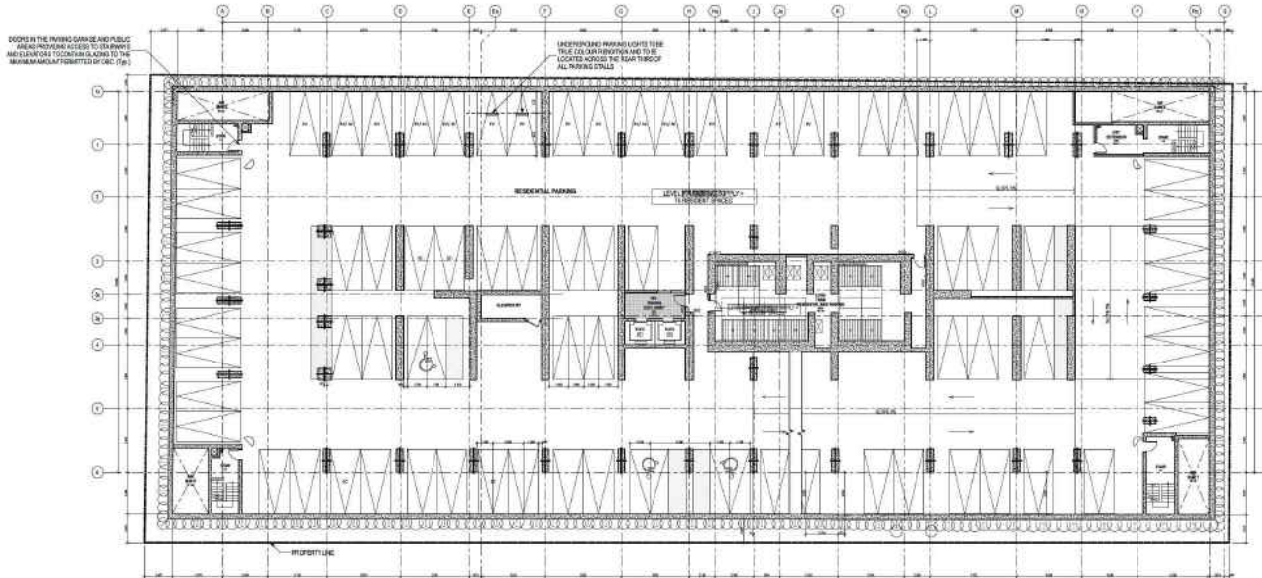
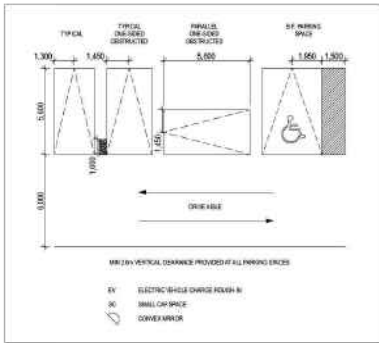
Kohn Pedersen Fox
11 West 42nd Street
New York, New York 10036
1 212 877 6500
1 212 596 2528



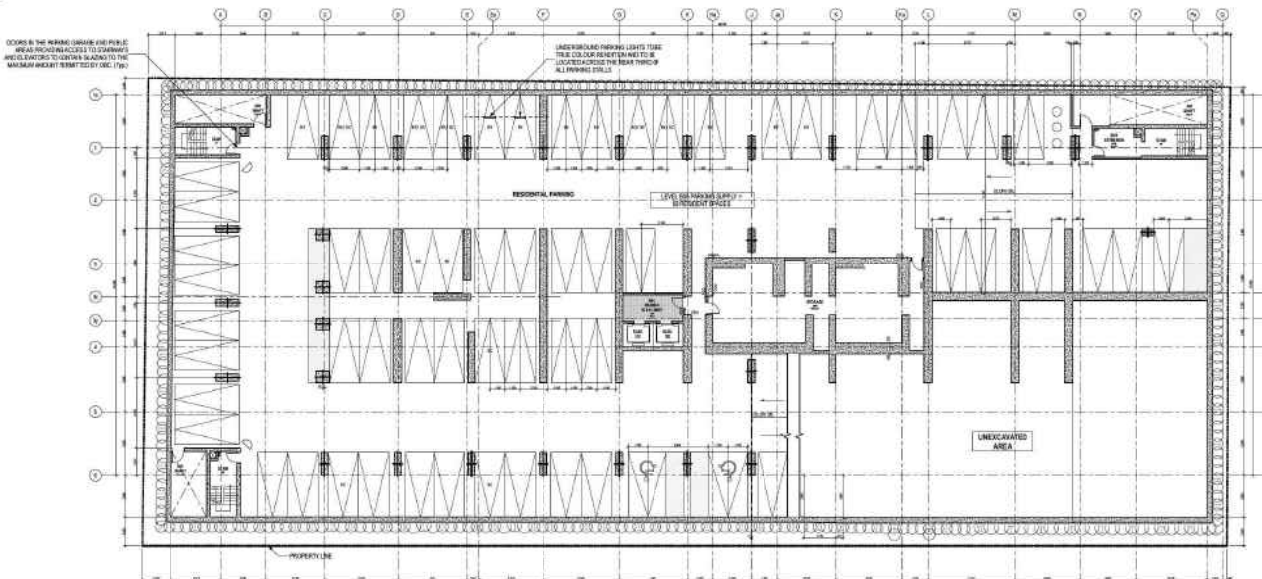
YSL
383 Yonge Street

SITE PLAN
1:300
JULY 26, 2018

A1.01



2 B04
SCALE: 1:200



1 B05
SCALE: 1:200

1. Copyright of this drawing is owned by the Architect. The drawing and all associated documents are an instrument of service by the Architect. The drawing and all information contained herein may not be reproduced in whole or in part without prior written permission of the Architect.

2. These documents represent the property of the Architect. The Architect bears no responsibility for the interpretation of these documents by the Contractor. Upon completion of the project, the Architect will provide photographic distribution of any drawings or information regarding the value of the Contract Documents. The Architect will accept final drawings submitted by the Contractor for design and construction only.

3. Drawing set will be used for construction. The Contractor is to verify all existing conditions and dimensions required to perform the work and report any discrepancies to the Architect prior to the start of construction. The Contractor will accept the Contractor Documents by the Architect before commencing any work.

4. Portions of printed technical specifications, general notes, and details not included on this drawing, but which appear on the architectural drawings, shall be included in the Architect's technical drawings. These items are clearly marked with the Architect's name and the Contractor's name.

5. These drawings are not to be used for construction unless noted on the "Notice to the Contractor".

6. All work is to be carried out in accordance with the Code and System of the jurisdiction having jurisdiction.

7. The Architect of these plans and specifications gives no warranty or representation as to the completeness of the technical information on these plans, and will accept no responsibility for any errors or omissions, whether or not they are caused by the Architect's negligence or any other party.

8. Vertical Datum: 100

NO.	ISSUANCE	DATE
01	ISSUED FOR RECONSTRUCTION APPLICATION	17 FEB 17
02	ISSUED FOR RECORDING APPLICATION	16 MAY 18
03	ISSUED FOR SITE PLAN APPROVAL	14 DEC 18
04	ISSUED FOR 3RD PLAN APPROVAL	20 APR 19
05	ISSUED FOR 5TH PLAN APPROVAL	31 JUL 19
06	ISSUED FOR 6TH PLAN APPROVAL	27 FEB 20

aA
architect Alliance
205-317 Adelaide St. West
Toronto, Ontario M5V 1P9
1416 593 6500
1416 593 4911
info.architectalliance.com

Cresford
Cresford Development Corporation
59 Hayden Street, Unit 202
Toronto, Ontario M4W 0E7
1416 871 7557
info@cresford.com

KPF
Kohn Pedersen Fox
11 West 42nd Street
New York, New York 10036
1 212 577 6500
1 212 596 2528



YSL
383 Yonge Street

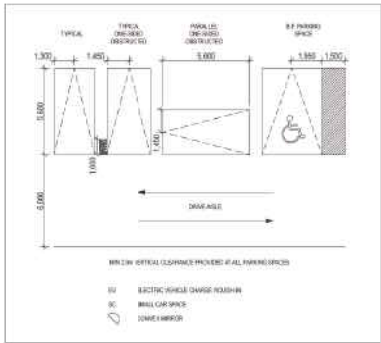
B04, B05 - PARKING

1:200, 1:150
JULY 26, 2018

A2.01

Project No. 18044 Date: December 13, 2018

Revision No. 001 Date: 2018-12-13 10:54:15 AM



DOORS IN THE PARKING GARAGE WILL BE PUBLIC ACCESSIBLE TO ALL VEHICLES AND ACCESS TO COMMUNAL AREAS TO THE BUILDING WILL BE LIMITED TO ONE (1) TRUCK.

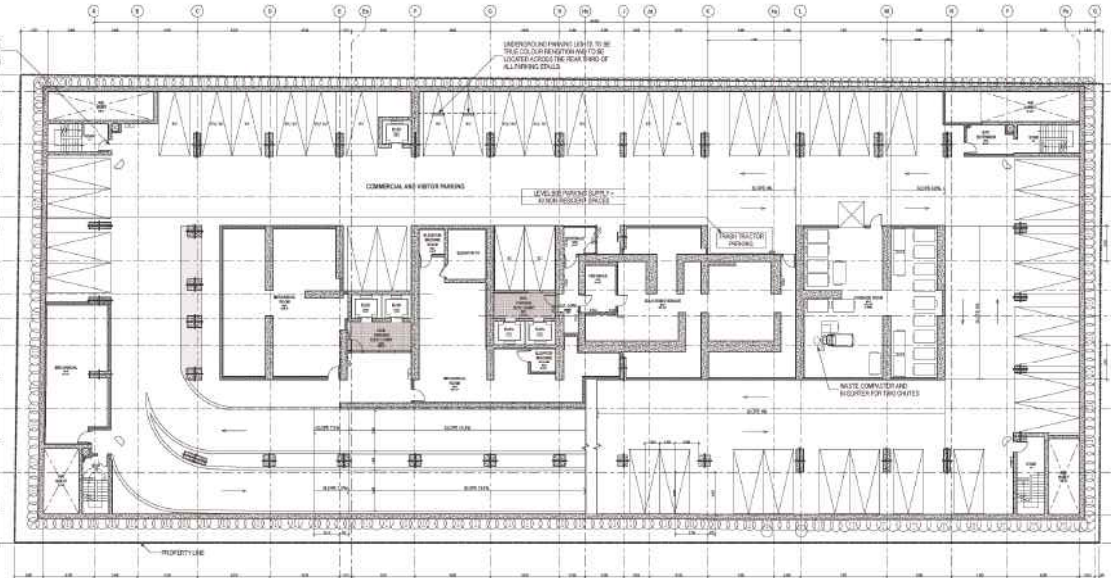
TRUCKS ARE NOT TO BE OPERATED BY TRUCKS ON SITE AT ANY TIME NEARBY TO OTHER TRUCKS OR COLLECTION AREAS AT ALL.

ALL TRUCKS ON SITE MUST BE OPERATED BY TRUCKS ON SITE AT ANY TIME NEARBY TO OTHER TRUCKS OR COLLECTION AREAS AT ALL.

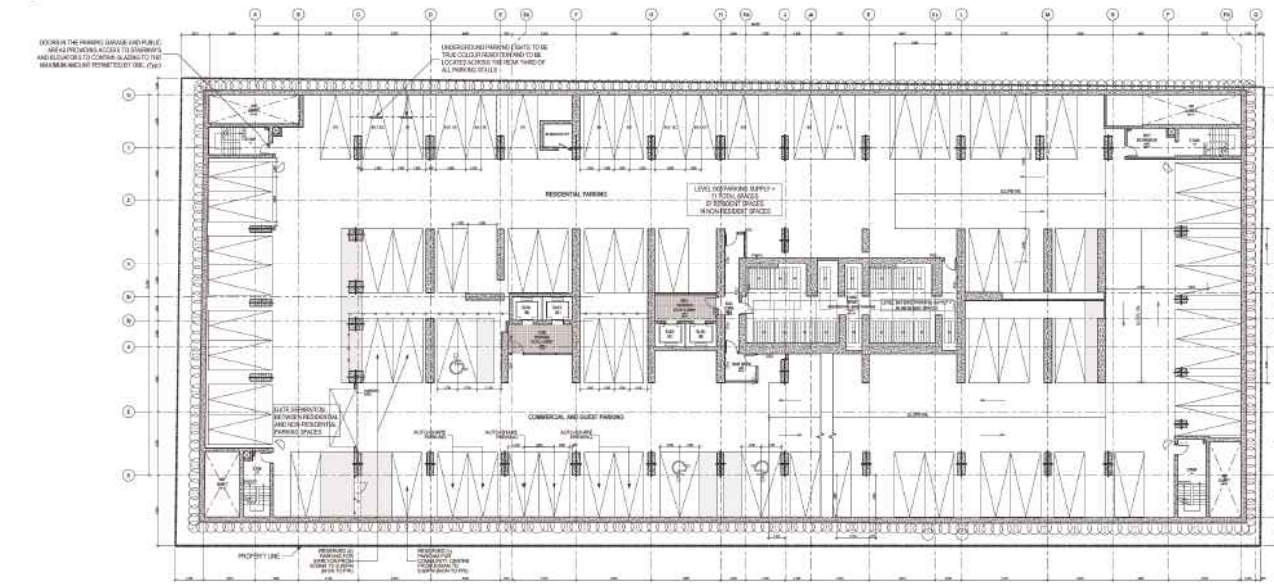
IF THE TRUCK IS OPERATING IN THE TRUCK AREA THE TRUCK MUST BE OPERATED BY TRUCKS ON SITE AT ANY TIME NEARBY TO OTHER TRUCKS OR COLLECTION AREAS AT ALL.

IF THE TRUCK IS OPERATING IN THE TRUCK AREA THE TRUCK MUST BE OPERATED BY TRUCKS ON SITE AT ANY TIME NEARBY TO OTHER TRUCKS OR COLLECTION AREAS AT ALL.

IF THE TRUCK IS OPERATING IN THE TRUCK AREA THE TRUCK MUST BE OPERATED BY TRUCKS ON SITE AT ANY TIME NEARBY TO OTHER TRUCKS OR COLLECTION AREAS AT ALL.



2 B02 SCALE: 1:200



1 B03 SCALE: 1:200

- Copyright of this drawing is owned by the Architect. The drawing and all contained documents are a product of services by the Architect. The drawing and all contained documents are not to be reproduced or used in any other project without written permission of the Architect.
- This document is prepared on the basis of the information provided to the Architect. The Architect is not responsible for the accuracy of the information provided to the Architect. The Architect will not be held liable for any errors or omissions in the drawing or any other documents prepared by the Architect.
- The drawing is not to be used for construction unless approved by the Architect. The drawing is not to be used for construction unless approved by the Architect.
- All work is to be done in accordance with the Code and Rules of the relevant governing authority.
- The Architect is not responsible for the accuracy of the information provided to the Architect. The Architect will not be held liable for any errors or omissions in the drawing or any other documents prepared by the Architect.
- The drawing is not to be used for construction unless approved by the Architect. The drawing is not to be used for construction unless approved by the Architect.

NO.	ISSUANCE	DATE
01	ISSUED FOR RECORDING APPLICATION	17 FEB 17
02	RE ISSUED FOR RECORDING APPLICATION	18 MAY 18
03	ISSUED FOR ERE PLAN APPROVAL	14 DEC 18
04	RE ISSUED FOR ERE PLAN APPROVAL	23 FEB 19
05	RE ISSUED FOR ERE PLAN APPROVAL	20 APR 19
06	RE ISSUED FOR ERE PLAN APPROVAL	21 JUL 19
07	RE ISSUED FOR ERE PLAN APPROVAL	27 NOV 19

aA
 architects Alliance
 206-317 Adelaide St. West
 Toronto, Ontario M5V 1S8
 416 592 0500
 416 593 4911
 info: architectsalliance.com

Cresford
 Cresford Development Corporation
 25 Hazelton Street, Unit 206
 Toronto, Ontario M4Y 0E7
 416 571 7557
 info@cresford.com

KPF
 Kohn Pedersen Fox
 11 West 42nd Street
 New York, New York 10036
 1 212 597 0500
 1 212 595 2125

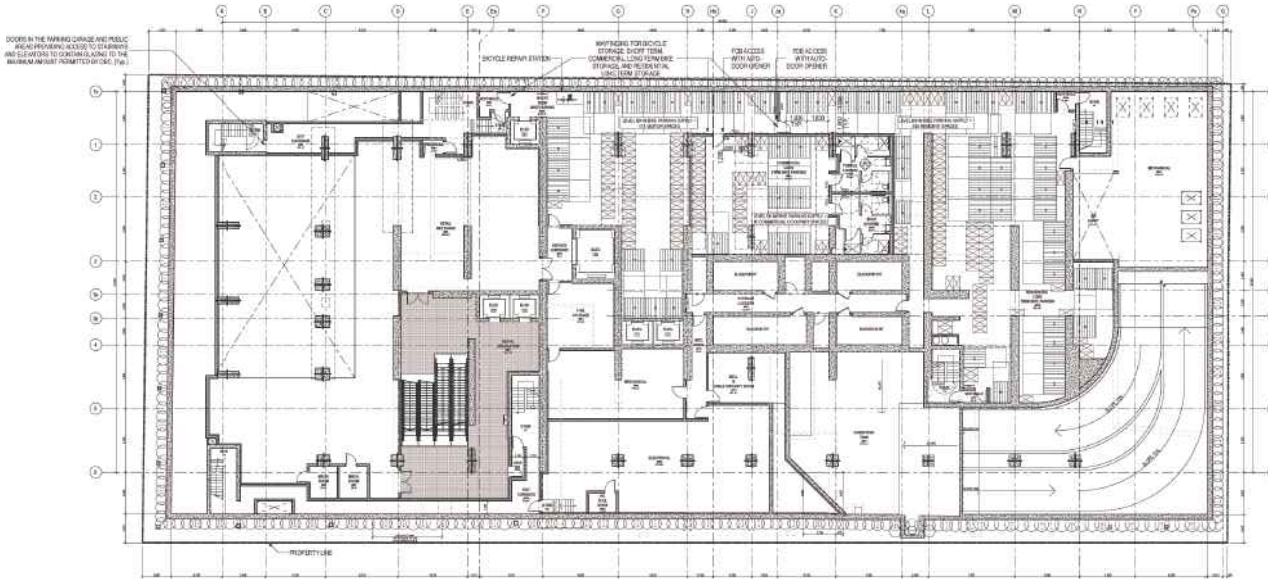
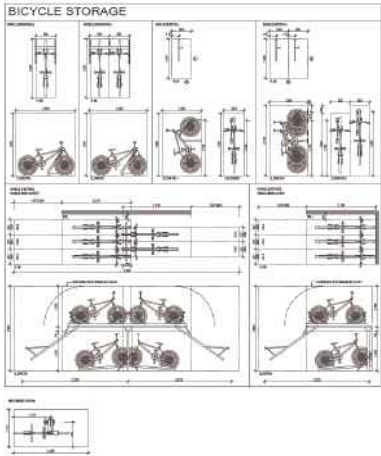
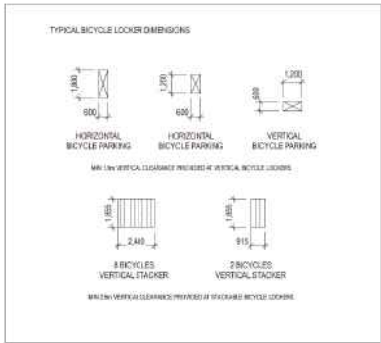


YSL
 383 Yonge Street

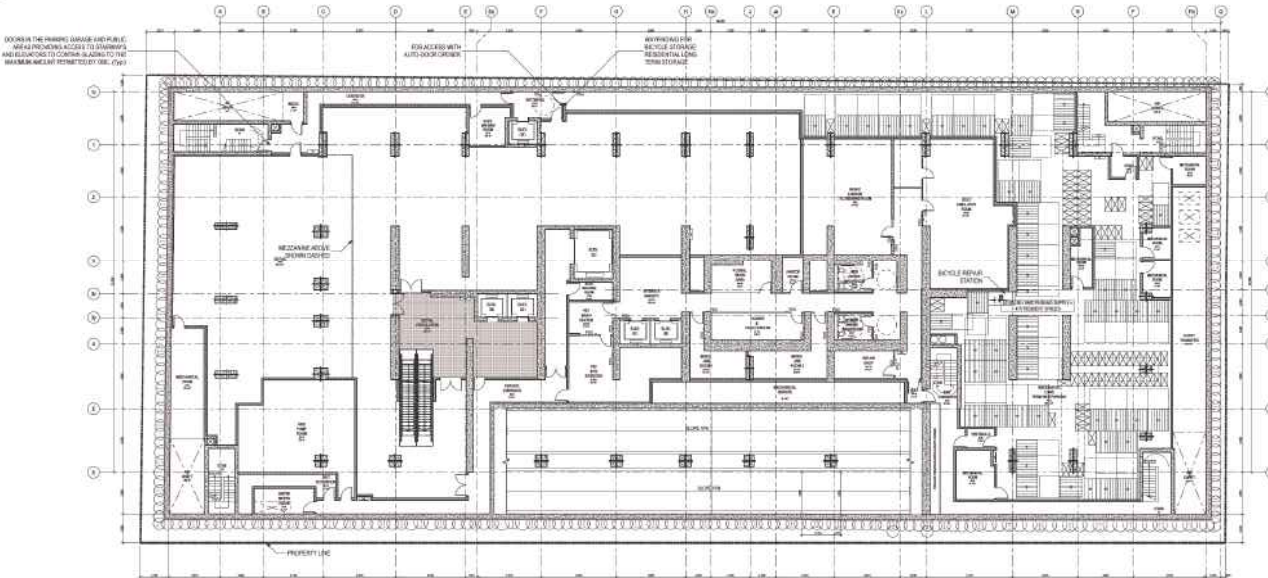
B02, B03 - PARKING

1:200, 1:150
 JULY 26, 2018

A2.02



2 B01M - RETAIL & BICYCLE PARKING SCALE: 1:200



1 B01 - RETAIL & BICYCLE PARKING SCALE: 1:200

- Copyright of this drawing is owned by the Architect. The drawing and all contained documents are a product of service by the Architect. The drawing and all contained information herein may not be reproduced or used in any other project without permission of the Architect.
- This document documents the process of the Architect. The Architect bears no responsibility for the interpretation of this document by the Consultant. Upon written application, the Architect will provide supplementary clarification or supplementary information regarding the need of the Consultant. The Architect will not attend to the Consultant's requests for clarification or supplementary information.
- Drawings are not to be used for construction unless noted below as "Issued for Construction".
- All work is to be carried out in accordance with the Code and Rules of the Ontario Building Code.
- The Architect of these plans and specifications gives no warranty or representation to anyone other than the Architect regarding the full and complete compliance of all information in this document with applicable laws, codes, and regulations.
- These drawings are not to be used for construction unless noted below as "Issued for Construction".
- All work is to be carried out in accordance with the Code and Rules of the Ontario Building Code.
- The Architect of these plans and specifications gives no warranty or representation to anyone other than the Architect regarding the full and complete compliance of all information in this document with applicable laws, codes, and regulations.

NO.	ISSUANCE	DATE
01	ISSUED FOR RESUBMITTING APPLICATION	17 FEB 17
02	RE ISSUED FOR RESUBMITTING APPLICATION	18 MAY 18
03	ISSUED FOR EIR PLAN APPROVAL	14 DEC 18
04	RE ISSUED FOR EIR PLAN APPROVAL	08 JUL 19
05	RE ISSUED FOR EIR PLAN APPROVAL	27 MAY 20

aA
architects Alliance
206-217 Adelaide St. West
Toronto, Ontario M5V 1S8
416-592-0500
416-593-4911
info: architectsalliance.com

Cresford
Cresford Development Corporation
25 Hazden Street, Unit 206
Toronto, Ontario M4Y 0E7
416-971-7557
info@cresford.com

KPF
Kohn Pedersen Fox
11 West 42nd Street
New York, New York 10036
212 977 0500
212 996 2526



B01M, B01 - PARKING/RETAIL/
BICYCLE PARKING
1:200, 1:150, 1:71.2790,
1:1.3971
JULY 26, 2018

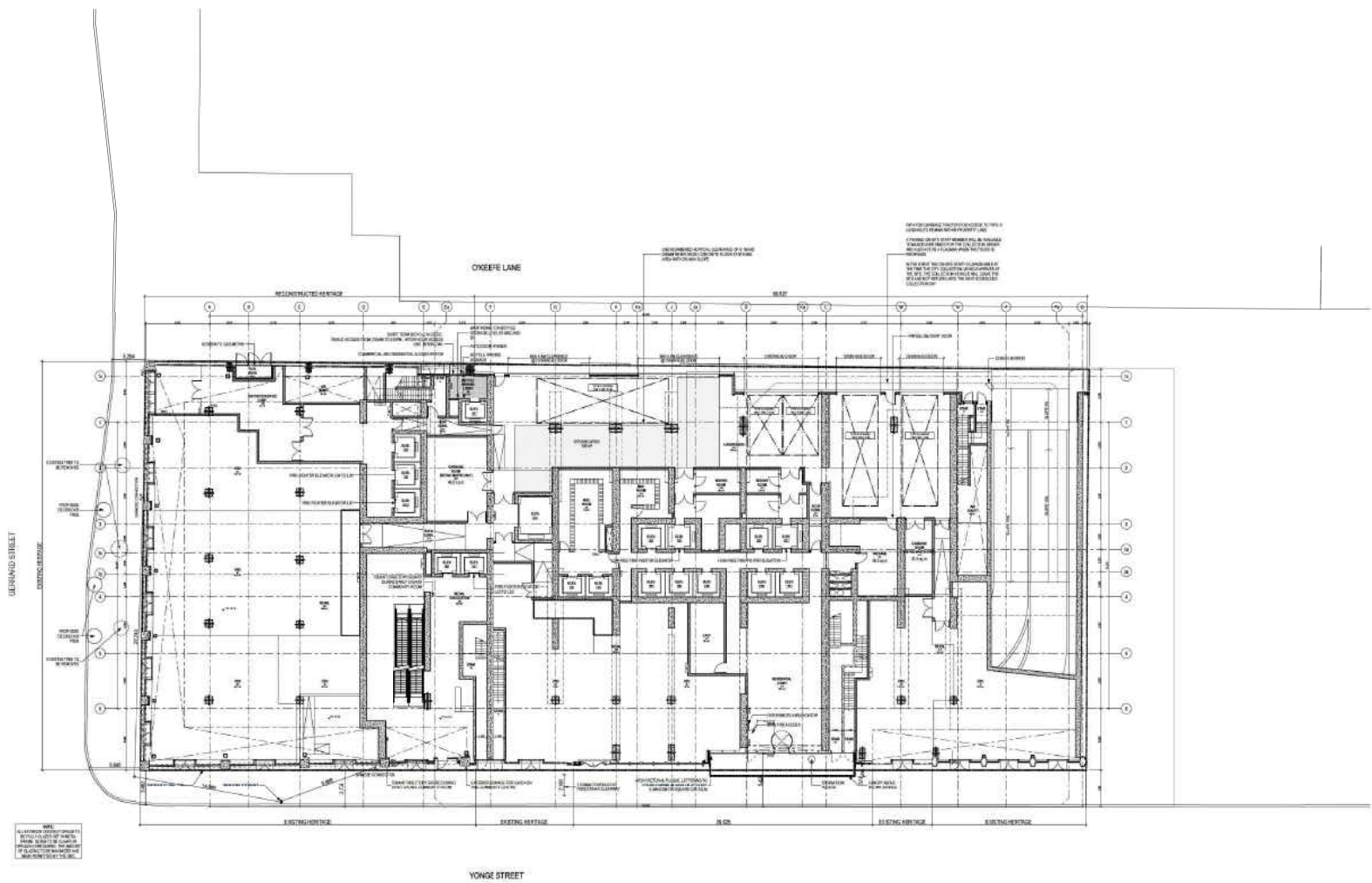
A2.03

Printed On: Tuesday, December 3, 2019

Autodesk® AutoCAD LT® 2019

1. Copyright of this drawing is owned by the Architect. The drawing and all material contained hereon are a product of service by the Architect. The drawing and all information contained hereon may not be reproduced or used in any other project without permission of the Architect.
2. These Contract Documents are the property of the Architect. The Architect retains the responsibility for the interpretation of these documents by the Contractor. Upon execution, the Architect will provide comprehensive coordination or supplementary information regarding the intent of the Contract Documents. The Architect will attend Site Meetings called by the Contractor for design clarification only.
3. Drawings are not to be used for construction until issued under the Architect's seal and signature. The Contractor is to verify all existing conditions and dimensions required to prepare the work and report any discrepancies with the Contract Documents to the Architect before commencing any work.
4. All work shall conform to all applicable codes, standards, specifications, and standards published or adopted by the City of Toronto, Ontario, Canada, and the Province of Ontario, Canada, and the Federal Government of Canada, and all applicable laws, regulations, codes, standards, specifications, and standards published or adopted by the City of Toronto, Ontario, Canada, and the Province of Ontario, Canada, and the Federal Government of Canada. Work items not clearly defined will be construed as directed by the Architect.
5. These drawings are not to be used for construction unless noted below as "Issued for Construction".
6. All work is to be carried out in accordance with the Code and Rules of the authorities having jurisdiction.
7. The Architect of these plans and specifications gives no warranty or representation or assurance about the accuracy of the information contained hereon. All information is administrative and is not intended to be used for construction. It is the responsibility of the Contractor to verify the accuracy of all information and to ensure that the information is consistent with the information provided by the Architect.

NO.	ISSUANCE	DATE
01	ISSUED FOR RESEARCH APPLICATION	17 FEB 17
02	ISSUED FOR RECORDING APPLICATION	16 MAY 18
03	ISSUED FOR SITE PLAN APPROVAL	14 DEC 18
04	ISSUED FOR I.A.	25 FEB 19
05	ISSUED FOR SITE PLAN APPROVAL	27 APR 19
06	ISSUED FOR SITE PLAN APPROVAL	21 JUL 19
07	ISSUED FOR SITE PLAN APPROVAL	27 MAY 20



NOTE:
 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 2. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF TORONTO'S BUILDING CODE AND ALL APPLICABLE LAWS, REGULATIONS, CODES, STANDARDS, SPECIFICATIONS, AND STANDARDS PUBLISHED OR ADOPTED BY THE CITY OF TORONTO, ONTARIO, CANADA, AND THE PROVINCE OF ONTARIO, CANADA, AND THE FEDERAL GOVERNMENT OF CANADA.

aA
 architectAlliance
 206-317 Adelaide St. West
 Toronto, Ontario M5V 1P9
 416 593 0500
 416 593 4911
 info@architectalliance.com

Cresford
 Cresford Development Corporation
 55 Hayden Street, Unit 206
 Toronto, Ontario M4Y 0E7
 416 671 7557
 info@cresford.com

KPF
 Kahn Pedersen Fox
 71 West 42nd Street
 New York, New York 10036
 1 212 977 8500
 1 212 966 2126



YSL
 383 Yonge Street

L01 GROUND

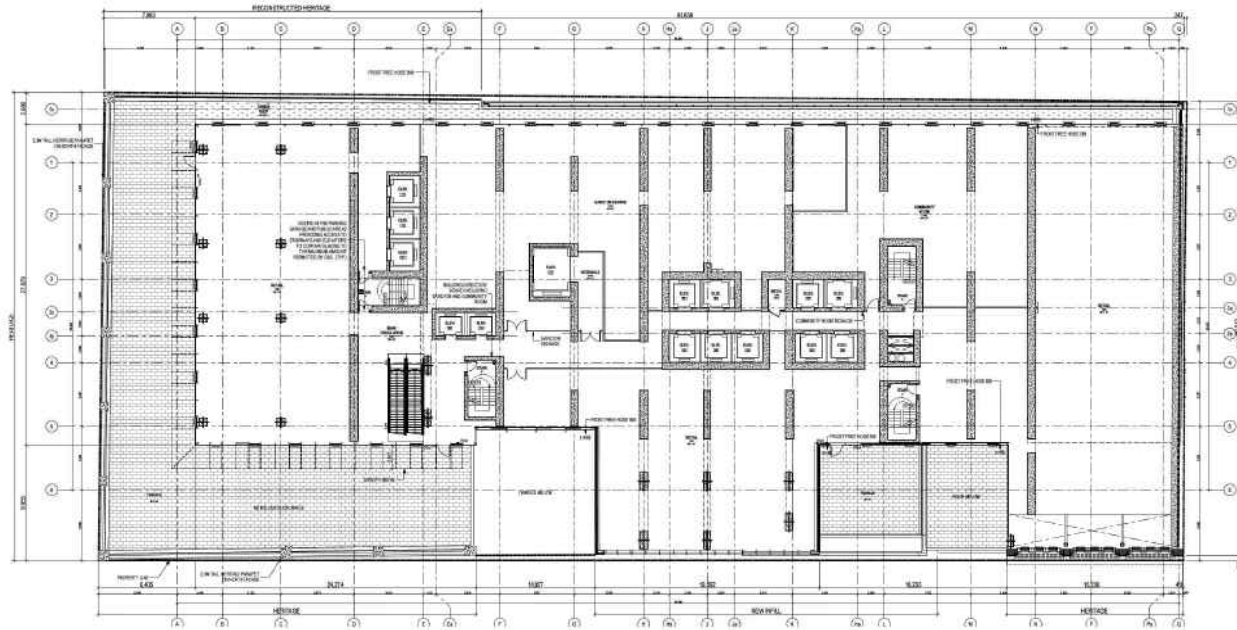
1:200

JULY 26, 2018

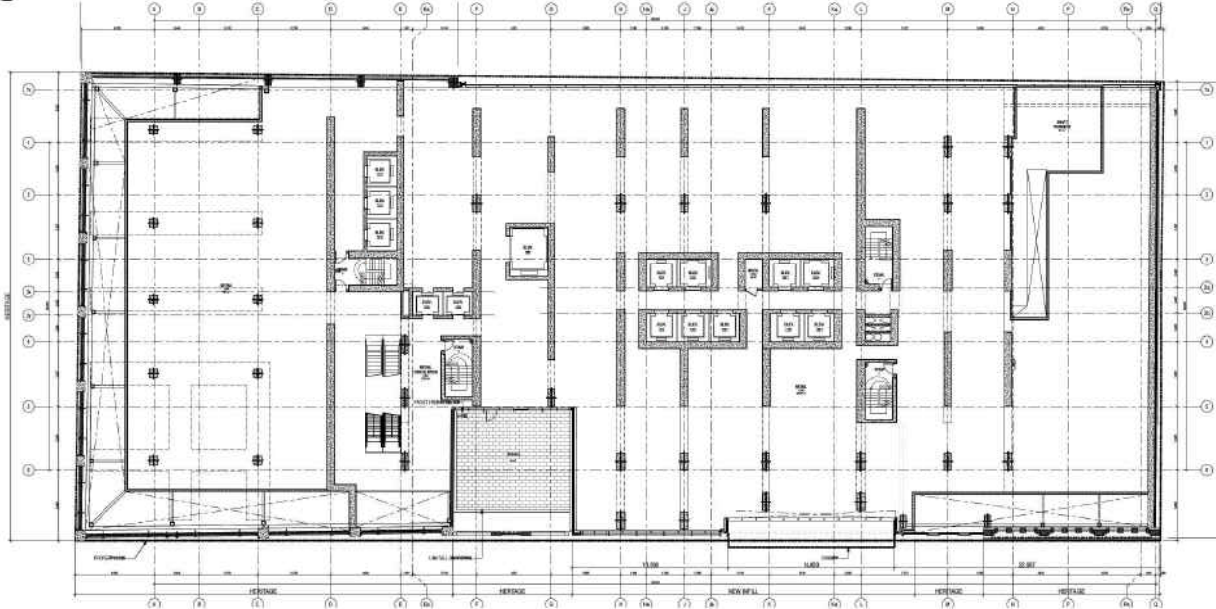
A2.04

Prepared by: Toronto, Ontario, Canada, 2018

Prepared by: Toronto, Ontario, Canada, 2018



2 L03 - RETAIL
SCALE: 1/200



1 L02 - RETAIL
SCALE: 1/200

1. Copyright of this drawing is owned by the Architect. The drawing and all associated documents are a product of services by the Architect. The drawing and the information contained herein may not be reproduced or used in any form without the written permission of the Architect.
2. These Contract Documents are the property of the Architect. The Architect retains the responsibility for the interpretation of these documents by the Contractor. Upon completion of the project, the Architect will provide a copy of the original documents to the Contractor. The Architect will retain a copy of the original documents for the Contractor for design reference only.
3. Drawings are not to be used for construction unless used in accordance with the Contract Documents to the Architect before commencing any work.
4. Parties to original building mechanical or electrical drawings, design and drawings are not to be used for construction. The building shown in the architectural drawings is not to be used for construction. The building shown in the architectural drawings is not to be used for construction. The building shown in the architectural drawings is not to be used for construction.
5. These drawings are not to be used for construction unless used in accordance with the Contract Documents to the Architect before commencing any work.
6. All work is to be carried out in accordance with the Code and Rules of the Authority having jurisdiction.
7. The Architect's design and specifications are to be used in accordance with the Contract Documents to the Architect before commencing any work.

NO.	ISSUANCE	DATE
01	ISSUED FOR RECORDING APPLICATION	17 FEB 17
02	ISSUED FOR RECORDING APPLICATION	16 NOV 16
03	ISSUED FOR SITE PLAN APPROVAL	14 DEC 16
04	ISSUED FOR SITE PLAN APPROVAL	31 JUL 16
05	ISSUED FOR SITE PLAN APPROVAL	27 NOV 15

aA
architectsAlliance
206-317 Adelaide St. West
Toronto, Ontario M5V 1P9
416-593-8500
416-593-4911
info: architectsalliance.com

Cresford
Cresford Development Corporation
55 Hayden Street, Unit 206
Toronto, Ontario M4Y 6E7
416-671-7557
info@cresford.com

KPF
Kohn Pedersen Fox
75 West 42nd Street
New York, New York 10036
212-977-8800
212-956-2526



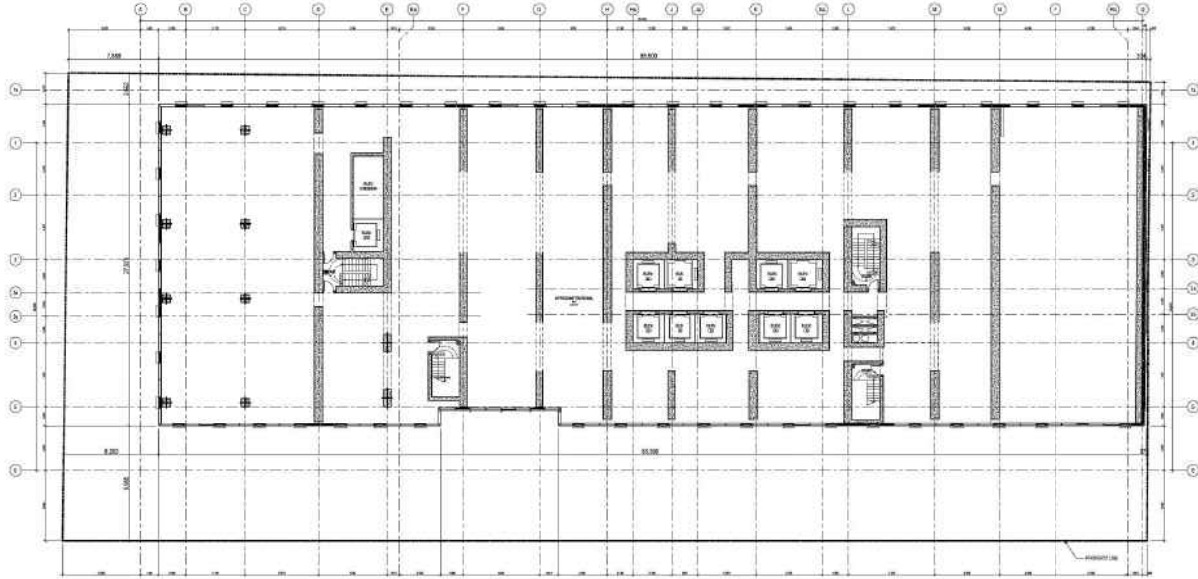
YSL
383 Yonge Street

L02, L03
1:200
JULY 26, 2018

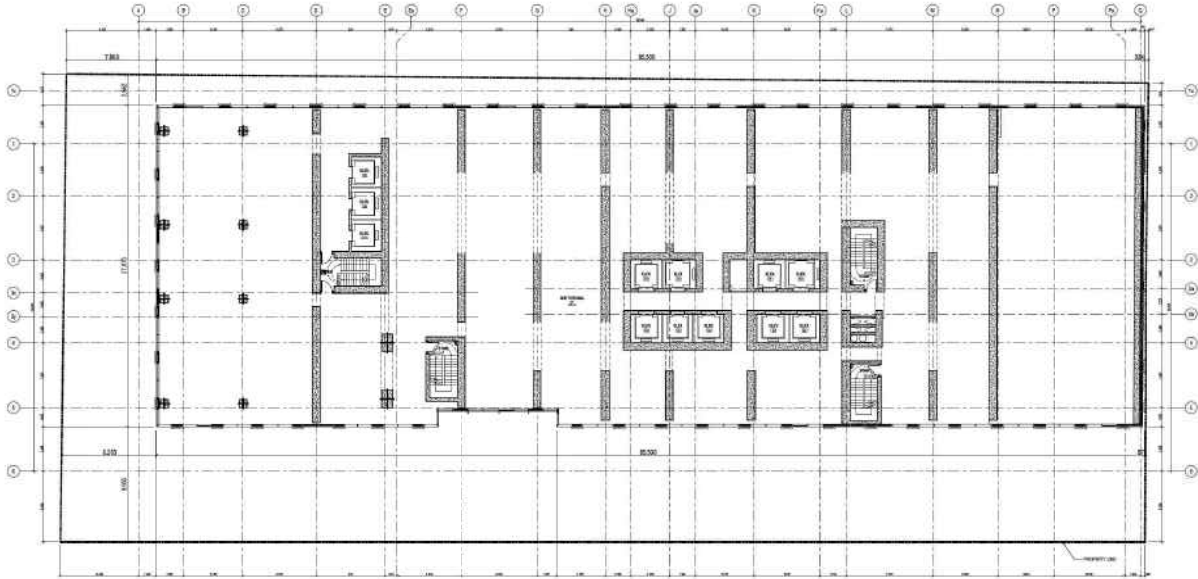
A2.05

10/20/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/32/33/34/35/36/37/38/39/40/41/42/43/44/45/46/47/48/49/50/51/52/53/54/55/56/57/58/59/60/61/62/63/64/65/66/67/68/69/70/71/72/73/74/75/76/77/78/79/80/81/82/83/84/85/86/87/88/89/90/91/92/93/94/95/96/97/98/99/100

10/20/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/32/33/34/35/36/37/38/39/40/41/42/43/44/45/46/47/48/49/50/51/52/53/54/55/56/57/58/59/60/61/62/63/64/65/66/67/68/69/70/71/72/73/74/75/76/77/78/79/80/81/82/83/84/85/86/87/88/89/90/91/92/93/94/95/96/97/98/99/100



② L07 - OFFICE/INSTITUTIONAL
SCALE: 1:200



① L06 - INSTITUTIONAL
SCALE: 1:200

1. Copyright of this drawing is reserved by the Architect. The drawing and all associated documents are an instrument of service by the Architect. The drawing and the information contained herein may not be reproduced in whole or in part without prior written permission of the Architect.

2. These documents represent only the process of the Architect. The Architect bears no responsibility for the interpretation of these documents by the Commission. Upon written application, the Architect will provide explanatory clarification or supplementary information regarding the intent of the Contract Documents. The Architect will not attend meetings conducted by the Commission for design and/or issues only.

3. Drawings are not to be used for construction. The Commission is to verify all existing conditions and dimensions required to perform the work and report any discrepancies with the Contract Documents to the Architect before commencing any work.

4. Portion of original building structure or structural elements, beams, and columns are indicated on this drawing. The location shown on the architectural drawing does not constitute a Mechanical and Electrical drawing. These items are clearly marked with the symbol as defined by the Architect.

5. Show drawings are not to be used for construction unless noted below in "Notes to Commission".

6. All work is to be carried out in accordance with the Code and System of the jurisdiction being undertaken.

7. The Architect of these plans and specifications gives no warranty or representation or assurance that the completeness of the information contained in these plans and specifications or any other information contained in these plans and specifications is correct or that the work represented by these plans.

© Architect/2018/2019

NO.	ISSUANCE	DATE
01	ISSUED FOR RECONFIG APPLICATION	17 FEB 17
02	ISSUED FOR RECORDING APPLICATION	16 NOV 18
03	ISSUED FOR SITE PLAN APPROVAL	14 DEC 18
04	ISSUED FOR 3RD PLAN APPROVAL	27 NOV 19

aA
architectsAlliance
205-217 Adelaide St. West
Toronto, Ontario M5V 1P9
416-593-6500
416-593-4911
info@architectsalliance.com

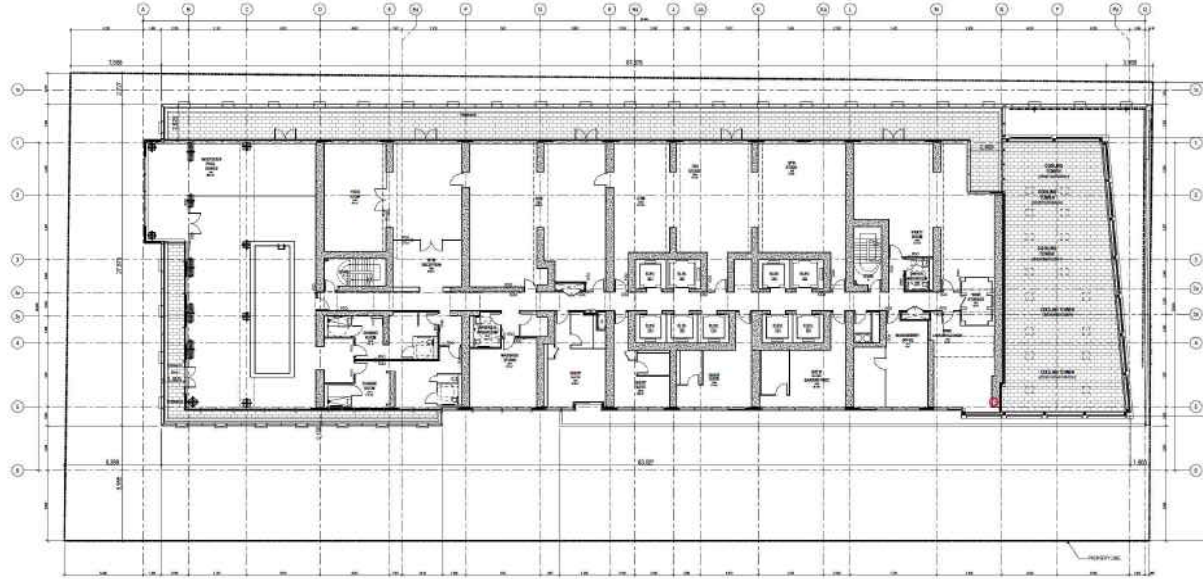
Cresford
Cresford Development Corporation
59 Hayden Street, Unit 202
Toronto, Ontario M4Y0E7
416-871-7557
info@cresford.com

KPF
Kohn Pedersen Fox
11 West 42nd Street
New York, New York 10036
1212-977-6500
1212-996-2528

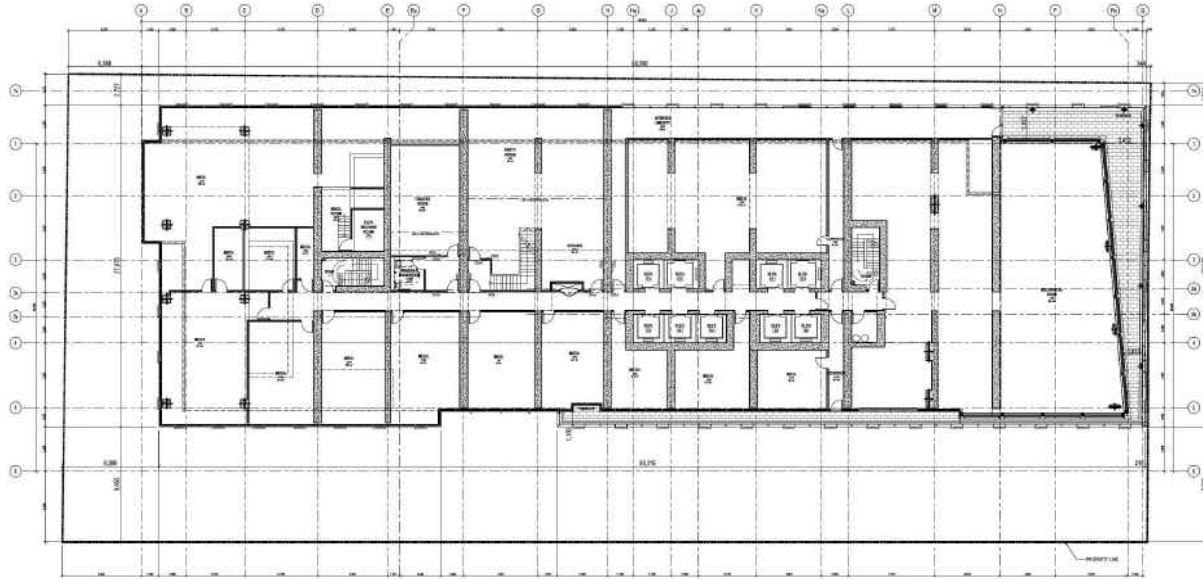
YSL
383 Yonge Street

L06, L07
1:200
JULY 26, 2018

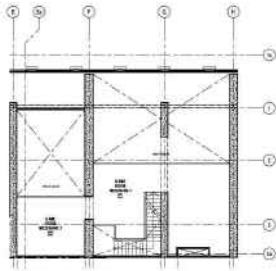
A2.07



2 L09 - RESIDENTIAL & MECH.
SCALE: 1:200



1 L08 - MECHANICAL
SCALE: 1:200



3 L08 - MEZZ.
SCALE: 1:200

1. Copyright of this drawing is owned by the Architect. The drawing and all associated documents are an instrument of service by the Architect. The drawing and all associated documents shall not be reproduced or used in any way without the written permission of the Architect.

2. These Contract Documents are the property of the Architect. The Architect retains no responsibility for the interpretation of laws enacted by the Contractor. Upon execution, the Architect will provide comprehensive coordination or supplementary information regarding the intent of the Contract Documents. The Architect will retain final design authority for the Contractor for design addendums only.

3. Drawings are not to be used for construction unless noted below in "Issuance and Conditions" and dimensions required to permit the work and report any discrepancies with the Contract Documents to the Architect before commencing any work.

4. Portions of original building mechanical or electrical drawings, sheets and fixtures are indicated on unshaded drawings. The fixtures shown in the unshaded drawings are shown for informational and historical purposes. These items are clearly marked and shall not be altered by the Architect.

5. These drawings are not to be used for construction unless noted below in "Issuance and Conditions".

6. All work is to be carried out in accordance with the Code and Rules of the authority having jurisdiction.

7. The Architect of these plans and specifications gives no warranty or representation as to the accuracy of the information of the building contractor or other third party or as to the accuracy of information used by the contractor after building and of all items shown that the contractor is responsible for the information.

© architectAlliance 2018

NO.	ISSUANCE	DATE
01	ISSUED FOR RECORDING APPLICATION	17 FEB 17
02	RE-ISSUED FOR RECORDING APPLICATION	16 NOV 18
03	ISSUED FOR SITE PLAN APPROVAL	14 DEC 18
04	RE-ISSUED FOR SITE PLAN APPROVAL	27 NOV 19

aA
architectAlliance
206-317 Adelaide St. West
Toronto, Ontario M5V 1P9
416-593-8500
416-593-4911
info@architectalliance.com

Cresford
Cresford Development Corporation
55 Hayden Street, Unit 206
Toronto, Ontario M4Y 0E7
416-571-7557
info@cresford.com

KPF
Kohn Pedersen Fox
75 West 42nd Street
New York, New York 10036
212-977-8500
212-956-2526

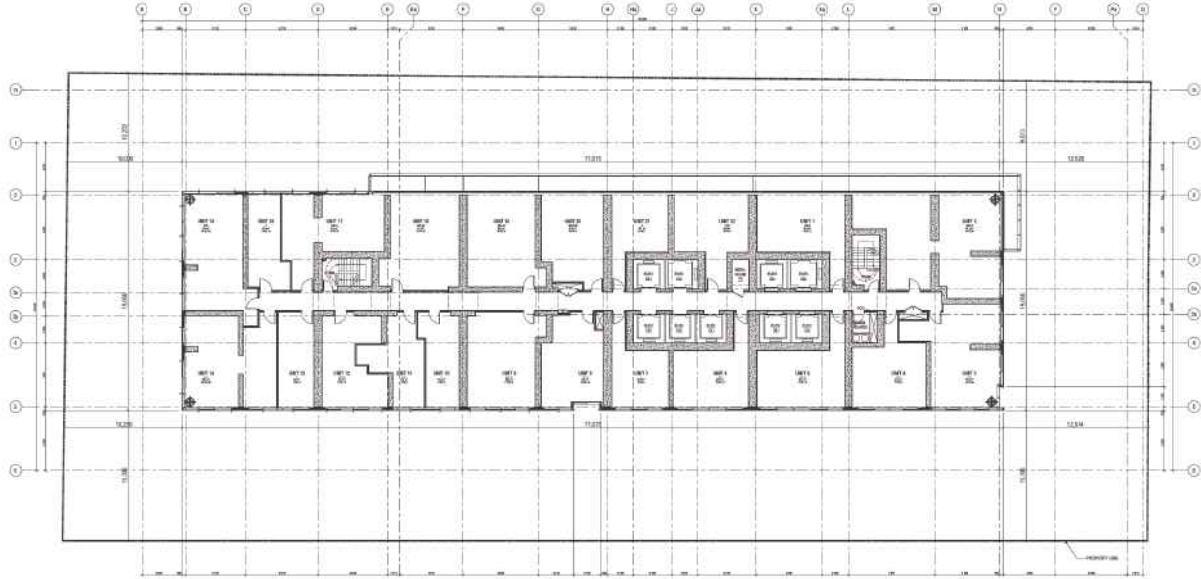
YSL
383 Yonge Street

L08, L08 Mezz., L09
1:200
JULY 26, 2018

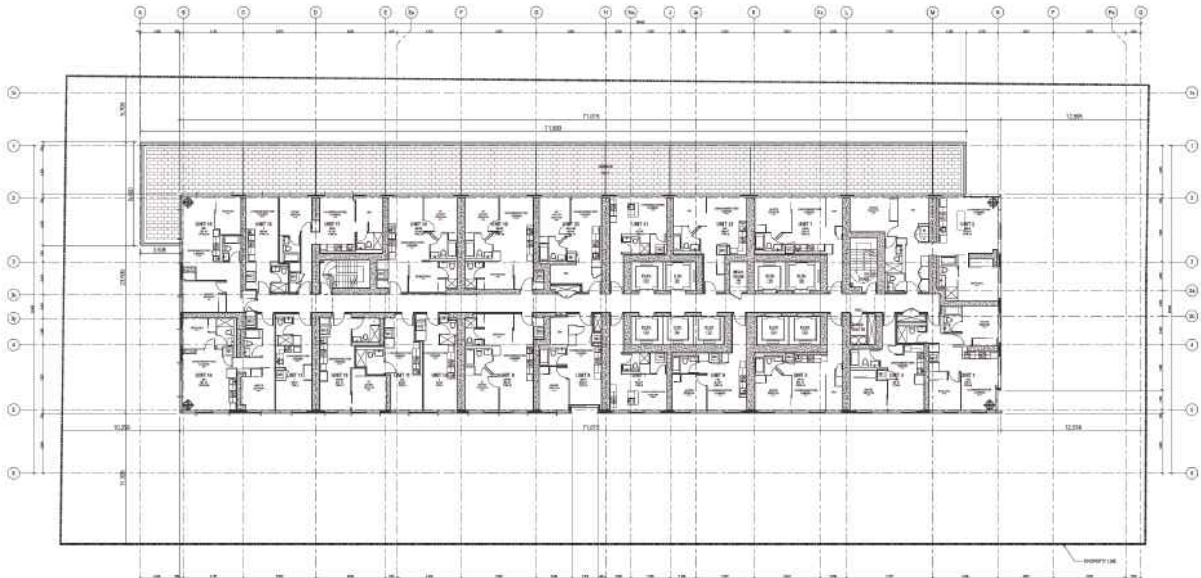
A2.08

© ArchitectAlliance 2018

© ArchitectAlliance 2018



② L16 - RESIDENTIAL (TYP. L16 - L20)
SCALE 1:200



① L15 - RESIDENTIAL
SCALE 1:200

1. Copyright of this drawing is reserved by the Architect. The drawing and all associated documents are the property of the Architect. The drawing and all associated documents may not be reproduced in whole or in part without prior written permission of the Architect.

2. These Contract Documents are the property of the Architect. The Architect retains the responsibility for the preparation of these documents by the Contractor. Upon completion of the project, the Architect will provide the original documents to the Contractor. The Architect will retain the original documents for the Architect's files. The Contractor will retain the original documents for the Contractor's files.

3. Drawing not to be used for construction. The Contractor is to verify all existing conditions and dimensions required to perform the work and report any discrepancies to the Architect in the Architect's office immediately upon receipt of the drawing.

4. All work is to be carried out in accordance with the Code and Edition of the applicable building jurisdiction.

5. The Architect of these plans and specifications gives no warranty or representation in any form about the appropriateness of the building construction for the use intended. An administrator must verify the accuracy of the building and of all other matters that are not properly represented by these plans.

NO.	ISSUANCE	DATE
01	ISSUED FOR PERMITS APPLICATION	17 FEB 17
02	RE ISSUED FOR PERMITS APPLICATION	16 MAY 18
03	ISSUED FOR SITE PLAN APPROVAL	14 DEC 18
04	RE ISSUED FOR SITE PLAN APPROVAL	27 NOV 19

aA
architects Alliance
206-317 Adelaide St. West
Toronto, Ontario M5V 1S8
416 592 0500
416 593 4911
info: architectsalliance.com

Cresford
Cresford Development Corporation
55 Hayden Street, Unit 206
Toronto, Ontario M4Y 1E7
416 971 7557
info@cresford.com

KPF
Kohn Pedersen Fox
11 West 42nd Street
New York, New York 10036
212 977 8500
212 996 2526



YSL
383 Yonge Street

L15, L16-L21
1:200
JULY 26, 2018

A2.10

1. Copyright of this drawing is reserved by the Architect. The drawing and all associated documents are the property of the Architect. The drawing and all associated documents may not be reproduced in whole or in part without prior written permission of the Architect.

2. These Contract Documents are the property of the Architect. The Architect retains the responsibility for the preparation of these documents by the Contractor. Upon completion, the Architect will provide a copy of the original documents to the Contractor. The Architect will retain the original documents for the Contractor for long-term reference only.

3. Drawings are not to be used for construction. The Contractor is to verify all existing conditions and dimensions required to perform the work and report any discrepancies with the Contract Documents to the Architect before commencing any work.

4. Portions of original building construction or structural systems, including but not limited to, existing or anticipated structure, shall remain in place as indicated on drawings. The location, extent and condition of existing structure shall be verified by the Contractor for long-term reference only.

5. These drawings are not to be used for construction unless noted below as "Issued for Construction".

6. All work is to be carried out in accordance with the Code and Edition of the regulations having jurisdiction.

7. The Architect does not warrant or guarantee the accuracy of the information represented in these drawings. The Contractor shall verify the accuracy of the information represented in these drawings and shall be responsible for any errors or omissions.

8. Construction, 2018

NO.	ISSUANCE	DATE
01	ISSUED FOR PERMITS APPLICATION	17 FEB 17
02	ISSUED FOR PERMITS APPLICATION	18 MAY 18
03	ISSUED FOR PERMITS APPROVAL	14 DEC 18
04	ISSUED FOR PERMITS APPROVAL	27 NOV 19

aA
 architectsAlliance
 206-317 Adelaide St. West
 Toronto, Ontario M5V 1S8
 416 592 0500
 416 593 4911
 info: architectsalliance.com

Cresford
 Cresford Development Corporation
 50 Hayden Street, Unit 206
 Toronto, Ontario M4W 1E7
 416 571 7557
 info@cresford.com

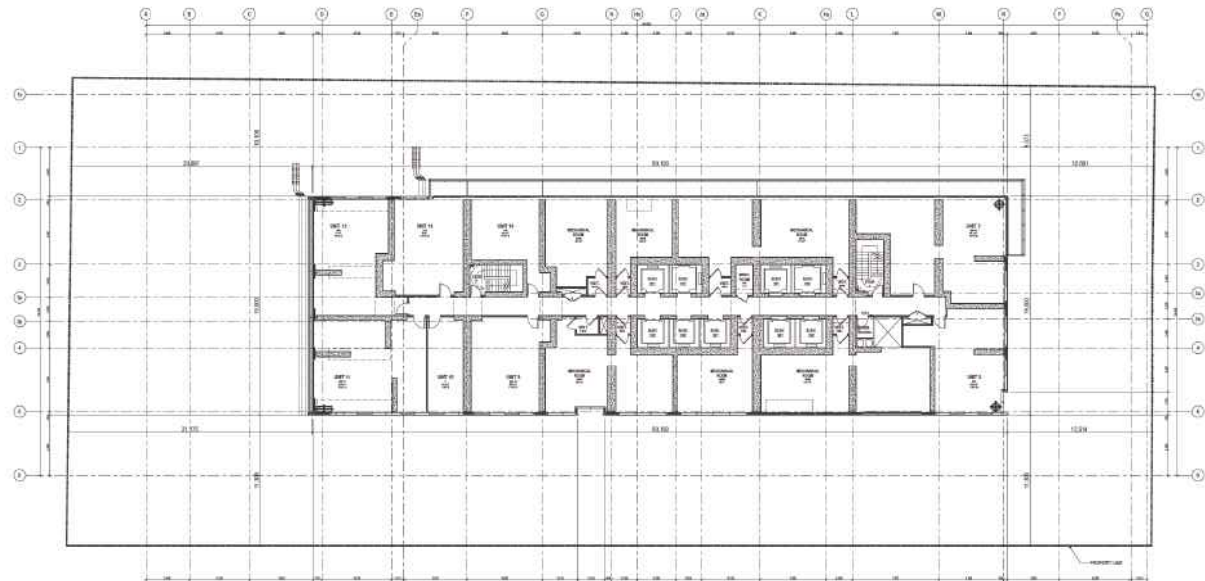
KPF
 Kohn Pedersen Fox
 11 West 42nd Street
 New York, New York 10036
 212 577 8500
 212 596 2526



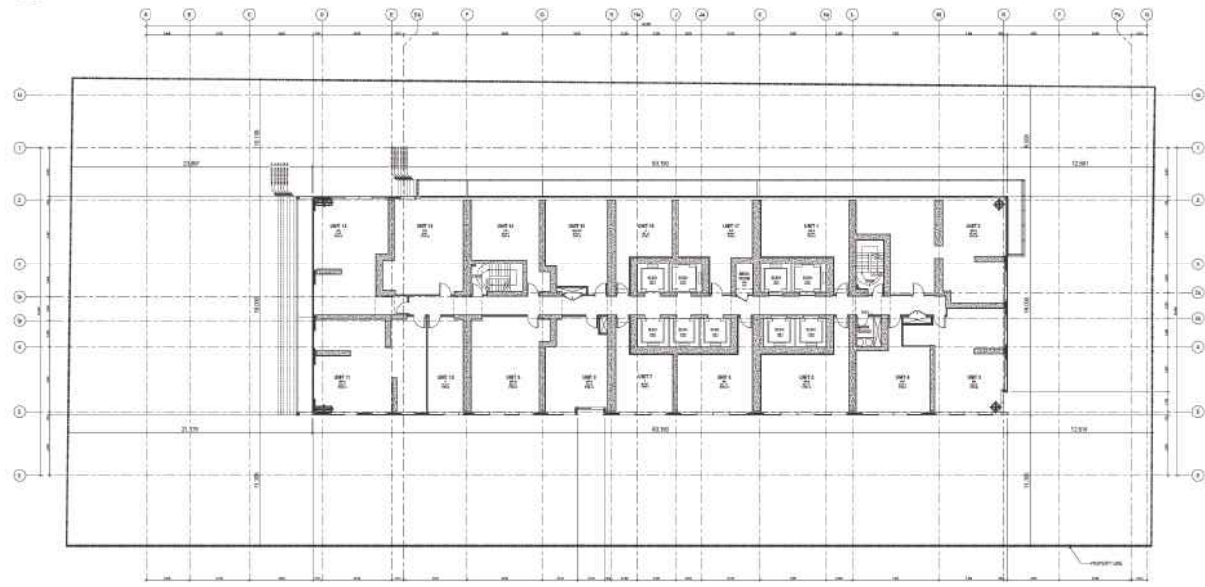
YSL
 383 Yonge Street

L30-L33, L34
 1:200
 JULY 26, 2018

A2.13



2 L34 - MECHANICAL
 SCALE: 1/8"=1'-0"



1 L30 - RESIDENTIAL (TYP. L30 - L33)
 SCALE: 1/32"=1'-0"

Printed On: Tuesday, December 3, 2019

Architect: Cipek Architectural Inc. 250 King Street West, Toronto, Ontario M5V 1K5

This is "Exhibit "T" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA54DB...

A Commissioner for Taking Affidavits

From: [Ian MacLeod](#)
To: [Gallagher, Casey @ Toronto DT](#)
Date: March 5, 2020 4:52:42 PM
Attachments: [one_c9cb48e7-a78e-4ce4-8b3c-b09f3d09717d.png](#)

External

Hi Casey, can we take a look at the Cresford deal

Ian MacLeod
Senior Vice President, Multi-Family - Eastern Canada

D: 647.256.1024 **C:** 647.202.5219

T: 647.256.1014 **F:** 647.256.1015

E: imacleod@oneproperties.com

Suite 2710, 333 Bay Street, Toronto, ON, M5H 2R2

oneproperties.com



This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to which they are addressed. If you have received this email in error, please notify the sender. If you are not the named and intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

This is "Exhibit "U" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

A62687A47FA54DB...

A Commissioner for Taking Affidavits

From: [Andrew Joyner](#)
To: [Gallagher, Casey @ Toronto DT](#)
Subject: Cresford
Date: March 5, 2020 5:39:30 PM

External

Can we speak when you have a moment? Just YSL or portfolio available? Lots of rumors.

Andrew Joyner
Managing Director

Tricon Capital Group Inc.
T: 416.926.2456
C: 416.455.7164
www.triconcapital.com

Please consider the environment before printing this e-mail.

This email may contain privileged, proprietary or confidential information. If you are not the intended recipient, you are instructed not to review this message; instead, please notify the sender that you received this message and delete it from your system.

This is "Exhibit "V" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Elie Laskin

A62687A47FA64DB...

A Commissioner for Taking Affidavits

From: [Sens, Peter @ Toronto DT](#)
To: [Gallagher, Casey @ Toronto DT](#); [Ted Dowbiggin](#)
Cc: [Pinto, Vanessa @ Toronto DT](#)
Subject: RE: My formal expression of interest to purchase Cressford's Yorkville assets
Date: March 24, 2020 9:37:16 AM
Attachments: [image002.jpg](#)

I hope your well Ted and we are looking for ways to help out here.

Peter D. Sens | President, Canadian Capital Markets

CBRE Limited | National Investment Team

145 King Street West, Suite 1100 - Toronto, ON M5H 1J8

Direct: 416-815-2355 | Fax: 416-362-8085

peter.sens@cbre.com | www.cbre.com

From: Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>

Sent: Tuesday, March 24, 2020 9:19 AM

To: Ted Dowbiggin <tdowbiggin@cresford.com>

Cc: Sens, Peter @ Toronto DT <Peter.Sens@cbre.com>; Pinto, Vanessa @ Toronto DT <Vanessa.Pinto@cbre.com>

Subject: FW: My formal expression of interest to purchase Cressford's Yorkville assets

Ted –

Per our discussion, below is the email expression of interest from Constantine. Vanessa will reach out to set a time for you Peter and I to speak later today or tomorrow.

Best,

Casey T. Gallagher | Executive Vice President*

CBRE Limited | Brokerage | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T 416-815-2398 | F 416-362-8085

casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[*Stay connected! Continue receiving commercial real estate insight*](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

From: Robert Hiscox <robert.hiscox@constantineinc.com>

Sent: Sunday, March 22, 2020 4:31 PM

To: Sens, Peter @ Toronto DT <Peter.Sens@cbre.com>; Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>; Abergel, Hillel @ Toronto DT <hillel.abergel@cbre.com>

Subject: My formal expression of interest to purchase Cressford's Yorkville assets

External

Hi Peter, Casey and Hillel

As per my previous discussions with Hillel and Cassey I am emailing you to formally express my firm's interest to investigate the acquisition of some of the Cressford Assets currently in receivership. Specifically, I am most interested in

acquiring the 2 tower asset at 33 Yorkville Ave.

As I am sure you recall from the past acquisitions that your firm has assisted us to acquire we have demonstrated an ability to close in a timely manner and without any issues.

Further, as we have a number of assets in development and under construction in the Yorkville area Constantine would be very capable to see 33 Yorkville Ave. through to completion.

At your earliest convenience, kindly advise if your firm can be of assistance in this acquisition request and your thoughts on next steps.

Many thanks,

Robert



ROBERT HISCOX | CONSTANTINE ENTERPRISES INC. | Co-founder & Chief Executive Officer
robert.hiscox@constantineinc.com | +1.416.266.0000 |
1235 Bay Street, 7th Floor, Toronto, Ontario, Canada M5R 3K4

This is "Exhibit "W" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA54DB..

A Commissioner for Taking Affidavits

From: [Ted Dowbiggin](#)
To: [Gallagher, Casey @ Toronto DT](#)
Subject: RE: Rob Hiscox
Date: March 24, 2020 6:12:46 PM
Attachments: [68101B9C61184F5AA8411F58E2C37FC2.png](#)
[975A325D61DD4C5890163FEA9EDB12FB.jpg](#)

External

Ok did we set a time if not the 2:30 time works.

Sent from [Mail](#) for Windows 10

From: Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>

Sent: Tuesday, March 24, 2020 6:10:31 PM

To: Ted Dowbiggin <tdowbiggin@cresford.com>

Cc: Pinto, Vanessa @ Toronto DT <Vanessa.Pinto@cbre.com>; Abergel, Hillel @ Toronto DT <hillel.abergel@cbre.com>

Subject: Rob Hiscox

Ted –

I'm going to ask Vanessa to add Rob Hiscox of Constantine (and my colleague, Hillel Abergel) to our scheduled call tomorrow to further discuss 33 Yorkville.

Best,

Casey T. Gallagher | Executive Vice President*

CBRE Limited | Brokerage | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T 416-815-2398 | F 416-362-8085

casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

From: [Gallagher, Casey @ Toronto DT](#)

Sent: March 24, 2020 6:10 PM

Subject: Rob Hiscox

Ted –

I'm going to ask Vanessa to add Rob Hiscox of Constantine (and my colleague, Hillel Abergel) to our scheduled call tomorrow to further discuss 33 Yorkville.

Best,

Casey T. Gallagher | Executive Vice President*

CBRE Limited | Brokerage | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T 416-815-2398 | F 416-362-8085

casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this

transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

This communication is intended only for the party to whom it is addressed, and may contain information which is privileged or confidential. Any other delivery, distribution, copying or disclosure is strictly prohibited and is not a waiver of privilege or confidentiality. If you have received this telecommunication in error, please notify the sender immediately by return electronic mail and destroy the message.

This is "Exhibit "X" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA64DB..

A Commissioner for Taking Affidavits

From: [Christopher J. Wein](#)
To: [Richard Casey](#); [Gallagher, Casey @ Toronto DT](#)
Cc: [Ted Dowbiggin](#); [Senst, Peter @ Toronto DT](#); [Li, Kai Tai @ Toronto DT](#)
Subject: RE: Ted Dowbiggin/ Christopher Wein/ Peter Senst/ Casey Gallagher
Date: March 4, 2020 5:31:48 PM
Attachments: [image002.jpg](#)
[image003.jpg](#)

External

Thanks Richard,

Another question, do you have any details or documentation on the existing and proposed financing for YSL.

Thanks,



Christopher J Wein
Chief Operating Officer,
Lanterra Management Ltd.
President,
Lanterra Construction Management Ltd.

2811 Dufferin Street | Toronto, ON M6B 3R9
T. 416.635.7424 x 291 | C. 416.578.5350
E. cwein@lanterradev.com

From: Richard Casey <rcasey@cresford.com>
Sent: Monday, February 24, 2020 3:58 PM
To: Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>; Christopher J. Wein <cwein@lanterradev.com>
Cc: Ted Dowbiggin <tdowbiggin@cresford.com>; Senst, Peter @ Toronto DT <Peter.Senst@cbre.com>; Li, Kai Tai @ Toronto DT <KaiTai.Li@cbre.com>
Subject: RE: Ted Dowbiggin/ Christopher Wein/ Peter Senst/ Casey Gallagher
Thanks Casey.

Further to my email this morning, please find attached:

1. YSL Permit Summary
2. Section 37 Agreement
3. Heritage Easement Agreement

Thanks,

Richard Casey

Sr. Analyst, Finance and Acquisitions

Cresford Developments

T: 416.971.7557 ext. 312

E: rcasey@cresford.com

59 Hayden Street, 2nd Floor | Toronto Ontario | M4Y 0E7

www.cresford.com

From: Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>
Sent: February 24, 2020 3:40 PM
To: Richard Casey <rcasey@cresford.com>; cwein@lanterradev.com
Cc: Ted Dowbiggin <tdowbiggin@cresford.com>; Senst, Peter @ Toronto DT <Peter.Senst@cbre.com>; Li, Kai Tai @ Toronto DT <KaiTai.Li@cbre.com>
Subject: RE: Ted Dowbiggin/ Christopher Wein/ Peter Senst/ Casey Gallagher
Thanks again, Richard. I've also copied Kai Tai Li on this note.

Best,

Casey T. Gallagher | Executive Vice President*

CBRE Limited | Brokerage | National Investment Team

145 King Street West, Suite 1100 | Toronto, ON M5H 1J8

T 416-815-2398 | F 416-362-8085

casey.gallagher@cbre.com | www.cbre.com

* Sales Representative



[Stay connected! Continue receiving commercial real estate insight](#)

Please consider the environment before printing this email.

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

From: Richard Casey <rcasey@cresford.com>

Sent: Monday, February 24, 2020 11:39 AM

To: cwein@lanterradev.com

Cc: Ted Dowbiggin <tdowbiggin@cresford.com>; Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>; Senst, Peter @ Toronto DT <Peter.Senst@cbre.com>

Subject: RE: Ted Dowbiggin/ Christopher Wein/ Peter Senst/ Casey Gallagher

External

Hi Christopher,

Please find attached:

1. YSL Tender Schedule
2. YSL Construction Schedule
3. Executed Contracts

<https://www.dropbox.com/sh/mt73ftpvkuco73a/AABj4v2GtEHdTdOF2pWB8IN6a?dl=0>

4. Permit Drawings

<https://www.dropbox.com/sh/cvbssyk23p4xobx/AAAfmfntkA47KyXHnEOXegU9a?dl=0>

5. YSL Sales grid

*Unsold units are currently unpriced in this grid but average around \$1,750/sf

6. Details on the Ryerson Sale

There are 4 floors of office at YSL, totalling 96,832 sf. Each floor is identical. We have pre-sold 3 of the 4 floors to Ryerson university for \$27,500,329. Ryerson has the option to purchase the remaining floor of office at market value. Based on discussions with them we have the remaining floor in our proforma at \$800psf and \$19,366,429 total.

I am currently waiting on some of the requested deliverables and will send them as they become available.

Please let me know if you have any additional questions or requests.

Thanks,

Richard Casey

Sr. Analyst, Finance and Acquisitions

Cresford Developments

T: 416.971.7557 ext. 312

E: rcasey@cresford.com

59 Hayden Street, 2nd Floor | Toronto Ontario | M4Y 0E7

www.cresford.com

From: "Christopher J. Wein" <cwein@lanterradev.com>
Date: February 21, 2020 at 5:07:07 PM CST
To: "Gallagher, Casey @ Toronto DT" <Casey.Gallagher@cbre.com>, "tdowbiggin@cresford.com" <tdowbiggin@cresford.com>, "Senst, Peter @ Toronto DT" <Peter.Senst@cbre.com>
Subject: RE: Ted Dowbiggin/ Christopher Wein/ Peter Senst/ Casey Gallagher

Hi Ted, Peter and Casey,

I signed the CA yesterday and my EA sent it back to CBRE. I am looking for the following information to start:

- Complete set of drawings – SPA is fine to start, CD's after that
- Inventory List – sold and unsold
- Detailed construction budget
- Section 37 & Heritage Easement Agreement
- Current construction contracts – Verdi, Michael Bros, GFL, etc
- OTERA commitment or term sheet
- Details on Ryerson sale
- Westmount deposit bond agreement
- Timbercreek mortgage
- Any permits and permit status

I think that would be a great start.

Let me know how best to proceed.

Thanks and enjoy the weekend,



Christopher J Wein
Chief Operating Officer,
Lanterra Management Ltd.
President,
Lanterra Construction Management Ltd.

2811 Dufferin Street | Toronto, ON M6B 3R9
T. 416.635.7424 x 291 | C. 416.578.5350
E. cwein@lanterradev.com

-----Original Appointment-----

From: Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>
Sent: Wednesday, February 19, 2020 2:40 PM
To: Gallagher, Casey @ Toronto DT; tdowbiggin@cresford.com; Christopher J. Wein; Senst, Peter @ Toronto DT
Subject: Ted Dowbiggin/ Christopher Wein/ Peter Senst/ Casey Gallagher
When: Thursday, February 20, 2020 9:30 AM-10:30 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Cresford, 59 Hayden Street, Suite 200

This communication is intended only for the party to whom it is addressed, and may contain information which is privileged or confidential. Any other delivery, distribution, copying or disclosure is strictly prohibited and is not a waiver of privilege or confidentiality. If you have received this telecommunication in error, please notify the sender immediately by return electronic mail and destroy the message.

This communication is intended only for the party to whom it is addressed, and may contain

information which is privileged or confidential. Any other delivery, distribution, copying or disclosure is strictly prohibited and is not a waiver of privilege or confidentiality. If you have received this telecommunication in error, please notify the sender immediately by return electronic mail and destroy the message.

This is "Exhibit "Y" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA54DB...

A Commissioner for Taking Affidavits



Thu 2020-05-14 10:07 PM

Gallagher, Casey @ Toronto DT <Casey.Gallagher@cbre.com>

Peter and Casey to call Ted

Required

Ted Dowbiggin; L. Senst, Peter @ Toronto DT

i As the meeting organizer, you do not need to respond to the meeting.

When May 15, 2020 12:30 PM-1:00 PM

Location

This is "Exhibit "Z" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA54DB...

A Commissioner for Taking Affidavits



363 Yonge Street

Old Toronto, Downtown Periphery

COMMERCIAL SALE

Residential Land



Location Information

Address	363 Yonge Street 367 Yonge Street 369 Yonge Street 373 Yonge Street 377 Yonge Street 379 Yonge Street 381 Yonge Street 385 Yonge Street
Region	Toronto
Municipality	Old Toronto
Market	GTA
Submarket	Downtown Periphery

Property Information

Land/Lot size	0.92 acres
----------------------	------------

Price Structure

Cash price	\$168,737,563.00	100%
Assumed price	\$0.00	
VTB price	\$0.00	
Other consideration	\$0.00	
Total price	\$168,737,563.00	
Percentage transferred	100%	
100% equivalent	\$168,737,563.00	

Record Information

Record type	Commercial transaction
Inventory number	GTA-RLN-2021-07-22-21-1690
Record status	PRC

Transaction Summary

Transaction date	Jul 22, 2021
Price	\$168,737,563.00
Sale type	Market
Distress type	
Estate type	Fee Simple
Percent transferred	100%
Product type	Residential Land
Subtype	
Price per unit buildable	\$152,565.00
Price per sq.ft. buildable	\$167.00
Price per acre	
Residential land use	High Density
Estimated time to develop	Six Months to One Year
Portfolio name	

Price structure notes**Mortgages**

Mortgage Type	Subsequent - Demand Debenture	Subsequent - Demand Debenture	Subsequent - Demand Debenture
Primary Lender	Otera Capital Inc.	Westmount Guarantee Services Inc.	
Secondary Lender			
Tertiary Lender			
Interest Rate	The Bank of Nova Scotia Prime Rate + 5.0% per annum	Not Given	Prime Rate plus 2%, per annum
Principle Amount	\$750,000,000.00	\$150,000,000.00	\$100,000,000.00
Calculation Period	Semi-annually		
Payment Frequency			
Payment Amount			
Commencement Date			
Maturity Date			
Instrument Date	Jul 22, 2021	Jul 22, 2021	Jul 22, 2021
Remarks			Lender: 1252707 BC LTD.

Stakeholders**Vendors****Operating name**

Cresford Developments

Legal name

YSL Residences Inc.

Vendor profile

Developer

Signing officer

Daniel Casey, ASO

Address

250 Merton Street, Suite 203, Toronto, ON M4S 1B1

Purchasers**Operating name**

Concord Adex

Legal name

Concord Properties Developments Corp.

Purchaser profile

Developer

Signing officer

Dennis Au-Yeung, ASO

Address

82 Queens Wharf Road, Toronto, ON M5V 0P2

Brokers**Broker company****Brokerage agent****Legal Structure**

Title type	Standard
Legal description	<p>21101-0042: Lots 35 & 36, East Side of Yonge Street, Plan 22A &nbsp;</p> <p>21101-0044: Part of Lot 34, East Side of Yonge Street, Plan 22A, as described in Instrument No. CT497024 &nbsp;</p> <p>21101-0045: Part of Lot 33, East Side of Yonge Street, Plan 22A, as described in Instrument No. CA310343 &nbsp;</p> <p>21101-0046: Part of Lot 33, East Side of Yonge Street, Plan 22A, as described in Instrument No. CA540937 &nbsp;</p> <p>21101-0047: Part of Lot 32, East Side of Yonge Street, Plan 22A, as described in Instrument No. CA472341 &nbsp;</p> <p>21101-0048: Lot 32 and Part of Lot 31, East Side of Yonge Street, Plan 22A, as described in Instrument No. CA761626 &nbsp;</p> <p>21101-0049: Part of Lot 31, East Side of Yonge Street, Plan 22A, as described in Instrument No. EP126440 &nbsp;</p> <p>21101-0043: Part of Lot 34, East Side of Yonge Street, Plan 22A, as described in Instrument No. OT46105</p>
PINS (PIDS, LINC)	21101-0042,21101-0045,21101-0047,21101-0048,21101-0049,21101-0044,21101-0046,21101-0043
Lot details	<p>Frontage on Yonge Street: 273.41 feet Frontage on Gerrard Street East: 133 feet (Irregular) : 0 feet</p>
Lot area	0.92 acres 40,205.88 sqft

Property Notes

General remarks	
Land use details	The City of Toronto Official Plan designates the property Mixed Use Area. The Zoning By-law classifies the property CR 4.0 (c4.0; r1.5) SS1 (x175), a commercial residential classification which permits a maximum gross floor area equal to 4 times the lot area.
Physical details	
Tenancy details	

This is "Exhibit "AA" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA64DB...

A Commissioner for Taking Affidavits



INVOICE

Date: 13-Oct-2021

Our Ref. #: 20210100750

Our HST Number: 101047751RT0001

Our GST Number: 101047751RT0001

Our PST Number: 1022408280 TQ0001

Attention: Ted Dowbiggin
Cresford Developments
59 Hayden Street
Suite/Unit: 200,
Toronto, Ontario, M4Y 0E7

Property Type: Land

365-385 Yonge Street, Toronto, Ontario

CLIENT:

Cresford Developments
59 Hayden Street
Suite/Unit: 200,
Toronto, Ontario, M4Y 0E7

Details									
Description	Amount								
Fee for services rendered.	\$ 1,096,794.16								
HST @ 13.00 %	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; padding: 2px 5px 2px 20px;">Total:</td> <td style="text-align: right; padding: 2px 5px 2px 20px;">\$ 1,096,794.16</td> </tr> <tr> <td style="padding: 2px 5px 2px 20px;">Taxes:</td> <td style="text-align: right; padding: 2px 5px 2px 20px;">\$ 142,583.24</td> </tr> <tr> <td style="padding: 2px 5px 2px 20px;">Gross:</td> <td style="text-align: right; padding: 2px 5px 2px 20px;">\$ 1,239,377.40</td> </tr> <tr> <td style="padding: 2px 5px 2px 20px;">Total Billable:</td> <td style="text-align: right; padding: 2px 5px 2px 20px;">\$ 1,239,377.40</td> </tr> </table>	Total:	\$ 1,096,794.16	Taxes:	\$ 142,583.24	Gross:	\$ 1,239,377.40	Total Billable:	\$ 1,239,377.40
Total:	\$ 1,096,794.16								
Taxes:	\$ 142,583.24								
Gross:	\$ 1,239,377.40								
Total Billable:	\$ 1,239,377.40								

Summary	
Payable to: CBRE Limited	\$ 1,239,377.40
<u>Terms:</u> Due upon receipt	

Please remit payment to the Deal Administrator

Wire to be paid into:

Scotiabank
P.O. Box 4234
Postal Station A
Toronto, ON. M5W 5P6

Bank # 0002
Transit # 47696
Account# 10270 18
Swift# NOSCCATT

145 King Street West
Suite 1100
Toronto, ON M5H 1J8
Tel: 416 362 2244 Fax: 416 362 8085
www.cbre.ca

This is "Exhibit "**BB**" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA54DB ..

A Commissioner for Taking Affidavits



145 King Street West, Suite 1100
Toronto, ON M5H 1J8

T +1 416 815 2302

maya.zor@cbre.com
www.cbre.com

Maya Zor
Senior Counsel and Legal Director – Canada
Corporate Secretary
Legal Services

CBRE Limited

November 26, 2021

VIA EMAIL

Ted Dowbiggin
Cresford Developments
59 Hayden Street
Suite/Unit 200,
Toronto, Ontario M4Y 0E7
tdowbiggin@cresford.com

Dear Mr. Dowbiggin;

Re: Outstanding Commissions Due pursuant to the Exclusive Sales Listing Agreement between CBRE Limited (“CBRE”) and Cresford Developments (“Cresford”), dated February 20, 2020 (the “Agreement), regarding 363 Yonge Street, 367 Yonge Street, 369 Yonge Street, 373 Yonge Street, 377 Yonge Street, 379 Yonge Street, 381 Yonge Street, 385 Yonge Street and 391 Yonge Street, Toronto, Ontario (collectively the “Property”)

As you are aware, pursuant to the above-mentioned Agreement, Cresford Developments (“Cresford”) agreed to pay CBRE Limited (“CBRE”) commission for its services rendered. Accordingly, CBRE and Cresford entered into an Exclusive Sales Listing Agreement dated February 20, 2020 (the “Agreement) and CBRE has complied with and performed its obligations under the Agreement. Pursuant to the terms of the Agreement, Cresford agreed to *pay commission equivalent to 0.65% of the Gross Sale Price of the Property*. CBRE has repeatedly requested, but not yet received, payment of such amount. Therefore, Cresford is currently in default of its payment obligations under the terms of the Agreement. Attached is a copy of the Agreement and the unpaid invoice for your reference.

CBRE hereby demands immediate payment of the outstanding balance of \$1,239,377.40. If Cresford fails to pay the full amount due by the close of business on December 10, 2021, CBRE will take all legal and equitable action necessary to collect this amount. Furthermore, in the event that CBRE must initiate an action to recover the amount due and outstanding under the Agreement,

Cresford Letter
Page 2

Cresford may also be liable for CBRE attorneys' fees and costs incurred in connection with CBRE's efforts to collect the amount due and outstanding.

Nothing herein is or may be deemed a waiver or full statement of any of CBRE's rights or remedies, whether at law or in equity, all of which are expressly reserved.

Please contact me should you wish to discuss this matter further. I appreciate your anticipated cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Maya Zor', with a long horizontal flourish extending to the right.

Maya Zor

MZ: kf

Enclosures

cc: Peter Senst and Casey Gallagher, CBRE

THIS EXCLUSIVE SALES LISTING AGREEMENT dated February 20, 2020 (the “Agreement”)

BETWEEN

YSL RESIDENCES INC. (the “Owner”)

-and-

CBRE Limited (the “Brokerage”)

WHEREAS the Owner is the legal owner of 363-391 Yonge Street & 3 Gerrard Street East Toronto, Ontario (the “Property”);

AND WHEREAS the Owner wants to retain the Brokerage to serve as the exclusive listing brokerage for the sale of the Property;

AND WHEREAS the Brokerage listing team representing the Owner in the sale of the Property shall consist of Peter D. Senst and Casey Gallagher (the “Listing Team”);

NOW THEREFORE in consideration of the listing for sale of the Property by the Brokerage, and the Brokerage’s efforts to effect a sale of the Property, the Owner and the Brokerage hereby agree as follows:

ARTICLE 1 RECITALS

1.1 The above recitals are true and accurate in all respects.

ARTICLE 2 TERM

2.1 The Owner grants to the Brokerage the exclusive right to sell the Property for a period commencing February 20, 2020 and expiring at midnight on August 20, 2020 (the “Term”).

2.2 Notwithstanding the foregoing, if at any time after the receipt of best-and-final bids, the Owner is not satisfied with pricing, the Owner may terminate this Agreement upon the provision of 10 days’ notice to the Brokerage and all obligations hereunder shall be at an end.

ARTICLE 3 THE BROKERAGE RENUMERATION

3.1 The Owner agrees to pay the Brokerage a commission equivalent to 0.65% of the Gross Sale Price of the Property (the “Commission”). Gross sales price shall include any and all consideration received or receivable, in whatever form, including but not limited to assumption or release of existing liabilities, without any downward adjustments for any capital, environmental issues, mark-to-market adjustment or yield maintenance fees with respect to existing mortgages as adjusted on the closing of the transaction pursuant to an agreement of purchase and sale executed and delivered by Owner. Commission shall be paid and deemed earned if and only if a closing occurs pursuant to a contract of sale executed and delivered by Owner.

3.2 The Commission shall be earned by the Brokerage in the event that during the Term: (a) the Owner enters into a binding agreement of purchase and sale for the Property with a purchaser procured by the Brokerage, the Owner or from any other source whatsoever, and such sale closes; or (b) the Owner is a corporation, partnership or other business entity and an interest in such corporation,

partnership or other business entity is transferred, whether by merger or outright purchase or otherwise in lieu of sale of the Property.

- 3.3 The Commission shall be payable immediately upon closing of the agreement of purchase and sale referred to in section 3.2(a) above; or upon the completion of the transfer referred to in section 3.2(b) above; notwithstanding that the sale may close, or the transfer may be completed, following the expiry of the Term.
- 3.4 The Commission payable herein shall be subject to the payment of Harmonized Sales Tax (HST) thereon by the Owner.

ARTICLE 4 HOLDOVER

- 4.1 The Owner further agrees to pay the Brokerage the Commission if, within 90 calendar days after the expiration of the Term, the Property is sold to, or the Owner enters into an agreement of purchase and sale for the Property with, or negotiations continue, resume or commence and thereafter continue leading to the execution of a binding agreement of purchase and sale for the Property, provided the transaction subsequently closes, with any person or entity (including his/her/its successors, assigns or affiliates) with whom the Brokerage has negotiated (either directly or through another agent) or to whom the Property was introduced or submitted, from any source whatsoever, or to whom the Owner was introduced, from any source whatsoever, prior to the expiration of the Term; with or without the involvement of the Brokerage. The Brokerage is authorized to continue negotiations with such persons or entities. The Brokerage agrees to submit a list of such persons or entities to the Owner within 10 business days following the expiration of the Term, provided, however, that if a written offer has been submitted, then it shall not be necessary to include the offeror's name on the list.

ARTICLE 5 THE OWNER SHALL NOT ENGAGE ANOTHER BROKERAGE DURING THE TERM

- 5.1 The Owner warrants to the Brokerage that, as at the date of execution of this Agreement, the Owner is not a party to a valid listing agreement with any other real estate brokerage with respect to the sale of the Property. The Owner shall not engage the services of another real estate brokerage during the Term with respect to the sale of the Property.
- 5.2 The Owner agrees to cooperate with the Brokerage in bringing about the sale of the Property and to refer immediately to the Brokerage all inquiries of anyone interested in the Property. All negotiations are to be through the Brokerage.
- 5.3 The Owner and the Brokerage hereby acknowledge that this is an exclusive listing and that the Brokerage shall not be required to cooperate with any other brokerage in connection with this exclusive listing. At the sole discretion of the Brokerage, a third-party real estate agent (the "**Cooperating Agent**") may be permitted to cooperate in the sale of the Property and any Cooperating Agent shall comply with the terms of this Agreement.

ARTICLE 6 DUAL AGENCY

- 6.1 The Owner acknowledges and agrees that the Brokerage may represent the Owner and a purchaser in a dual agency relationship. In the event that such dual agency relationship arises, the Listing

Team shall advise the Owner of such dual agency relationship immediately upon becoming aware of the dual agency relationship. The Owner hereby consents to the possibility of a limited dual agency wherein CBRE Limited maintains confidentiality with respect to each pricing intentions, corporate objectives and motivations for both principals to the transaction.

- 6.2 Notwithstanding the foregoing, the members of the Listing Team shall not act adverse in interest to the Owner, nor shall members of the Listing Team represent a purchaser of the Property in a transaction involving the purchase and sale of the Property, during the Term.

ARTICLE 7 GENERAL PROVISIONS

- 7.1 *Authority.* The Owner declares and certifies that it is the owner of the Property and that it has the authority to enter into and execute this Agreement; and this Agreement, once executed by the Owner, shall be legally binding upon the Owner.
- 7.2 *Entire Agreement.* This Agreement constitutes the entire agreement between the Owner and the Brokerage, and supersedes all prior discussions, negotiations and agreements, whether oral or written. In case of any inconsistencies between this Agreement and any commission provisions in the agreement of purchase and sale, the provisions of this Agreement shall govern and be paramount.
- 7.3 *Amendment.* No amendment or alteration of this Agreement shall be valid or binding unless made in writing and signed by the Owner and the Brokerage.
- 7.4 *Severability.* Should any provision of this Agreement be unenforceable at law, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall continue in force and shall be binding as though such provision had not been included.
- 7.5 *Interpretation.* The headings inserted in this Agreement are for convenience of reference only and, in no way define, limit or enlarge the scope or meaning of any of the terms and conditions contained in this Agreement. The preamble to this Agreement forms an integral part of this Agreement and shall be used in its interpretation.
- 7.6 *Jurisdiction.* This Agreement shall be governed by, and shall be subject to, the laws of the Province of Ontario; and the Owner and the Brokerage hereby attorn to the jurisdiction of the courts of the Province of Ontario with respect to any dispute concerning the interpretation, application and enforcement of this Agreement.
- 7.7 *Counterparts:* This agreement may be executed in counterparts and may be transmitted by email.

[this space intentionally left blank; signatures appear on next page]

IN WITNESS WHEREOF the Owner and the Brokerage agree to the terms and conditions as set out herein; and have executed this Agreement as of the date first written above.

YSL RESIDENCES INC. (the “**Owner**”)
Per:

I have authority to bind the company

Print Name: _____

CBRE Limited (the “**Brokerage**”)
Per:

I have authority to bind the company

Print Name: _____

INVOICE

Date: 13-Oct-2021

Our Ref. #: 20210100750

Our HST Number: 101047751RT0001

Our GST Number: 101047751RT0001

Our PST Number: 1022408280 TQ0001

Attention: Ted Dowbiggin
Cresford Developments
59 Hayden Street
Suite/Unit: 200,
Toronto, Ontario, M4Y 0E7

Property Type: Land

365-385 Yonge Street, Toronto, Ontario

CLIENT:

Cresford Developments
59 Hayden Street
Suite/Unit: 200,
Toronto, Ontario, M4Y 0E7

Details

Description	Amount
Fee for services rendered.	\$ 1,096,794.16
HST @ 13.00 %	
Total:	\$ 1,096,794.16
Taxes:	\$ 142,583.24
Gross:	\$ 1,239,377.40
Total Billable:	\$ 1,239,377.40

Summary

Payable to: CBRE Limited

\$ 1,239,377.40Terms: Due upon receipt

Please remit payment to the Deal Administrator

Wire to be paid into:

Scotiabank
P.O. Box 4234
Postal Station A
Toronto, ON. M5W 5P6

Bank # 0002
Transit # 47696
Account# 10270 18
Swift# NOSCCATT

145 King Street West
Suite 1100
Toronto, ON M5H 1J8
Tel: 416 362 2244 Fax: 416 362 8085
www.cbre.ca

This is "Exhibit "**CC**" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA54DB...

A Commissioner for Taking Affidavits

**WITH PREJUDICE**

January 25, 2022

Elie Laskin
Direct +1 416 862 3621
elie.laskin@gowlingwlg.com

DELIVERED VIA MAIL

Ted Dowbiggin
Cresford Developments Inc.
59 Hayden Street, Suite 200,
Toronto, Ontario M4Y 0E7

Daniel C. Casey
Cresford Developments Inc. and YSL Residences Inc.
141 Riverview Drive,
Toronto, Ontario, M4N 3C6

Dear Mr. Dowbiggin and Mr. Casey:

Re: Non-Payment of Fees to CBRE Limited

We write on behalf of CBRE Limited ("**CBRE**") in relation to Cresford Developments Inc. ("**Cresford**") and YSL Residences Inc. ("**YSL**") non-payment of fees owing.

Background

On or about February 20, 2020, Cresford and YSL entered into an agreement with CBRE (the "**Agreement**") whereby they agreed to retain CBRE to serve as the exclusive listing brokerage for the sale of the properties located at 363 Yonge Street, 367 Yonge Street, 369 Yonge Street, 373 Yonge Street, 377 Yonge Street, 379 Yonge Street, 381 Yonge Street, 385 Yonge Street, and 391 Yonge Street, Toronto Ontario (the "**Property**").

On or around February 21, 2020, CBRE sent a letter further outlining its services.

Pursuant to the Agreement, Cresford and YSL agreed to pay CBRE a commission equivalent to 0.65% of the Gross Sale Price of the Property immediately upon closing of the agreement of purchase and sale of the Property.

As you know, CBRE performed its obligations under the Agreement and the Property was sold on July 22, 2021. The total commission outstanding is **\$1,239,377.40**. CBRE sent an invoice to you on October 13, 2021 outlining this amount owing.

Gowling WLG (Canada) LLP
Suite 1600, 1 First Canadian Place
100 King Street West
Toronto ON M5X 1G5 Canada

T +1 416 862 7525
F +1 416 862 7661
gowlingwlg.com

Gowling WLG (Canada) LLP is a member of Gowling WLG, an international law firm which consists of independent and autonomous entities providing services around the world. Our structure is explained in more detail at gowlingwlg.com/legal.



CBRE has not received any amount of the commission fee owing. The amount of **\$1,239,377.40** is currently due and outstanding to CBRE. Cresford and YSL are therefore in breach of the Agreement.

Payment of Account

CBRE requires payment of the outstanding amount (\$1,239,377.40) by February 15, 2022. If payment is not received in full by this date, CBRE will issue a Statement of Claim in the Superior Court.

Payment may be remitted to the following address:

Scotiabank
PO Box 4234
Postal Station A
Toronto, ON M5W 5P6, Canada

Bank #: 0002
Transit #: 47696
Account #: 47696 1027018
Swift #: NOSCCATT

I have attached a copy of CBRE's earlier demand letter to you, dated November 26, 2021, which encloses a copy of the Agreement and the corresponding invoice for your reference. I have also attached the letter from CBRE dated February 21, 2020 outlining its services.

CBRE will Commence Legal Action

Please accept this letter as formal notice that CBRE intends to take legal action to collect the amount owing (\$1,239,377.40) unless payment is received in full by **February 15, 2022**.

I have enclosed a draft Statement of Claim, which we will issue, in substantially the same form, on or after February 15, 2022 should be CBRE not receive payment by this time.

This letter is written on a with prejudice basis and may be relied on in legal proceedings, should they be necessary.

We look forward to hearing from you.

Sincerely,

Gowling WLG (Canada) LLP

A handwritten signature in black ink, appearing to read "Elie Laskin", written over a horizontal line.

Elie Laskin

Encl: CBRE's Demand Letter dated November 26, 2021 (with attachments)
CBRE's Letter dated February 21, 2020
DRAFT Statement of Claim that CBRE will issue on or after February 15, 2022

TAB 1



145 King Street West, Suite 1100
Toronto, ON M5H 1J8

T +1 416 815 2302

maya.zor@cbre.com
www.cbre.com

Maya Zor
Senior Counsel and Legal Director – Canada
Corporate Secretary
Legal Services

CBRE Limited

November 26, 2021

VIA EMAIL

Ted Dowbiggin
Cresford Developments
59 Hayden Street
Suite/Unit 200,
Toronto, Ontario M4Y 0E7
tdowbiggin@cresford.com

Dear Mr. Dowbiggin;

Re: Outstanding Commissions Due pursuant to the Exclusive Sales Listing Agreement between CBRE Limited (“CBRE”) and Cresford Developments (“Cresford”), dated February 20, 2020 (the “Agreement), regarding 363 Yonge Street, 367 Yonge Street, 369 Yonge Street, 373 Yonge Street, 377 Yonge Street, 379 Yonge Street, 381 Yonge Street, 385 Yonge Street and 391 Yonge Street, Toronto, Ontario (collectively the “Property”)

As you are aware, pursuant to the above-mentioned Agreement, Cresford Developments (“Cresford”) agreed to pay CBRE Limited (“CBRE”) commission for its services rendered. Accordingly, CBRE and Cresford entered into an Exclusive Sales Listing Agreement dated February 20, 2020 (the “Agreement) and CBRE has complied with and performed its obligations under the Agreement. Pursuant to the terms of the Agreement, Cresford agreed to *pay commission equivalent to 0.65% of the Gross Sale Price of the Property*. CBRE has repeatedly requested, but not yet received, payment of such amount. Therefore, Cresford is currently in default of its payment obligations under the terms of the Agreement. Attached is a copy of the Agreement and the unpaid invoice for your reference.

CBRE hereby demands immediate payment of the outstanding balance of \$1,239,377.40. If Cresford fails to pay the full amount due by the close of business on **December 10, 2021, CBRE will take all legal and equitable action necessary to collect this amount. Furthermore, in the event that CBRE must initiate an action to recover the amount due and outstanding under the Agreement,**

Cresford Letter
Page 2

Cresford may also be liable for CBRE attorneys' fees and costs incurred in connection with CBRE's efforts to collect the amount due and outstanding.

Nothing herein is or may be deemed a waiver or full statement of any of CBRE's rights or remedies, whether at law or in equity, all of which are expressly reserved.

Please contact me should you wish to discuss this matter further. I appreciate your anticipated cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Maya Zor', with a long horizontal flourish extending to the right.

Maya Zor

MZ: kf

Enclosures

cc: Peter Senst and Casey Gallagher, CBRE

THIS EXCLUSIVE SALES LISTING AGREEMENT dated February 20, 2020 (the “Agreement”)

BETWEEN

YSL RESIDENCES INC. (the “Owner”)

-and-

CBRE Limited (the “Brokerage”)

WHEREAS the Owner is the legal owner of 363-391 Yonge Street & 3 Gerrard Street East Toronto, Ontario (the “Property”);

AND WHEREAS the Owner wants to retain the Brokerage to serve as the exclusive listing brokerage for the sale of the Property;

AND WHEREAS the Brokerage listing team representing the Owner in the sale of the Property shall consist of Peter D. Senst and Casey Gallagher (the “Listing Team”);

NOW THEREFORE in consideration of the listing for sale of the Property by the Brokerage, and the Brokerage’s efforts to effect a sale of the Property, the Owner and the Brokerage hereby agree as follows:

ARTICLE 1 RECITALS

1.1 The above recitals are true and accurate in all respects.

ARTICLE 2 TERM

2.1 The Owner grants to the Brokerage the exclusive right to sell the Property for a period commencing February 20, 2020 and expiring at midnight on August 20, 2020 (the “Term”).

2.2 Notwithstanding the foregoing, if at any time after the receipt of best-and-final bids, the Owner is not satisfied with pricing, the Owner may terminate this Agreement upon the provision of 10 days’ notice to the Brokerage and all obligations hereunder shall be at an end.

ARTICLE 3 THE BROKERAGE RENUMERATION

3.1 The Owner agrees to pay the Brokerage a commission equivalent to 0.65% of the Gross Sale Price of the Property (the “Commission”). Gross sales price shall include any and all consideration received or receivable, in whatever form, including but not limited to assumption or release of existing liabilities, without any downward adjustments for any capital, environmental issues, mark-to-market adjustment or yield maintenance fees with respect to existing mortgages as adjusted on the closing of the transaction pursuant to an agreement of purchase and sale executed and delivered by Owner. Commission shall be paid and deemed earned if and only if a closing occurs pursuant to a contract of sale executed and delivered by Owner.

3.2 The Commission shall be earned by the Brokerage in the event that during the Term: (a) the Owner enters into a binding agreement of purchase and sale for the Property with a purchaser procured by the Brokerage, the Owner or from any other source whatsoever, and such sale closes; or (b) the Owner is a corporation, partnership or other business entity and an interest in such corporation,

partnership or other business entity is transferred, whether by merger or outright purchase or otherwise in lieu of sale of the Property.

- 3.3 The Commission shall be payable immediately upon closing of the agreement of purchase and sale referred to in section 3.2(a) above; or upon the completion of the transfer referred to in section 3.2(b) above; notwithstanding that the sale may close, or the transfer may be completed, following the expiry of the Term.
- 3.4 The Commission payable herein shall be subject to the payment of Harmonized Sales Tax (HST) thereon by the Owner.

ARTICLE 4 HOLDOVER

- 4.1 The Owner further agrees to pay the Brokerage the Commission if, within 90 calendar days after the expiration of the Term, the Property is sold to, or the Owner enters into an agreement of purchase and sale for the Property with, or negotiations continue, resume or commence and thereafter continue leading to the execution of a binding agreement of purchase and sale for the Property, provided the transaction subsequently closes, with any person or entity (including his/her/its successors, assigns or affiliates) with whom the Brokerage has negotiated (either directly or through another agent) or to whom the Property was introduced or submitted, from any source whatsoever, or to whom the Owner was introduced, from any source whatsoever, prior to the expiration of the Term; with or without the involvement of the Brokerage. The Brokerage is authorized to continue negotiations with such persons or entities. The Brokerage agrees to submit a list of such persons or entities to the Owner within 10 business days following the expiration of the Term, provided, however, that if a written offer has been submitted, then it shall not be necessary to include the offeror's name on the list.

ARTICLE 5 THE OWNER SHALL NOT ENGAGE ANOTHER BROKERAGE DURING THE TERM

- 5.1 The Owner warrants to the Brokerage that, as at the date of execution of this Agreement, the Owner is not a party to a valid listing agreement with any other real estate brokerage with respect to the sale of the Property. The Owner shall not engage the services of another real estate brokerage during the Term with respect to the sale of the Property.
- 5.2 The Owner agrees to cooperate with the Brokerage in bringing about the sale of the Property and to refer immediately to the Brokerage all inquiries of anyone interested in the Property. All negotiations are to be through the Brokerage.
- 5.3 The Owner and the Brokerage hereby acknowledge that this is an exclusive listing and that the Brokerage shall not be required to cooperate with any other brokerage in connection with this exclusive listing. At the sole discretion of the Brokerage, a third-party real estate agent (the "**Cooperating Agent**") may be permitted to cooperate in the sale of the Property and any Cooperating Agent shall comply with the terms of this Agreement.

ARTICLE 6 DUAL AGENCY

- 6.1 The Owner acknowledges and agrees that the Brokerage may represent the Owner and a purchaser in a dual agency relationship. In the event that such dual agency relationship arises, the Listing

Team shall advise the Owner of such dual agency relationship immediately upon becoming aware of the dual agency relationship. The Owner hereby consents to the possibility of a limited dual agency wherein CBRE Limited maintains confidentiality with respect to each pricing intentions, corporate objectives and motivations for both principals to the transaction.

- 6.2 Notwithstanding the foregoing, the members of the Listing Team shall not act adverse in interest to the Owner, nor shall members of the Listing Team represent a purchaser of the Property in a transaction involving the purchase and sale of the Property, during the Term.

ARTICLE 7 GENERAL PROVISIONS

- 7.1 *Authority.* The Owner declares and certifies that it is the owner of the Property and that it has the authority to enter into and execute this Agreement; and this Agreement, once executed by the Owner, shall be legally binding upon the Owner.
- 7.2 *Entire Agreement.* This Agreement constitutes the entire agreement between the Owner and the Brokerage, and supersedes all prior discussions, negotiations and agreements, whether oral or written. In case of any inconsistencies between this Agreement and any commission provisions in the agreement of purchase and sale, the provisions of this Agreement shall govern and be paramount.
- 7.3 *Amendment.* No amendment or alteration of this Agreement shall be valid or binding unless made in writing and signed by the Owner and the Brokerage.
- 7.4 *Severability.* Should any provision of this Agreement be unenforceable at law, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall continue in force and shall be binding as though such provision had not been included.
- 7.5 *Interpretation.* The headings inserted in this Agreement are for convenience of reference only and, in no way define, limit or enlarge the scope or meaning of any of the terms and conditions contained in this Agreement. The preamble to this Agreement forms an integral part of this Agreement and shall be used in its interpretation.
- 7.6 *Jurisdiction.* This Agreement shall be governed by, and shall be subject to, the laws of the Province of Ontario; and the Owner and the Brokerage hereby attorn to the jurisdiction of the courts of the Province of Ontario with respect to any dispute concerning the interpretation, application and enforcement of this Agreement.
- 7.7 *Counterparts:* This agreement may be executed in counterparts and may be transmitted by email.

[this space intentionally left blank; signatures appear on next page]

IN WITNESS WHEREOF the Owner and the Brokerage agree to the terms and conditions as set out herein; and have executed this Agreement as of the date first written above.

YSL RESIDENCES INC. (the “**Owner**”)

Per:

I have authority to bind the company

Print Name: _____

CBRE Limited (the “**Brokerage**”)

Per:

I have authority to bind the company

Print Name: _____

INVOICE

Date: 13-Oct-2021

Our Ref. #: 20210100750

Our HST Number: 101047751RT0001

Our GST Number: 101047751RT0001

Our PST Number: 1022408280 TQ0001

Attention: Ted Dowbiggin
Cresford Developments
59 Hayden Street
Suite/Unit: 200,
Toronto, Ontario, M4Y 0E7

Property Type: Land

365-385 Yonge Street, Toronto, Ontario

CLIENT:

Cresford Developments
59 Hayden Street
Suite/Unit: 200,
Toronto, Ontario, M4Y 0E7

Details

Description	Amount
Fee for services rendered.	\$ 1,096,794.16
HST @ 13.00 %	
Total:	\$ 1,096,794.16
Taxes:	\$ 142,583.24
Gross:	\$ 1,239,377.40
Total Billable:	\$ 1,239,377.40

Summary

Payable to: CBRE Limited

\$ 1,239,377.40Terms: Due upon receipt

Please remit payment to the Deal Administrator

Wire to be paid into:

Scotiabank
P.O. Box 4234
Postal Station A
Toronto, ON. M5W 5P6

Bank # 0002
Transit # 47696
Account# 10270 18
Swift# NOSCCATT

145 King Street West
Suite 1100
Toronto, ON M5H 1J8
Tel: 416 362 2244 Fax: 416 362 8085
www.cbre.ca

TAB 2



145 King Street West
Suite 1100
Toronto, ON M5H 1J8
T 416 362 2244
F 416 362 8085

www.cbre.ca

February 21, 2020

VIA EMAIL

Mr. Ted Dowbiggin
Cresford Developments
59 Hayden Street, Suite 200
Toronto ON M4Y0E7

Dear Ted,

Re: 363-391 Yonge Street & 3 Gerrard Street East Target Partners and Marketing Process

Thank you for working with CBRE Limited ("CBRE") on your development lands at 363-391 Yonge Street & 3 Gerrard Street East, Toronto (the "Property"). As per our discussions, we understand that Cresford Developments ("Cresford") is considering their options for the Property including monetization, equity recapitalization or joint venture.

Given the volume of transactions recently executed by CBRE, we feel we are well-positioned to provide reliable guidance and a broad spectrum of options for Cresford. To best articulate our views, this letter is intended to provide Cresford with our recommended marketing process and targets. We are excited at the prospect of working with Cresford, one of Toronto's most respected developers and a longtime CBRE friend, and we look forward to proceeding in a timely manner.

Targeted Marketing

Given the quality and scale that the Property presents, as well as the sensitive nature of this transaction, we recommend a targeted campaign effort. The primary benefit of this process is CBRE's ability to rapidly identify and reach the key market participants who can execute the land acquisition and development of the Property.

Critical Success Factors

Each marketing campaign is designed around the key attributes of the offering. For the Property, we consider the following as focus elements to source the best partner and maximize value:

- | | |
|---------------|--|
| Prospects | <p>Target active developers with depth of capital and limited sensitivity to risk</p> <ul style="list-style-type: none"> - Time sensitive process to source only capable developer buyers - Primary goal is to maximize pricing and ensure transaction certainty - Provides opportunity for direct discussion on acquisition or JV solution |
| Messaging | <p>Best-in-class Location and Marketplace</p> <ul style="list-style-type: none"> - Entitlements in place - Substantial up-front costs already incurred - High momentum location and exceptionally tight fundamentals - Skyline Toronto profile |
| Due Diligence | <p>All DD details assembled and provided up-front</p> <ul style="list-style-type: none"> - CBRE team to work with Cresford to assemble all relevant DD material - CBRE team Counsel, in conjunction with Cresford, to draft agreements |

Top Partner Candidates

The table below details the primary tranche of recommended target candidates.


Company Name	Comment
Concord Adex	Demonstrated development expertise completing scale projects in Toronto. Seeking additional core opportunities. We have connected with Gabriel Leung and they have expressed initial interest.
Menkes	Demonstrated development expertise completing scale projects in Toronto. Existing BCIMC relationship. We have already met with Peter and Alan Menkes.
Lanterra	Demonstrated development expertise completing scale projects in Toronto. Seeking additional core opportunities having recently dropped Chelsea Hotel. Met with Chris Wein.
Westbank	Demonstrated development expertise completing scale projects in Toronto. Existing relationships with BCIMC and Otera. Seeking additional core opportunities. We have reached out directly to Ian Gillespie

Thank you for considering CBRE and if you have any further questions, please let us know.

Sincerely,



Peter D. Senst
President Canadian Capital Markets



Casey Gallagher
Executive Vice President

TAB 3

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

CBRE LIMITED

Plaintiff

and

CRESFORD DEVELOPMENTS INC. and YSL RESIDENCES INC.

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of Superior Court of Justice
court office: 330 University Avenue, 9th Floor
Toronto ON M5G 1R7

TO: **Cresford Developments Inc.**
170 Merton Street
Toronto ON M4S 1A1
YSL Residence Inc.
59 Hayden Street, Suite, 2nd Floor
Toronto ON M4Y 0E7

DRAFT

CLAIM

1. The plaintiff, CBRE Limited ("**CBRE**"), claims:
 - (a) Payment of the sum of \$1,239,377.40, being the balance due under the Agreement as defined in paragraph 6, below;
 - (b) Pre-judgment and post-judgement interest in accordance with the *Courts of Justice Act*, RSO 1990, c C.43, as amended;
 - (c) Costs of this action on a substantial indemnity basis; and
 - (d) Such further and other relief as to this Honourable Court may deem just.

THE PARTIES

2. The plaintiff, CBRE, is a corporation incorporated pursuant to the laws of New Brunswick. CBRE carries on the business of, among other things, brokerage, property management, and related services.
3. The defendant, Cresford Developments Inc. ("**Cresford**") is a corporation incorporated pursuant to the laws of Ontario with its registered office at 170 Merton Street, Toronto, Ontario, M4S 1A1.
4. The defendant, YSL Residences Inc. ("**YSL**") is a corporation incorporated pursuant to the laws of Ontario with its registered office at 59 Hayden Street, 2nd Floor, Toronto, Ontario, M4Y 0E7.
5. YSL is an affiliate or subsidiary of Cresford.

TRANSACTION AT ISSUE

6. On or about February 20, 2020, YSL and Cresford entered into an agreement with CBRE (the “**Agreement**”) whereby they agreed to retain CBRE to serve as the exclusive listing brokerage for the sale of the properties located at 363 Yonge Street, 367 Yonge Street, 369 Yonge Street, 373 Yonge Street, 377 Yonge Street, 379 Yonge Street, 381 Yonge Street, 385 Yonge Street, and 391 Yonge Street, Toronto Ontario (the “**Property**”).
7. The Agreement provided that Cresford and YSL would pay a commission fee of 0.65% of the Gross Sale Price of the Property (the “**Commission**”) to CBRE upon sale of the Property.
8. CBRE performed its obligations under the Agreement. The Property was sold on July 22, 2021.
9. Pursuant to the Contract, the commission fee payable to CBRE (including HST) is \$1,239,377.40.

Commission Still Outstanding

10. On or about October 13, 2021, CBRE issued its invoice to the defendants in the amount of \$1,239,377.40 (the “**Invoice**”). The terms of the Invoice were such that payment was due upon receipt.
11. The defendants have failed to pay the amount owing to CBRE, as set out in the Invoice, and have therefore breached the Agreement.

12. Alternatively, the defendants have, by their receipt of CBRE's services and refusal to pay for same, been unjustly enriched and wrongfully appropriated the value of these services. CBRE claims restitution of the value of this improper enrichment to Cresford and YSL in a sum the full particulars of which shall be provided prior to the trial of this action.
13. CBRE pleads and relies upon the doctrine of *quantum meruit*.
14. CBRE proposes that this action be tried in the City of Toronto.

GOWLING WLG (CANADA) LLP
Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

Heyla Vettyvel (75742C)
Tel: 416-369-7253
heyla.vettyvel@gowlingwlg.com

Elie Laskin (80044Q)
Tel: 416-862-3621
elie.laskin@gowlingwlg.com

Lawyers for the plaintiff, CBRE Limited

CBRE LIMITED

Plaintiff

-and- CRESFORD DEVELOPMENTS INC. and YSL
RESIDENCES INC.
Defendants

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**
PROCEEDING COMMENCED AT
TORONTO

STATEMENT OF CLAIM

GOWLING WLG (CANADA) LLP

Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

Heyla Vettyvel (75742C)

Tel: 416-369-7253
Fax: 416-862-7661
heyla.vettyvel@gowlingwlg.com

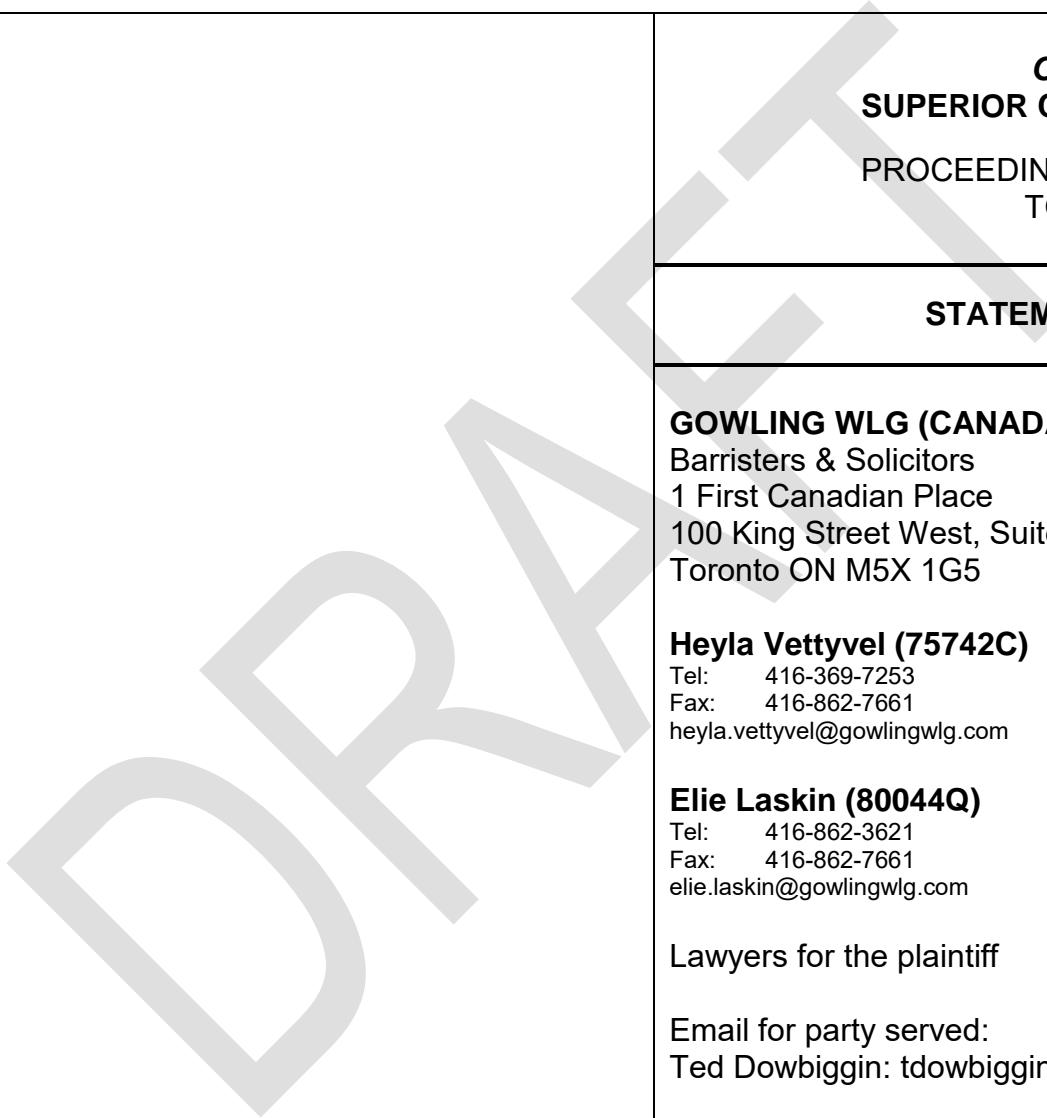
Elie Laskin (80044Q)

Tel: 416-862-3621
Fax: 416-862-7661
elie.laskin@gowlingwlg.com

Lawyers for the plaintiff

Email for party served:
Ted Dowbiggin: tdowbiggin@cresford.com

File Number: T1028426



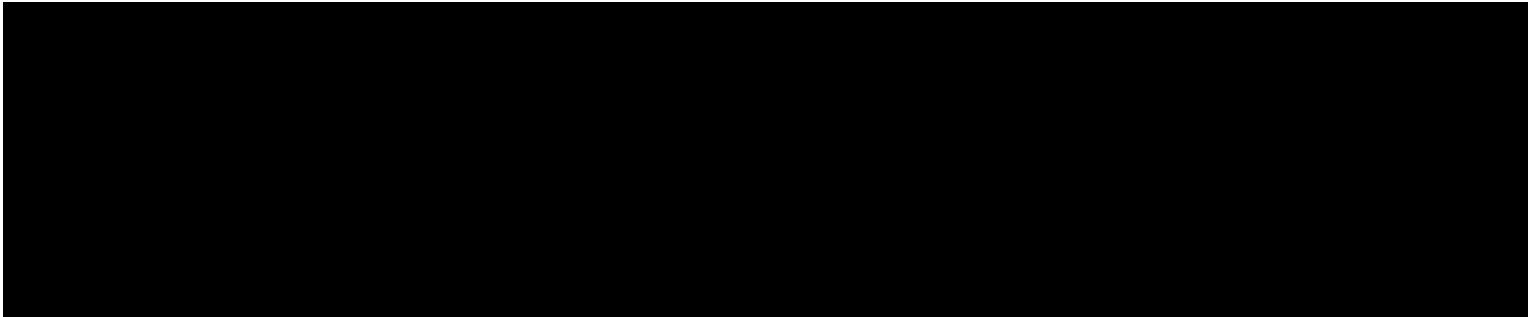
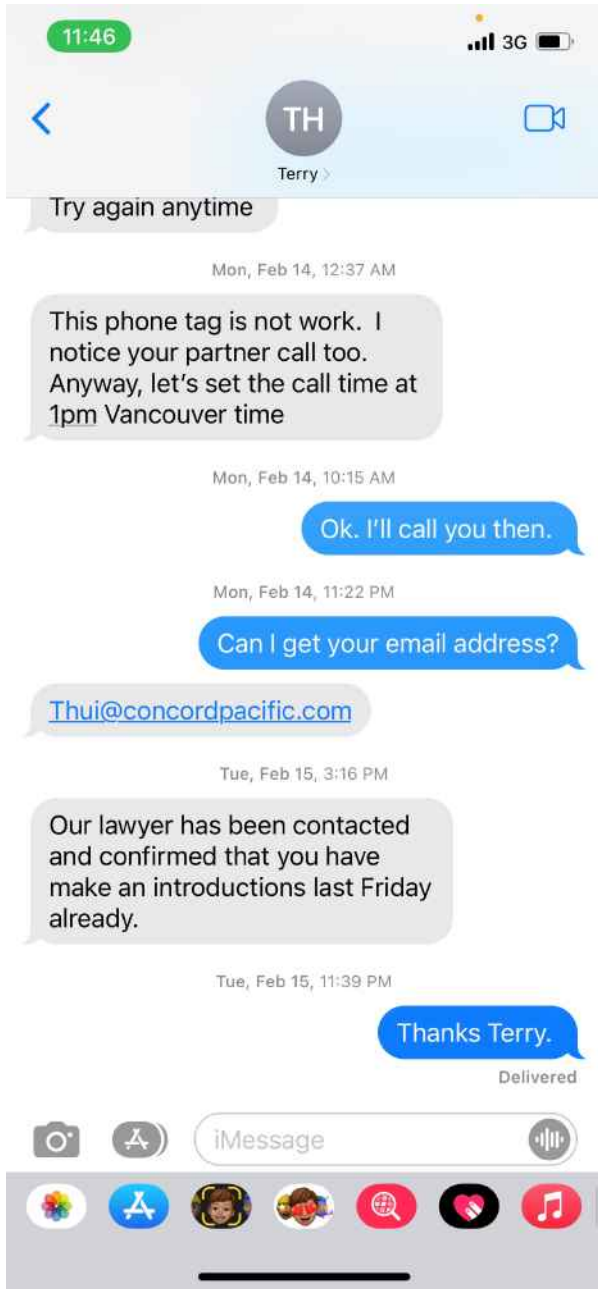
This is "Exhibit "DD" referred to in the Affidavit
of Casey Gallagher,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 21,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Eli Laskin

A62687A47FA64DB..

A Commissioner for Taking Affidavits



IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.

District of: Ontario
Division No: 09 - Toronto
Consolidated Court File No.: 31-2734090

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF CASEY GALLAGHER

GOWLING WLG (CANADA) LLP

Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

C. Haddon Murray (#61640P)

T: 416-862-3604
haddon.murray@GowlingWLG.com

Elie Laskin (#80044Q)

T: 416-862-3621
elie.laskin@GowlingWLG.com

Lawyers for the plaintiff, CBRE Limited

Email for party served:

hfogul@airdberlis.com; dporter@airdberlis.com; bkofman@ksvadvisory.com;
mvininsky@ksvadvisory.com; mtallat@ksvadvisory.com;
rschwill@dwpv.com;nrenner@dwpv.com; gruberd@bennettjones.com;
mightonj@bennettjones.com;jdietrich@cassels.com; mwunder@cassels.com;
jbornstein@cassels.com; sthakker@lolg.ca;slaubman@lolg.ca;
mgottlieb@lolg.ca; djmiller@tgf.ca; asoutter@tgf.ca; jmaclellan@blg.com;
sroy@litigate.com; agrossman@litigate.com; stalebi@litigate.com;
george@chaitons.com;jgibson@naymarklaw.com; dneyark@naymarklaw.com;
carmstrong@goodmans.ca;mdunn@goodmans.ca; jbsugar@sugarlawgroup.com;
pcho@weirfoulds.com;rsb@botnicklaw.com; duvernet@gsnh.com;
jkanji@osler.com; lbruschetta@osler.com;brendanbowles@glaholt.com;
johnpaulventrella@glaholt.com;christopher.statham@devrylaw.ca

TAB 2

District of: Ontario
Division No: 09 - Toronto
Consolidated Court File No.: 31-2734090

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3 AS AMENDED

**IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.**

AFFIDAVIT OF HEYLA VETTYVEL

I, Heyla Vettyvel, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a lawyer with Gowling WLG (Canada) LLP, solicitors and duly authorized agents of CBRE Limited (“**CBRE**”) and, as such, have knowledge of the matters contained in this affidavit. Where I have received and relied on information provided to me by others, I verily believe that information to be true.

Background to Proposal Proceeding

2. On April 30, 2021, YSL Residences Inc. (“**YSL**”) and YG Limited Partnership (together with YSL, the “**Debtors**”) each filed a notice of intention to make a proposal pursuant to section 50.4 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”). At that time, KSV Restructuring Inc. was appointed a Proposal Trustee (the “**Proposal Trustee**”).

3. The Debtors made numerous proposals, culminating in the second version of the Debtors' Third Proposal dated July 15, 2021 (the "**Third Proposal**"). The Third Proposal is attached as **Exhibit A**.
4. The Third Proposal was approved by the Order of Justice Dunphy on July 16, 2021. The Order of Justice Dunphy dated July 16, 2021 and corresponding Reasons for Decision is attached as **Exhibit B**.
5. The Debtors were the owners and developers of an intended mixed-use office, retail and residential condominium project located at 363-391 Yonge Street and 3 Gerrard Street, Toronto (the "**YSL Property**").
6. The Third Proposal contemplates Concord Properties Developments Corp. (the "**Sponsor**") a related company to Concord Adex, assuming or otherwise satisfying all of the Debtor's secured claims and preferred claims, and establishing a pool of \$30,900,000 (the "**Affected Creditor Cash Pool**") to be paid pro-rata to "Affected Creditors", as that term is defined in the Third Proposal. The total consideration from the Sponsor through the Proposal is approximately \$169,000,000. In exchange the Sponsor acquired the YSL Property.
7. I understand from reviewing the Proposal Trustee's Fourth Report dated July 15, 2021 and the reasons for Decision of Justice Dunphy dated July 16, 2021 that the total expected distribution in the Proposal to unsecured creditors is approximately 71% to 100% depending on the determination of certain outstanding claims. Attached as **Exhibit C** is Appendix F to the Fourth Report of the Proposal Trustee dated July 14, 2021.

Disallowance of CBRE Claim

8. On January 28, 2022, my colleague, Elie Laskin sent an email to the Proposal Trustee attaching a proof of claim (the “**Proof of Claim**”) and an Affidavit sworn by Ms. Laskin on January 28, 2022 (the “**Affidavit**”) providing evidence supporting CBRE’s claim. Attached as **Exhibit D** is Ms. Laskin’s email to the Proposal Trustee dated January 28, 2022 attaching the Proof of Claim and Affidavit.
9. CBRE's claim is based on unpaid commission fees of \$1,239,377.40 arising from services performed by CBRE in connection with the sale of the YSL Property pursuant to an exclusive sales listing agreement between CBRE and YSL.
10. On February 1, 2022, the Proposal Trustee responded requesting “a copy of the agreement referenced in the affidavit and a full description of the services rendered by CBRE to YSL. We would like a calculation supporting the amount claimed.”
11. Ms. Laskin responded by email the same day providing a copy of the unexecuted agreement dated February 20, 2020 setting out the terms of an Exclusive Sales Listing Agreement (the “**Written Agreement**”) and advising the Proposal Trustee that “CBRE was the listing broker for the property and found the purchaser, Concord Adex.” With respect to the calculation, Ms. Laskin advised that:

The property sold for \$168,737,563.00. Under the Agreement, CBRE is owed .65% of the Gross Sale Price which is \$1,096,794.16. With HST on that (\$142,583.24), the total amount owed to CBRE is \$1,239,377.40.

This statement was supported by a Realnet record showing that the property had sold for \$168,737,563.00.

12. The email chain including the correspondence between Ms. Laskin and the Proposal Trustee on February 1, 2022 is included at **Exhibit D** to this affidavit. The following documents which were attached to Ms. Laskin's February 1, 2022 email are included as exhibits to the affidavit of Casey Gallagher sworn July 21, 2022 (the "**Gallagher Affidavit**") and consequently not included as exhibits to this affidavit:
 - a. **Exhibit CC to the Gallagher Affidavit** – a demand letter from Gowling WLG on behalf of CBRE to Ted Dowbiggin and Daniel Casey of Cresford Development dated January 25, 2022 attaching:
 - i. a demand letter from Maya Zor on behalf of CBRE to Mr. Dowbiggin and D. Casey of Cresford Development dated November 26, 2021;
 - ii. the Written Agreement;
 - iii. an Invoice from CBRE dated October 13, 2021;
 - iv. a Mandate Letter from Peter Senst and Casey Gallagher of CBRE to Mr. Dowbiggin of Cresford dated February 21, 2020;
 - v. a Draft Statement of Claim styled *CBRE Limited v. Cresford Developments Inc. and YSL Residences Inc.*; and

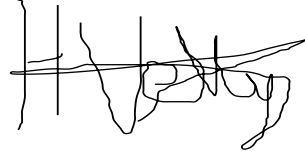
- b. **Exhibit Z to the Gallagher Affidavit** – a Realnet search result stating that the YSL Property sold for \$168,737,563.00.
13. On February 10, 2022, the Proposal Trustee sent a letter to CBRE attaching a notice of disallowance (the “**Notice of Disallowance**”) pursuant to subsection 135(3) of the Bankruptcy and Insolvency Act (“**BIA**”). In the Notice of Disallowance, the Proposal Trustee states:
- The Proposal Trustee has disallowed the claim in full as:
- The Agreement is not signed and therefore is not binding;
 - The Sponsor [Concord Properties Developments Corp, the purchaser of the property] advised that at all times it dealt directly with the Companies [YSL Residencies Inc. and YG Limited Partnership Inc.] and that it did not have any dealings with CBRE;
 - The Conveyance does not meet the definition of an event giving rise to a Commission; and
 - To the extent any Commission could apply, which is denied, the Commission was not earned during the Term, or within the 90 calendar days following the expiration of the Term.
14. At no time did the Proposal Trustee contact CBRE’s counsel or, to my knowledge, anyone at CBRE, with respect to the issues set out above in respect of the basis on which the Proposal Trustee rejected the claim, including but not limited to:
- a. asking any questions about the intention of the parties to form a binding agreement; or

- b. informing CBRE of, or asking for a response to, the information that the Proposal Trustee advises it obtained from the Sponsor.

SWORN by video conference by Heyla Vettyvel at the City of Toronto, in the Province of Ontario before me at the City of Toronto on July 22, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



**Commissioner for Taking Affidavits
(Elie Laskin LSO #80044Q)**
(or as may be)

Heyla Vettyvel

This is "Exhibit "A" referred to in the Affidavit
of Heyla Vettyvel,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 22,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.



A Commissioner for Taking Affidavits

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**IN THE MATTER OF THE PROPOSAL OF YG LIMITED PARTNERSHIP
AND YSL RESIDENCES INC. PURSUANT TO THE
*BANKRUPTCY AND INSOLVENCY ACT***

AMENDED PROPOSAL #3

WHEREAS, pursuant to Notices of Intention to Make a Proposal dated April 30, 2021, YSL Residences Inc. and YG Limited Partnership (collectively, "**YSL**" or the "**Company**") initiated proceedings under the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, B-3 as amended (the "**BIA**"), pursuant to Section 50(1) thereof;

AND WHEREAS a creditor proposal was filed in accordance with section 50(2) of the BIA on May 27, 2021 (the "**Original Proposal**");

AND WHEREAS an amendment to the Original Proposal was filed in accordance with section 50(2) of the BIA on June 3, 2021 (the "**First Amended Proposal**");

AND WHEREAS an amendment to the First Amended Proposal was filed in accordance with section 50(2) of the BIA on June 15, 2021 (the "**Second Amended Proposal**");

AND WHEREAS, the Second Amended Proposal was approved by the Requisite Majority of creditors at the Creditors' Meeting held June 15, 2021;

AND WHEREAS, pursuant to the Amended Reasons for Interim Decision issued July 2, 2021 (the "**Interim Decision**"), the Second Amended Proposal was not approved by the Court in the form presented and the Company and the Proposal Sponsor were permitted to amend the Second Amended Proposal to address the issues set out in the Interim Decision;

AND WHEREAS the Company and the Proposal Sponsor wish to amend the Second Amended Proposal on the terms and conditions set out herein with the intention of addressing the issues set out in the Interim Decision;

NOW THEREFORE the Company hereby submits the following third amended proposal under the BIA to its creditors (as amended, the "**Proposal**").

ARTICLE I
DEFINITIONS

1.01 Definitions

In this Proposal:

"**Administrative Fees and Expenses**" means the fees, expenses and disbursements incurred by or on behalf of the Proposal Trustee, the solicitors for the Proposal Trustee, the solicitors of the Company both before and after the Filing Date;

"**Affected Creditor Cash Pool**" means a cash pool in the amount of \$30,900,000 to be comprised of (i) all cash on hand in the Company's accounts as at the Proposal Implementation Date; (ii) any and all amounts refunded to or otherwise received by the Company in connection with the transfer of the YSL Project to the Proposal Sponsor as at the Proposal Implementation Date, and (iii) the balance to be provided by the Proposal Sponsor, subject to the refund of any surplus to the Proposal Sponsor in accordance with Section 5.01(a);

"**Affected Creditor Claim**" means a Proven Claim, other than an Unaffected Claim;

"**Affected Creditors**" means all Persons having Affected Creditor Claims, but only with respect to and to the extent of such Affected Creditor Claims;

"**Affected Creditors Class**" means the class consisting of the Affected Creditors established under and for the purposes of this Proposal, including voting in respect thereof;

"**Approval Order**" means an order of the Court, among other things, approving the Proposal;

"**Assumed Contracts**" means, subject to section 8.01(e), those written contracts entered into by or on behalf of the Company in respect of the Project to be identified by the Proposal Sponsor prior to the Proposal Implementation Date, which are to be assumed by the Proposal Sponsor upon Implementation with the consent of the applicable counterparty or otherwise pursuant to an order issued in pursuant to section 84.1 of the BIA;

"**BIA**" has the meaning ascribed to it in the recitals;

"**Business Day**" means a day, other than a Saturday or Sunday, on which banks are generally open for business in Toronto, Ontario;

"**Claim**" means any right or claim of any Person against the Company in connection with any indebtedness, liability, or obligation of any kind whatsoever in existence on the Filing Date (or which has arisen after the Filing Date as a result of the disclaimer or repudiation by the Company on or after the Filing Date of any lease or executory contract), and any interest accrued thereon to and including the Filing Date and costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise),

and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against the Company with respect to any matter, cause or chose in action, but subject to any counterclaim, set-off or right of compensation in favour of the Company which may exist, whether existing at present or commenced in the future, which indebtedness, liability or obligation (A) is based in whole or in part on facts that existed prior to the Filing Date, (B) relates to a period of time prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA;

"**Company**" has the meaning ascribed to it in the recitals;

"**Conditional Claim**" means any Claim of an Affected Creditor that is not a Proven Claim as at the Filing Date because one or more conditions precedent to establish such Affected Creditor's entitlement to payment by the Company had not been completed in accordance with any applicable contractual terms as at the Filing Date, and such Affected Creditor has indicated in its proof of claim that the Claim should be treated as a Conditional Claim;

"**Conditional Claim Completion Deadline**" means 5:00pm (Toronto time) on September 27, 2021;

"**Conditional Claim Condition**" has the meaning ascribed to it in Section 2.03(a);

"**Conditions Precedent**" shall have the meaning given to such term in section 8.01 hereof;

"**Condo Purchase Agreement**" means an agreement of purchase and sale in respect of a residential condominium unit in the Project between the Company and a Condo Purchaser;

"**Condo Purchaser**" means a purchaser of a residential condominium unit in the Project pursuant to a Condo Purchase Agreement;

"**Condo Purchaser Claim**" means any Claim of a Condo Purchaser in respect of its Condo Purchase Agreement;

"**Construction Lien Claim**" means any Proven Claim in respect of amounts secured by a perfected lien registered against title to the Property and are valid in accordance with the *Construction Act* (Ontario);

"**Construction Lien Creditor**" means a creditor with a Construction Lien Claim;

"**Convenience Creditor**" means an Affected Creditor with a Convenience Creditor Claim;

"**Convenience Creditor Claim**" means (a) any Proven Claims of an Affected Creditor in an amount less than or equal to \$15,000, and (b) any Proven Claim of an Affected Creditor in an amount greater than \$15,000 if the relevant Creditor has made a valid election for the purposes of

this Proposal in accordance with this Proposal prior to the Convenience Creditor Election Deadline;

"**Convenience Creditor Consideration**" means, in respect of a Convenience Creditor Claim, the lesser of (a) \$15,000, and (b) the amount of the Proven Claim of such Convenience Creditor;

"**Court**" means the Ontario Superior Court of Justice (Commercial List);

"**Court Approval Date**" means the date upon which the Court makes the Approval Order;

"**Creditors' Meeting**" means the duly convened meeting of the Affected Creditors which took place on June 15, 2021;

"**Crown**" means Her Majesty in Right of Canada or of any Province of Canada and their agents;

"**Crown Claims**" means the Claims of the Crown set out in Section 60(1.1) of the BIA outstanding as at the Filing Date against the Company, if any, payment of which will be made in priority to the payment of the Preferred Claims and to distributions in respect of the Ordinary Claims, and specifically excludes any other claims of the Crown;

"**Disputed Claim**" means any Claim which has not been finally resolved as a Proven Claim in accordance with the BIA as at the Proposal Implementation Date;

"**Distributions**" means a distribution of funds made by the Proposal Trustee from the Affected Creditor Cash Pool to Affected Creditors in respect of Affected Creditor Claims, in accordance with Article V;

"**Effective Time**" means 12:00 p.m. (Toronto time) on the Proposal Implementation Date;

"**Equity Claim**" has the meaning ascribed to it in Section 2 of the BIA, and includes, without limitation, the Claims of all limited partners of YG LP and those Equity Claims deemed to be equity pursuant to the Interim Decision;

"**Existing Equity**" means the limited partnership units of YG LP and those Equity Claims deemed to be equity pursuant to the Interim Decision;

"**Existing Equityholders**" means the holders of the Existing Equity immediately prior to the Effective Time;

"**Filing Date**" means April 30, 2021, being the date upon which Notices of Intention to Make a Proposal were filed by the Company with the Official Receiver in accordance with the BIA;

"**First Amended Proposal**" has the meaning ascribed to it in the recitals;

"**Governmental Authority**" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (ii) exercising, or entitled or

purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

"**Implementation**" means the completion and implementation of the transactions contemplated by this Proposal;

"**Implementation Certificate**" has the meaning ascribed to it in Section 8.01(j);

"**Interim Decision**" has the meaning ascribed to it in the recitals;

"**Official Receiver**" shall have the meaning ascribed thereto in the BIA;

"**Original Proposal**" has the meaning ascribed to it in the recitals;

"**Outside Date**" means July 31, 2021;

"**Permitted Encumbrances**" means those encumbrances on the Property listed in Schedule "A" hereto;

"**Person**" means any individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority and a natural person in such person's capacity as trustee, executor, administrator or other legal representative;

"**Preferred Claim**" means a Claim enumerated in Section 136(1) of the BIA outstanding as at the Filing Date against the Company, if any, the payment of which will be made in priority to distributions in respect of Affected Creditor Claims;

"**Pro Rata Share**" means the fraction that is equal to (a) the amount of the Proven Claim of an Affected Creditor that is not a Convenience Creditor, divided by (b) the aggregate amount of all Proven Claims held by Affected Creditors who are not Convenience Creditors;

"**Project**" means the mixed-used office, retail and residential condominium development to be constructed on the Property currently consisting of approximately 1,100 residential condominium units and 170 parking units and known as Yonge Street Living Residences;

"**Property**" means the real property owned by the Company and municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario, and legally described by PIN numbers 21101-0042 (LT) to 21101-0049 (LT), inclusive;

"**Proposal**" means this Amended Proposal of the Company, and any amendments, modifications and/or supplements hereto made in accordance with the terms hereof;

"**Proposal Implementation Date**" means the date on which Implementation occurs, which shall occur following the satisfaction of the Conditions Precedent, and no later than the Outside Date;

"**Proposal Sponsor**" means Concord Properties Developments Corp.;

"Proposal Sponsor Agreement" means that agreement entered into among the Proposal Sponsor and the Company as of April 30, 2021, as amended from time to time;

"Proposal Trustee" means KSV Restructuring Inc. in its capacity as trustee in respect of this Proposal, or its duly appointed successor;

"Proposal Trustee's Website" means the following website: www.ksvadvisory.com/insolvency-cases/case/yg-limited-partnership;

"Proven Claim" means in respect of an Affected Creditor, the amount of a Claim as finally determined in accordance with the provisions of the BIA, provided that the Proven Claim of an Affected Creditor with a Claim in excess of \$15,000 that has elected to be a Convenience Creditor by submitting a Convenience Creditor Election Form shall be valued for voting purposes as \$15,000;

"Released Claims" means, collectively, the matters that are subject to release and discharge pursuant to Section 7.01;

"Released Parties" means, collectively, (i) the Company, (ii) each affiliate or subsidiary of the Company; (iii) the Proposal Sponsor, (iv) the Proposal Trustee, and (v) subject to section 7.01, each of the foregoing Persons' respective former and current officers, directors, principals, members, affiliates, limited partners, general partners, managed accounts or funds, fund advisors, employees, financial and other advisors, legal counsel, and agents, each in their capacity as such;

"Required Majority" means an affirmative vote of a majority in number and two-thirds in value of all Proven Claims in the Affected Creditors Class entitled to vote, who were present and voting at the Creditors' Meeting (whether online, in-person, by proxy or by voting letter) in accordance with the voting procedures established by this Proposal and the BIA;

"Second Amended Proposal" has the meaning ascribed to it in the recitals;

"Secured Claims" means:

- (a) The Claim of Timbercreek which is secured by, among other things a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (b) The Claim of Westmount, which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (c) The Claim of 2576725 Ontario Inc. which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (d) All Construction Lien Claims but only to the extent of such Construction Lien Claims;

"Secured Creditor" means a Person holding a Secured Claim, with respect to, and to the extent of such Secured Claim;

"**Superintendent's Levy**" means the levy payable to the Superintendent of Bankruptcy pursuant to sections 60(4) and 147 of the BIA;

"**Timbercreek**" means, collectively, Timbercreek Mortgage Servicing Inc. and 2292912 Ontario Inc.;

"**Unaffected Claim**" means:

- (a) the Administrative Fees and Expenses;
- (b) the Claim of Timbercreek;
- (c) the Claim of Westmount;
- (d) the Claim of 2576725 Ontario Inc., which is secured by, among other things, an equitable mortgage encumbering the Property;
- (e) any Claim of the City of Toronto;
- (f) all Condo Purchaser Claims;
- (g) all Construction Lien Claims, but only to the extent such Claims are valid in accordance with the *Construction Act* (Ontario) and have been perfected by the Proposal Implementation Date; and
- (h) such other Claims as the Company and Proposal Sponsor may agree with the consent of the Proposal Trustee;

"**Unaffected Creditor**" means a creditor holding an Unaffected Claim, with respect to and to the extent of such Unaffected Claim;

"**Undeliverable Distributions**" has the meaning ascribed to it in Section 5.04;

"**Westmount**" means Westmount Guarantee Services Inc.;

"**YSL**" has the meaning ascribed to it in the recitals; and

"**YSL Project**" means the mixed-use commercial and residential condominium development to be constructed on the Property.

1.02 Intent of Proposal

This Proposal is intended to provide all Affected Creditors a greater recovery than they would otherwise receive if the Company were to become bankrupt under the BIA. More specifically, the Proposal will provide for a payment in full of Secured Claims and will provide a significant recovery in respect of Affected Creditor Claims. While the exact recovery cannot be determined until all Claims have been determined, the Company expects Affected Creditors to receive a significant, if not a full recovery, on their Claims and, in any event, a greater recovery than would occur if the Company were to become a bankrupt under the BIA.

In consideration for, among other things, its sponsorship of this Proposal, including the satisfaction of all Secured Claims, Preferred Claims and the establishment of the Affected Creditor Cash Pool, on the Proposal Implementation Date, title to the Property, subject only to the Permitted Encumbrances, as well as the Company's interests and obligations under the Assumed Contracts and Condo Purchase Agreements shall be acquired by the Proposal Sponsor, or its nominee in accordance with the terms hereof.

1.03 Date for Any Action

In the event that any date on which any action is required to be taken under this Proposal by any of the parties is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.04 Time

All times expressed in this Proposal are local time in Toronto, Ontario, Canada unless otherwise stipulated. Time is of the essence in this Proposal.

1.05 Statutory References

Except as otherwise provided herein, any reference in this Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.06 Successors and Assigns

The Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors, and assigns of any Person named or referred to in the Proposal.

1.07 Currency

Unless otherwise stated herein, all references to currency and to "\$" in the Proposal are to lawful money of Canada.

1.08 Articles of Reference

The terms "hereof", "hereunder", "herein" and similar expressions refer to the Proposal and not to any particular article, section, subsection, clause or paragraph of the Proposal and include any agreements supplemental hereto. In the Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of the Proposal.

1.09 Interpretation Not Affected by Headings

The division of the Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of a table of contents and headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.10 Numbers

In this Proposal, where the context requires, a word importing the singular number will include the plural and *vice versa* and a word or words importing gender will include all genders.

ARTICLE II **CLASSIFICATION AND TREATMENT OF AFFECTED PARTIES**

2.01 Classes of Creditors

For the purposes of voting on the Proposal, there was only one class of creditors, being the Affected Creditors Class. For the purposes of voting on the Proposal, each Convenience Creditor was deemed to vote in and as part of the Affected Creditors Class.

2.02 Treatment of Affected Creditors

- (a) As soon practicable after the Proposal Implementation Date, and after taking an adequate reserve in respect of any unresolved Claims pursuant to Section 5.03:
 - i. all Affected Creditors (other than Convenience Creditors and Affected Creditors holding Conditional Claims where one or more Conditional Claim Conditions have not been completed) shall receive, in respect of such Affected Creditor Claim, its Pro Rata Share of the Affected Creditor Cash Pool, net of the Superintendent's Levy, made by the Proposal Trustee from the Affected Creditor Cash Pool from time to time in accordance with Article V hereof, provided that aggregate Distributions to an Affected Creditor shall not exceed 100% of the value of such Affected Creditor's Proven Claim; and
 - ii. all Convenience Creditors shall receive in respect of such Convenience Creditor Claims, the Convenience Creditor Consideration, net of the Superintendent's Levy;
- (b) Subject to Section 2.03, on the Proposal Implementation Date, each Affected Creditor Claim shall, and shall be deemed to have been irrevocably and finally extinguished, discharged and released, and each Affected Creditor shall have no further right, title or interest in or to its Affected Creditor Claim.

2.03 Conditional Claims Protocol

If an Affected Creditor submits a proof of claim to the Proposal Trustee indicating that its Claim against the Company is a Conditional Claim due to the fact that one or more pre-conditions to such Affected Creditor's right to payment by the Company had not been satisfied as at the Filing Date due to the acts or omissions of such Affected Creditor, then:

- (a) such Affected Creditor shall have until the Conditional Claim Completion Deadline to complete or otherwise satisfy all outstanding pre-conditions to payment in accordance with the terms of the applicable agreement between such Affected

Creditor and the Company (all such conditions, "**Conditional Claim Conditions**"), and provide notice of such completion to the Proposal Trustee along with reasonable proof thereof;

- (b) if such Affected Creditor provides the Proposal Trustee with proof of the completion of all applicable Conditional Claim Conditions prior to the Conditional Claim Completion Deadline, then, subject to the Proposal Trustee's confirmation of same, such Affected Creditor's Conditional Claim shall be deemed to be a Proven Claim, and such Affected Creditor shall be entitled to a Distribution in accordance with Section 5.02, and, effective immediately upon issuance of such distribution to the Affected Creditor by the Proposal Trustee, the releases set out in Section 7.01 shall become effective; and
- (c) if such Affected Creditor has not satisfied one or more Conditional Claim Conditions by the Conditional Claim Completion Deadline, then, effective immediately upon the Conditional Claim Completion Deadline, such Affected Creditor's Conditional Claim shall be irrevocably and finally extinguished and such Affected Creditor shall have no further right, title or interest in and to its Conditional Claim and the releases set out in Section 7.01 shall become effective in respect of such Conditional Claim.

2.04 Existing Equityholders and Holders of Equity Claims

Subject to Section 7.01, all Equity Claims shall be fully, finally and irrevocably and forever compromised, released, discharged, cancelled, extinguished and barred as against the Property on the Proposal Implementation Date in accordance with Section 6.011.1(1)(1)(h).

2.05 Application of Proposal Distributions

All amounts paid or payable hereunder on account of the Affected Creditor Claims (including, for greater certainty, any securities received hereunder) shall be applied as follows: (i) first, in respect of the principal amount of the Affected Creditor Claim, and (ii) second, in respect of the accrued but unpaid interest on the Affected Creditor Claim.

2.06 Full Satisfaction of All Affected Creditor Claims

All Affected Creditors shall accept the consideration set out in Section 2.02 hereof in full and complete satisfaction of their Affected Creditor Claims, and all liens, certificates of pending litigation, executions, or other similar charges or actions or proceedings in respect of such Affected Creditor Claims will have no effect in law or in equity against the Property, or other assets and undertaking of the Company. Upon the Implementation of the Proposal, any and all such registered liens, certificates of pending litigation, executions or other similar charges or actions brought, made or claimed by Affected Creditors will be and will be deemed to have been discharged, dismissed or vacated without cost to the Company and the Company will be released from any and all Affected Creditor Claims of Affected Creditors, subject only to the right of Affected Creditors to receive Distributions as and when made pursuant to this Proposal.

2.07 Undeliverable Distributions

Undeliverable Distributions shall be dealt with and treated in the manner provided for in the BIA and the directives promulgated pursuant thereto.

ARTICLE III
CREDITORS' MEETING AND AMENDMENTS

3.01 Meeting of Affected Creditors

As set out in the Interim Decision, the Requisite Majority approved the Proposal at the Creditors' Meeting.

3.02 Assessment of Claims

The provisions of section 135 of the BIA will apply to all proofs of claim submitted by Affected Creditors, including in respect of Disputed Claims. In the event that a duly submitted proof of claim has been disallowed or revised for voting purposes by the Proposal Trustee, and such disallowance has been disputed by the applicable Affected Creditor in accordance with Section 135(4) of the BIA, or in the case of any Claim that is a Conditional Claim as at the time of the Creditors' Meeting, then the dollar value for voting purposes at the Creditors' Meeting shall be the dollar amount of such disputed claim or Conditional Claim, as the case may be, set out in the proof of claim submitted by such Affected Creditor, without prejudice to the determination of the dollar value of such Affected Creditor's disputed claim or Conditional Claim for distribution purposes.

Except as expressly provided herein, the Proposal Trustee's determination of claims pursuant to this Proposal and the BIA shall only apply for the purposes of this Proposal, and such determination shall be without prejudice to a Creditor's right to submit a revised proof of claim in subsequent proceedings in respect of the Company should this Proposal not be implemented.

3.03 Modification to Proposal

Subject to the provisions of the BIA, after the Creditors' Meeting (and both prior to and subsequent to the issuance of the Approval Order) and subject to the consent of the Proposal Trustee and the Proposal Sponsor, the Company may at any time and from time to time vary, amend, modify or supplement the Proposal.

ARTICLE IV
PREFERRED CLAIMS AND MANDATORY PAYMENTS

4.01 Crown Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Crown Claims, if any, will be paid by the Proposal Trustee, in full with related interest and penalties as prescribed by the applicable laws, regulations and decrees.

4.02 Preferred Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Preferred Claims, if any, will be paid in full by the Proposal Trustee.

ARTICLE V FUNDING AND DISTRIBUTIONS

5.01 Proposal Sponsor to Fund

- (a) On the Proposal Implementation Date, the Proposal Sponsor shall deliver to the Proposal Trustee by way of wire transfer (in accordance with wire transfer instructions provided by the Proposal Trustee at least three (3) business days prior to the Proposal Implementation Date) the amount necessary to establish the Affected Creditor Cash Pool in accordance with the provisions of this Proposal, provided that any surplus amounts over and above the Affected Creditor Cash Pool amount of \$30,900,000 that are returned to the Company in connection with the transfer of the YSL Project to the Proposal Sponsor shall be promptly returned to the Proposal Sponsor, including, without limitation, the cash collateral to be released by TD Bank when the letters of credit held by the City of Toronto and the Toronto Transit Commission are replaced by letters of credit to be provided by the Proposal Sponsor; and
- (b) The Proposal Trustee shall hold the Affected Creditor Cash Pool in a segregated account and shall distribute such cash, net of any reserves established in respect of unresolved Claims, in accordance with Section 5.03 of the Proposal.
- (c) The Proposal Sponsor shall effect payments in respect of the Unaffected Claims to those parties entitled to such payments directly and shall provide the Proposal Trustee with proof of such payments, as applicable.

5.02 Distributions

As soon as possible after the Proposal Implementation Date and the payments contemplated by Sections 4.01 and 4.02, the Proposal Trustee shall make a Distribution to each Affected Creditor with a Proven Claim, in an amount equal to such Affected Creditor's Pro Rata Share of the Affected Creditor Cash Pool, net of the Superintendent's Levy, and net of any amounts held in reserve in respect of unresolved Claims, in accordance with Section 5.03.

Thereafter, the Proposal Trustee may make further Distributions to Affected Creditors from time to time from the reserves established pursuant to Section 5.03, as unresolved Claims are resolved in accordance with the terms of Section 3.02.

5.03 Reserves for Unresolved Claims

Prior to making any Distribution to Affected Creditors pursuant to Section 5.02, the Proposal Trustee shall set aside in the Affected Creditor Cash Pool sufficient funds to pay all Affected

Creditors with Disputed Claims or Conditional Claims the amounts such Affected Creditors would be entitled to receive in respect of that particular Distribution pursuant to this Proposal, in each case as if their Disputed Claim or Conditional Claim, as the case may be, had been a Proven Claim at the time of such Distribution. Upon the resolution of each Disputed Claim in accordance with the BIA, or upon final resolution of any Conditional Claim, any funds which have been reserved by the Proposal Trustee to deal with such Disputed Claim or such Conditional Claim, as applicable, but which are not required to be paid to the Affected Creditor shall remain in the Affected Creditor Cash Pool and become available for further Distributions to Affected Creditors in respect of their Proven Claims.

5.04 Method of Distributions

Unless otherwise agreed to by the Proposal Trustee and an Affected Creditor, all Distributions made by the Proposal Trustee pursuant to this Proposal shall be made by cheque mailed to the address shown on the proof of claim filed by such Affected Creditor or, where an Affected Creditor has provided the Trustee with written notice of a change of address, to such address set out in that notice. If any delivery or distribution to be made pursuant to Article V hereof in respect of an Affected Creditor Claim is returned as undeliverable, or in the case of a distribution made by cheque, the cheque remains uncashed (each an "**Undeliverable Distribution**"), no other crediting or delivery will be required unless and until the Proposal Trustee is notified of the Affected Creditor's then current address. The Proposal Trustee's obligations to the Affected Creditor relating to any Undeliverable Distribution will expire six months following the date of delivery or mailing of the cheque or other distribution, after which date the Proposal Trustee's obligations under this Proposal in respect of such Undeliverable Distribution will be forever discharged and extinguished, and the amount that the Affected Creditor was entitled to be paid under the Proposal shall be distributed to the Proposal Sponsor.

5.05 Residue After All Distributions Made

In the event that any residual amount remains in the Affected Creditor Cash Pool following the Proposal Trustee's final Distribution to Affected Creditors as provided herein, such residual funds shall be held by the Proposal Trustee pending receipt of a duly issued direction from all of the holders of Class A Preferred Units of YG LP, or otherwise by order of the Court.

ARTICLE VI IMPLEMENTATION

6.01 Proposal Implementation Date Transactions

Commencing at the Effective Time, the following events or transactions will occur, or be deemed to have occurred and be taken and effected, in the following order in five minute increments (unless otherwise indicated) and at the times and in the order set out in this Section 6.01 (or in such other manner or order or at such other time or times as the Company and the Proposal Sponsor may agree, each acting reasonably), without any further act or formality required on the part of any Person, except as may be expressly provided herein:

- (a) Either the Proposal Sponsor will, at its election, but subject to obtaining the consent of the applicable Secured Creditor, assume the Secured Claims, or on behalf of the Company, the Proposal Sponsor will make payment in full to Secured Creditors in respect of their Secured Claims, in accordance with Section 5.01(c) calculated as at the Closing Date;
- (b) the releases in respect of Secured Claims referenced in section 7.01 shall become effective, and any registrations on title to the Property in respect of such Secured Claims shall, unless otherwise agreed between the Secured Creditor and the Proposal Sponsor with the consent of the Proposal Trustee, be discharged from title to the Property;
- (c) the Proposal Sponsor shall provide to the Proposal Trustee the amount necessary to establish the Affected Creditor Cash Pool, in accordance with Section 5.01(a), in full and final settlement of all Affected Creditor Claims;
- (d) the Proposal Sponsor shall provide the Proposal Trustee with an amount necessary to satisfy the Administrative Fees and Expenses, including a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated to be incurred in connection with the administration of Distributions, resolution of any unresolved Claims pursuant to Section 5.03, and the Proposal Trustee's discharge;
- (e) title to the Property shall be registered in the name of the Proposal Sponsor, or its nominee, together with any charges applicable to security held by the lenders to the Proposal Sponsor in respect of the purchase of the Property and construction of the Project;
- (f) the assumption of the Assumed Contracts by the Proposal Sponsor, or its nominee, shall become effective;
- (g) all Affected Creditor Claims (including without limitation all Convenience Creditor Claims) shall, and shall be deemed to be, irrevocably and finally extinguished and the Affected Creditors shall have no further right, title or interest in and to their respective Affected Creditor Claims, except with respect to their right to receive a Distribution, if applicable, and in such case, only to the extent of such Distribution;
- (h) subject to Section 7.01, all Equity Claims shall, and shall be deemed to be, irrevocably and finally extinguished and all Existing Equityholders shall have no further right, title or interest in and to their respective Equity Claims as against the Property; and
- (i) the releases in respect of Affected Creditor Claims (other than Conditional Claims with Conditional Claim Conditions not satisfied as at the Effective Time) referred to in Section 7.01 shall become effective.

ARTICLE VII

RELEASES

7.01 Release of Released Parties

At the applicable time pursuant to Section 6.01(b), in the case of Secured Claims, and Section 6.01(i), in respect of Affected Creditor Claims, each of the Released Parties shall be released and discharged from all present and future actions, causes of action, damages, judgments, executions, obligations, liabilities and Claims of any kind or nature whatsoever arising on or prior to the Proposal Implementation Date in connection with this Proposal and the Project, and any proceedings commenced with respect to or in connection with this Proposal, the Project, the transactions contemplated hereunder, and any other actions or matters related directly or indirectly to the foregoing, provided that nothing in this paragraph shall release or discharge (i) any of the Released Parties from or in respect of their respective obligations under this Proposal or any order issue by the Court in connection with this Proposal or any document ancillary to any of the foregoing, (ii) any Released Party from liabilities or claims which cannot be released pursuant to s. 50(14) of the BIA, as determined by the final, non-appealable judgment of the Court, or (iii) any Released Party from any Secured Claim of Timbercreek. The foregoing release shall not be construed to prohibit a party in interest from seeking to enforce the terms of this Proposal, including with respect to Distributions, or any contract or agreement entered into pursuant to, in connection with or contemplated by this Proposal. Notwithstanding the foregoing, the directors and officers of the Company, its affiliates, the former directors and officers, and general partner of the Company shall not be released in respect of any (x) Equity Claim as defined in section 2 of the BIA or any analogous claim in respect of a partnership interest or (y) any claim by a former employee of the Company or its affiliates relating to unpaid wages or other employment remuneration.

7.02 Injunctions

All Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Proposal Implementation Date, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever of any Person against the Released Parties, as applicable; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, guarantee, decree or order against the Released Parties; (iii) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (iv) taking any actions to interfere with the implementation or consummation of this Proposal or the transactions contemplated hereunder; provided, however, that the foregoing shall not apply to the enforcement of any obligations under this Proposal or any document, instrument or agreement executed to implement this Proposal.

ARTICLE VIII
CONDITIONS PRECEDENT

8.01 Conditions Precedent

This Proposal will take effect on the Proposal Implementation Date. The Implementation of this Proposal on the Proposal Implementation Date is subject to the satisfaction or waiver (in the sole discretion of the Proposal Sponsor) of the following conditions precedent (collectively, the "**Conditions Precedent**"):

- (a) the Proposal is approved by the Required Majority;
- (b) the Approval Order, in form and substance satisfactory to the Proposal Sponsor, has been issued, has not been stayed and no appeal therefrom is outstanding;
- (c) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Authority, no application shall have been made to any Governmental Authority, and no action or investigation shall have been announced, threatened or commenced by any Governmental Authority, in consequence or in connection with the Proposal or the Project that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or inhibit), the Proposal or any part thereof or the Project or any part thereof or requires or purports to require a variation of the Proposal or the Project;
- (d) registrations in respect of all encumbrances, including without limitation any registrations in respect of Construction Lien Claims, but excluding the Permitted Encumbrances, shall have been deleted from title to the Property, provided that (a) should the Implementation of the Proposal not occur following the deletion of an Affected Creditor's encumbrance pursuant to this provision, such Affected Creditor shall have the right to renew such registration, and (b) the Company and/or the Proposal Sponsor shall be at liberty to pay security into Court (by way of a bond or similar instrument) in respect of any Construction Lien Claim;
- (e) the Proposal Sponsor, or its nominee, shall have entered into assignment and assumption agreements in respect of all Assumed Contracts, or an assignment order pursuant to section 84.1 of the BIA shall have been issued, in each case in form and substance satisfactory to the Proposal Sponsor, provided that it shall be a condition of the assumption of each Assumed Contract that the written agreements set out in the list of Assumed Contracts provided by the Proposal Sponsor (as amended from time to time) represent the totality of the contractual arrangements between the Company and each applicable counterparty, and no verbal or extra-contractual arrangements will be recognized by the Proposal Sponsor;
- (f) sufficient financing for the acquisition of the Property by the Proposal Sponsor, or its nominee, shall have been provided by Otera Capital Inc., on terms satisfactory to the Proposal Sponsor, and all material conditions precedent to such financing shall be capable of completion by the Proposal Sponsor prior to the Proposal Implementation Date;

- (g) the Proposal Implementation Date shall occur on the day that is three Business Days following the issuance of the Approval Order, or such other date prior to the Outside Date as may be agreed by the Proposal Sponsor;
- (h) any required resolutions authorizing the Company to file this Proposal and any amendments thereto will have been approved by the board of directors of the Company;
- (i) the Proposal Sponsor Agreement shall not have been terminated by the Proposal Sponsor; and
- (j) the Company and the Proposal Sponsor shall have delivered a certificate to the Proposal Trustee that all of the conditions precedent to the Implementation of the Proposal have been satisfied or waived (the "**Implementation Certificate**").

Upon the Proposal Trustee's receipt of the Implementation Certificate, the Affected Creditor Cash Pool and the funding required by Section 6.01(d), the Implementation of the Proposal shall have been deemed to have occurred and all actions deemed to occur upon Implementation of the Proposal shall occur without the delivery or execution of any further documentation, agreement or instrument.

ARTICLE IX

EFFECT OF PROPOSAL

9.01 Binding Effect of Proposal

After the issuance of the Approval Order by the Court, subject to satisfaction of the Conditions Precedent, the Proposal shall be implemented by the Company and shall be fully effective and binding on the Company and all Persons affected by the Proposal. Without limitation, the treatment of Affected Creditor Claims under the Proposal shall be final and binding on the Company, the Affected Creditors, and all Persons affected by the Proposal and their respective heirs, executors, administrators, legal representatives, successors, and assigns. For greater certainty, this Proposal shall have no effect upon Unaffected Creditors.

9.02 Amendments to Agreements and Paramountcy of Proposal

Notwithstanding the terms and conditions of all agreements or other arrangements with Affected Creditors entered into before the Filing Date, for so long as an event of default under this Proposal has not occurred, all such agreements or other arrangements will be deemed to be amended to the extent necessary to give effect to all the terms and conditions of this Proposal. In the event of any conflict or inconsistency between the terms of such agreements or arrangements and the terms of this Proposal, the terms of this Proposal will govern and be paramount.

9.03 Deemed Consents and Authorizations of Affected Creditors

At the Effective Time each Affected Creditor shall be deemed to have:

- (a) executed and delivered to the Company all consents, releases, assignments, and waivers, statutory or otherwise, required to implement and carry out this Proposal in its entirety;
- (b) waived any default by the Company in any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company that has occurred on or prior to the Proposal Implementation Date; and
- (c) agreed, in the event that there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company as at the date and time of Court approval of the Proposal (other than those entered into by the Company on, or with effect from, such date and time) and the provisions of this Proposal, that the provisions of this Proposal shall take precedence and priority and the provisions of such agreement or other arrangement shall be amended accordingly.

ARTICLE X
ADMINISTRATIVE FEES AND EXPENSES

10.01 Administrative Fees and Expenses

Administrative Fees and Expenses including a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated to be incurred in connection with the administration of Distributions, resolution of any unresolved Claims pursuant to Section 5.03, and the Proposal Trustee's discharge will be paid in cash by the Proposal Sponsor on the Proposal Implementation Date.

ARTICLE XI
INDEMNIFICATION

11.01 Indemnification of Proposal Trustee

The Proposal Trustee shall be indemnified in full by the Proposal Sponsor for: (a) all personal liability arising from fulfilling any duties or exercising any powers or duties conferred upon it by this Proposal or under the BIA, except for any willful misconduct or gross negligence; and (b) all Administrative Fees and Expenses reasonably incurred but not covered by the payment set out in Section 10.01.

ARTICLE XII
POST FILING GOODS AND SERVICES

12.01 Payment of Payroll Deductions and Post Filing Claims

The following shall continue to be paid in the ordinary course by the Company prior to and after the Court Approval Date and shall not constitute Distributions or payments under this Proposal:

- (a) all Persons, who may advance monies, or provide goods or services to the Company after the Filing Date shall be paid by the Company in the ordinary course of business;
- (b) current source deductions and other amounts payable pursuant to Section 60(1.2) of the BIA, if applicable, shall be paid to Her Majesty in Right of Canada in full by the Company as and when due; and
- (c) current goods and services tax (GST), and all amounts owing on account of provincial sales taxes, if applicable, shall be paid in full by the Company as and when due.

ARTICLE XIII
TRUSTEE, CERTIFICATE OF COMPLETION, AND DISCHARGE OF TRUSTEE

13.01 Proposal Trustee

KSV Restructuring Inc. shall be the Proposal Trustee pursuant to this Proposal and upon the making of the Distributions and the payment of any other amounts provided for in this Proposal, the Proposal Trustee will be entitled to be discharged from its obligations under the terms of this Proposal. The Proposal Trustee is acting in its capacity as Proposal Trustee under this Proposal, and not in its personal capacity and shall not incur any liabilities or obligations in connection with this Proposal or in respect of the business, liabilities or obligations of the Company, whether existing as at the Filing Date or incurred subsequent thereto.

The Proposal Trustee shall not incur, and is hereby released from, any liability as a result of carrying out any provisions of this Proposal and any actions related or incidental thereto, save and except for any gross negligence or willful misconduct on its part (as determined by a final, non-appealable judgment of the Court).

13.02 Certificate of Completion and Discharge of Proposal Trustee

Upon the Proposal Trustee having received the Implementation Certificate, and all Distributions to Affected Creditors having been administered in accordance with Article V, the terms of the Proposal shall be deemed to be fully performed and the Proposal Trustee shall provide a certificate to the Company, the Proposal Sponsor and to the Official Receiver pursuant to Section 65.3 of the BIA and the Proposal Trustee shall be entitled to be discharged.

ARTICLE XIV
GENERAL

14.01 Valuation

For purposes of voting and Distributions, all Claims shall be valued as at the Filing Date.

14.02 Preferences, Transfers at Undervalue

In conformity with Section 101.1 of the BIA, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal. As a result, all of the rights, remedies, recourses and Claims described therein:

- (a) all such rights, remedies and recourses and any Claims based thereon shall be completely unavailable to the Proposal Trustee or any Affected Creditors against the Company, the Property, or any other Person whatsoever; and
- (b) the Proposal Trustee and all of the Affected Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any Claims based thereon against the Company, the Property any other Person.


14.03 Governing Law

The Proposal shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. Any disputes as to the interpretation or application of the Proposal and all proceedings taken in connection with the Proposal shall be subject to the exclusive jurisdiction of the Court.

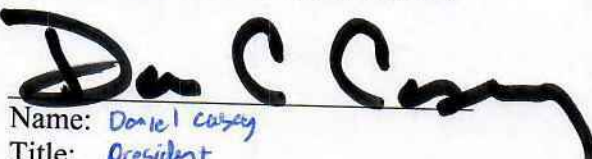
[remainder of page left intentionally blank]

Dated at Toronto, this 15th day of July, 2021.

YSL RESIDENCES INC.

Per: 
Name: *Daniel Casey*
Title: *President*
I have the authority to bind the Corporation.

**YG LIMITED PARTNERSHIP, by its
general partner 9615334 CANADA INC.**

Per: 
Name: *Daniel Casey*
Title: *President*
I have the authority to bind the Corporation.

SCHEDULE A

PERMITTED ENCUMBRANCES

<u>Instrument Number</u>		<u>Description</u>
EP138153	-	Canopy Agreement with the City of Toronto
EP146970	-	Encroachment Agreement with the City of Toronto
CT114131	-	Encroachment Agreement with the City of Toronto
CT169812	-	Canopy Agreement with the City of Toronto
CA11215	-	Development Agreement with the City of Toronto
CA231470	-	Encroachment Agreement with the City of Toronto
AT5142530	-	Heritage Easement Agreement with the City of Toronto
AT5154721	-	Heritage By-Law
AT5154722	-	Heritage By-Law
AT5157423	-	Heritage By-Law
AT5157424	-	Heritage By-Law
AT5246455	-	Section 37 Agreement
AT5473163	-	Application to Register a Court Order (Equitable Mortgage)

This is "Exhibit " **B** " referred to in the Affidavit
of Heyla Vettyvel,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 22,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.



A Commissioner for Taking Affidavits

CONSOLIDATED COURT FILE NO. 31-2734090

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
COMMERCIAL LIST

THE HONOURABLE MR.)

FRIDAY, THE 16TH

JUSTICE DUNPHY)

DAY OF JULY, 2021

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3 AS AMENDED

IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.



ORDER
(Proposal Approval)

THIS MOTION, made by YSL Residences Inc. ("**YSL Inc.**"), and YG Limited Partnership ("**YG LP**", and together with YSL Inc., "**YSL**") pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended (the "**BIA**"), for an Order, among other things: (i) abridging the time for service of the Motion Record and other materials relied upon for this motion, and validating service thereof; (ii) approving the Amended Proposal #3 filed with the Official Receiver on July 15, 2021, in the form attached hereto as Schedule "**A**" (the "**Proposal**"); and (iii) such further and other relief as counsel may request and this Honourable Court may deem just was heard this day by videoconference due to the COVID-19 Pandemic.

ON READING the Motion Record of YSL and the Third Report of KSV Restructuring Inc. in its capacity as proposal trustee of YSL (in such capacity, the "**Proposal Trustee**") dated June 18, 2021, the Supplement to the Third Report dated June 22, 2021, and the Fourth Report of the Proposal Trustee dated July 15, 2021, the Affidavits of Anthony Szeto sworn April 28 and June 9, 2021, the Affidavits of Lue (Eric) Li sworn on May 3 and June 9, 2021, the Affidavit of Patrick Smith sworn June 16, 2021, the Affidavit of Cliff McCracken sworn June 22, 2021, the

Responding Motion Record of Maria Athanasoulis dated June 22, 2021, the Affidavit of Josh Foster sworn June 11, 2021, the transcript of the cross-examination of David Mann dated June 11, 2021, and such other material as filed in respect of the applications, and on hearing the submissions of counsel for YSL, Concord Properties Developments Corp., the Proposal Trustee, Timbercreek Mortgage Services Inc., Maria Athanasoulis, and 2504670 Canada Inc., 8451761 Canada Inc., Chi Long Inc., YongeSL Investment Limited Partnership, 2124093 Ontario Inc., SixOne Investment Ltd., E&B Investment Corporation and Taihe International Group Inc., and such other counsel as were present at hearings held June 23, 2021, June 28, 2021, July 9, 2021 and July 16, 2021, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Diana McMillen sworn June 21, 2021, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Proposal.

APPROVAL OF THE PROPOSAL


3. **THIS COURT ORDERS** that the Proposal be and is hereby approved.
4. **THIS COURT ORDERS** that, as of the Proposal Implementation Date at the time or times and in the manner set forth in the Proposal: (i) the Proposal and all associated steps, compromises, settlements, satisfactions, releases, discharges, transactions and arrangements contemplated thereby are approved, binding, and effective in accordance with the provisions of the Proposal and the BIA; and (ii) the treatment of Affected Creditor Claims under the Proposal shall be final and binding for all purposes on YSL, the Affected Creditors, and all Persons affected by the Proposal and their respective heirs, executors, administrators and other legal representatives, successors and enure to the benefit of YSL.

IMPLEMENTATION OF THE PROPOSAL

5. **THIS COURT ORDERS** that the Proposal Trustee be and is hereby authorized, directed and empowered to perform its functions and to fulfill its obligations under the Proposal to facilitate the Implementation of the Proposal.
6. **THIS COURT ORDERS** that the Proposal Trustee and any other Person required to make distributions, deliveries or allocations or take any steps or actions related thereto pursuant to the Proposal, are hereby authorized and directed to complete such distributions, deliveries or allocations and to take any such related steps or actions, as the case may be, in accordance with the terms of the Proposal, and such distributions, deliveries and allocations, and steps and actions related thereto, are hereby approved.
7. **THIS COURT ORDERS** that, effective upon the Implementation of the Proposal and commencing at the Effective Time, the events or transaction set out in section 6.01 of the Proposal will occur, or be deemed to have occurred and be taken and effected in the order setout therein.
8. **THIS COURT ORDERS** that YSL is authorized and directed to take all actions necessary or appropriate to enter into, adopt, execute, deliver, implement, and consummate all matters contemplated under the Proposal and all agreements, transactions, and documents contemplated by the Proposal.
9. **THIS COURT ORDERS** that this Order is subject to provisional execution notwithstanding any appeal brought in respect of this Order, pursuant to section 195 of the BIA.
10. **THIS COURT ORDERS** that any issuance of any securities or other consideration pursuant to the Proposal will be free and clear of any charge, mortgage, lien, pledge, claim, restriction, hypothec, adverse interest, security interest or other encumbrance whether created or arising by agreement, statute or otherwise at law, attaching to property, interest and rights.

ADDITIONAL PROVISIONS

11. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada and as against all Persons against whom it may otherwise be enforced.
12. **THIS COURT ORDERS** that the Proposal Trustee may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
13. **THE COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the parties 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 parties and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to grant representative status to the Proposal Trustee in any foreign proceeding.



SCHEDULE "A"

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**IN THE MATTER OF THE PROPOSAL OF YG LIMITED PARTNERSHIP
AND YSL RESIDENCES INC. PURSUANT TO THE
*BANKRUPTCY AND INSOLVENCY ACT***

AMENDED PROPOSAL #3

WHEREAS, pursuant to Notices of Intention to Make a Proposal dated April 30, 2021, YSL Residences Inc. and YG Limited Partnership (collectively, "**YSL**" or the "**Company**") initiated proceedings under the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, B-3 as amended (the "**BIA**"), pursuant to Section 50(1) thereof;

AND WHEREAS a creditor proposal was filed in accordance with section 50(2) of the BIA on May 27, 2021 (the "**Original Proposal**");

AND WHEREAS an amendment to the Original Proposal was filed in accordance with section 50(2) of the BIA on June 3, 2021 (the "**First Amended Proposal**");

AND WHEREAS an amendment to the First Amended Proposal was filed in accordance with section 50(2) of the BIA on June 15, 2021 (the "**Second Amended Proposal**");

AND WHEREAS, the Second Amended Proposal was approved by the Requisite Majority of creditors at the Creditors' Meeting held June 15, 2021;

AND WHEREAS, pursuant to the Amended Reasons for Interim Decision issued July 2, 2021 (the "**Interim Decision**"), the Second Amended Proposal was not approved by the Court in the form presented and the Company and the Proposal Sponsor were permitted to amend the Second Amended Proposal to address the issues set out in the Interim Decision;

AND WHEREAS the Company and the Proposal Sponsor wish to amend the Second Amended Proposal on the terms and conditions set out herein with the intention of addressing the issues set out in the Interim Decision;

NOW THEREFORE the Company hereby submits the following third amended proposal under the BIA to its creditors (as amended, the "**Proposal**").

ARTICLE I
DEFINITIONS

1.01 Definitions

In this Proposal:

"**Administrative Fees and Expenses**" means the fees, expenses and disbursements incurred by or on behalf of the Proposal Trustee, the solicitors for the Proposal Trustee, the solicitors of the Company both before and after the Filing Date;

"**Affected Creditor Cash Pool**" means a cash pool in the amount of \$30,900,000 to be comprised of (i) all cash on hand in the Company's accounts as at the Proposal Implementation Date; (ii) any and all amounts refunded to or otherwise received by the Company in connection with the transfer of the YSL Project to the Proposal Sponsor as at the Proposal Implementation Date, and (iii) the balance to be provided by the Proposal Sponsor, subject to the refund of any surplus to the Proposal Sponsor in accordance with Section 5.01(a);

"**Affected Creditor Claim**" means a Proven Claim, other than an Unaffected Claim;

"**Affected Creditors**" means all Persons having Affected Creditor Claims, but only with respect to and to the extent of such Affected Creditor Claims;

"**Affected Creditors Class**" means the class consisting of the Affected Creditors established under and for the purposes of this Proposal, including voting in respect thereof;

"**Approval Order**" means an order of the Court, among other things, approving the Proposal;

"**Assumed Contracts**" means, subject to section 8.01(e), those written contracts entered into by or on behalf of the Company in respect of the Project to be identified by the Proposal Sponsor prior to the Proposal Implementation Date, which are to be assumed by the Proposal Sponsor upon Implementation with the consent of the applicable counterparty or otherwise pursuant to an order issued in pursuant to section 84.1 of the BIA;

"**BIA**" has the meaning ascribed to it in the recitals;

"**Business Day**" means a day, other than a Saturday or Sunday, on which banks are generally open for business in Toronto, Ontario;

"**Claim**" means any right or claim of any Person against the Company in connection with any indebtedness, liability, or obligation of any kind whatsoever in existence on the Filing Date (or which has arisen after the Filing Date as a result of the disclaimer or repudiation by the Company on or after the Filing Date of any lease or executory contract), and any interest accrued thereon to and including the Filing Date and costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise),

and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against the Company with respect to any matter, cause or chose in action, but subject to any counterclaim, set-off or right of compensation in favour of the Company which may exist, whether existing at present or commenced in the future, which indebtedness, liability or obligation (A) is based in whole or in part on facts that existed prior to the Filing Date, (B) relates to a period of time prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA;

"**Company**" has the meaning ascribed to it in the recitals;

"**Conditional Claim**" means any Claim of an Affected Creditor that is not a Proven Claim as at the Filing Date because one or more conditions precedent to establish such Affected Creditor's entitlement to payment by the Company had not been completed in accordance with any applicable contractual terms as at the Filing Date, and such Affected Creditor has indicated in its proof of claim that the Claim should be treated as a Conditional Claim;

"**Conditional Claim Completion Deadline**" means 5:00pm (Toronto time) on September 27, 2021;

"**Conditional Claim Condition**" has the meaning ascribed to it in Section 2.03(a);

"**Conditions Precedent**" shall have the meaning given to such term in section 8.01 hereof;

"**Condo Purchase Agreement**" means an agreement of purchase and sale in respect of a residential condominium unit in the Project between the Company and a Condo Purchaser;

"**Condo Purchaser**" means a purchaser of a residential condominium unit in the Project pursuant to a Condo Purchase Agreement;

"**Condo Purchaser Claim**" means any Claim of a Condo Purchaser in respect of its Condo Purchase Agreement;

"**Construction Lien Claim**" means any Proven Claim in respect of amounts secured by a perfected lien registered against title to the Property and are valid in accordance with the *Construction Act* (Ontario);

"**Construction Lien Creditor**" means a creditor with a Construction Lien Claim;

"**Convenience Creditor**" means an Affected Creditor with a Convenience Creditor Claim;

"**Convenience Creditor Claim**" means (a) any Proven Claims of an Affected Creditor in an amount less than or equal to \$15,000, and (b) any Proven Claim of an Affected Creditor in an amount greater than \$15,000 if the relevant Creditor has made a valid election for the purposes of

this Proposal in accordance with this Proposal prior to the Convenience Creditor Election Deadline;

"Convenience Creditor Consideration" means, in respect of a Convenience Creditor Claim, the lesser of (a) \$15,000, and (b) the amount of the Proven Claim of such Convenience Creditor;

"Court" means the Ontario Superior Court of Justice (Commercial List);

"Court Approval Date" means the date upon which the Court makes the Approval Order;

"Creditors' Meeting" means the duly convened meeting of the Affected Creditors which took place on June 15, 2021;

"Crown" means Her Majesty in Right of Canada or of any Province of Canada and their agents;

"Crown Claims" means the Claims of the Crown set out in Section 60(1.1) of the BIA outstanding as at the Filing Date against the Company, if any, payment of which will be made in priority to the payment of the Preferred Claims and to distributions in respect of the Ordinary Claims, and specifically excludes any other claims of the Crown;

"Disputed Claim" means any Claim which has not been finally resolved as a Proven Claim in accordance with the BIA as at the Proposal Implementation Date;

"Distributions" means a distribution of funds made by the Proposal Trustee from the Affected Creditor Cash Pool to Affected Creditors in respect of Affected Creditor Claims, in accordance with Article V;

"Effective Time" means 12:00 p.m. (Toronto time) on the Proposal Implementation Date;

"Equity Claim" has the meaning ascribed to it in Section 2 of the BIA, and includes, without limitation, the Claims of all limited partners of YG LP and those Equity Claims deemed to be equity pursuant to the Interim Decision;

"Existing Equity" means the limited partnership units of YG LP and those Equity Claims deemed to be equity pursuant to the Interim Decision;

"Existing Equityholders" means the holders of the Existing Equity immediately prior to the Effective Time;

"Filing Date" means April 30, 2021, being the date upon which Notices of Intention to Make a Proposal were filed by the Company with the Official Receiver in accordance with the BIA;

"First Amended Proposal" has the meaning ascribed to it in the recitals;

"Governmental Authority" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (ii) exercising, or entitled or

purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

"**Implementation**" means the completion and implementation of the transactions contemplated by this Proposal;

"**Implementation Certificate**" has the meaning ascribed to it in Section 8.01(j);

"**Interim Decision**" has the meaning ascribed to it in the recitals;

"**Official Receiver**" shall have the meaning ascribed thereto in the BIA;

"**Original Proposal**" has the meaning ascribed to it in the recitals;

"**Outside Date**" means July 31, 2021;

"**Permitted Encumbrances**" means those encumbrances on the Property listed in Schedule "A" hereto;

"**Person**" means any individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority and a natural person in such person's capacity as trustee, executor, administrator or other legal representative;

"**Preferred Claim**" means a Claim enumerated in Section 136(1) of the BIA outstanding as at the Filing Date against the Company, if any, the payment of which will be made in priority to distributions in respect of Affected Creditor Claims;

"**Pro Rata Share**" means the fraction that is equal to (a) the amount of the Proven Claim of an Affected Creditor that is not a Convenience Creditor, divided by (b) the aggregate amount of all Proven Claims held by Affected Creditors who are not Convenience Creditors;

"**Project**" means the mixed-used office, retail and residential condominium development to be constructed on the Property currently consisting of approximately 1,100 residential condominium units and 170 parking units and known as Yonge Street Living Residences;

"**Property**" means the real property owned by the Company and municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario, and legally described by PIN numbers 21101-0042 (LT) to 21101-0049 (LT), inclusive;

"**Proposal**" means this Amended Proposal of the Company, and any amendments, modifications and/or supplements hereto made in accordance with the terms hereof;

"**Proposal Implementation Date**" means the date on which Implementation occurs, which shall occur following the satisfaction of the Conditions Precedent, and no later than the Outside Date;

"**Proposal Sponsor**" means Concord Properties Developments Corp.;

"Proposal Sponsor Agreement" means that agreement entered into among the Proposal Sponsor and the Company as of April 30, 2021, as amended from time to time;

"Proposal Trustee" means KSV Restructuring Inc. in its capacity as trustee in respect of this Proposal, or its duly appointed successor;

"Proposal Trustee's Website" means the following website: www.ksvadvisory.com/insolvency-cases/case/yg-limited-partnership;

"Proven Claim" means in respect of an Affected Creditor, the amount of a Claim as finally determined in accordance with the provisions of the BIA, provided that the Proven Claim of an Affected Creditor with a Claim in excess of \$15,000 that has elected to be a Convenience Creditor by submitting a Convenience Creditor Election Form shall be valued for voting purposes as \$15,000;

"Released Claims" means, collectively, the matters that are subject to release and discharge pursuant to Section 7.01;

"Released Parties" means, collectively, (i) the Company, (ii) each affiliate or subsidiary of the Company; (iii) the Proposal Sponsor, (iv) the Proposal Trustee, and (v) subject to section 7.01, each of the foregoing Persons' respective former and current officers, directors, principals, members, affiliates, limited partners, general partners, managed accounts or funds, fund advisors, employees, financial and other advisors, legal counsel, and agents, each in their capacity as such;

"Required Majority" means an affirmative vote of a majority in number and two-thirds in value of all Proven Claims in the Affected Creditors Class entitled to vote, who were present and voting at the Creditors' Meeting (whether online, in-person, by proxy or by voting letter) in accordance with the voting procedures established by this Proposal and the BIA;

"Second Amended Proposal" has the meaning ascribed to it in the recitals;

"Secured Claims" means:

- (a) The Claim of Timbercreek which is secured by, among other things a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (b) The Claim of Westmount, which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (c) The Claim of 2576725 Ontario Inc. which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (d) All Construction Lien Claims but only to the extent of such Construction Lien Claims;

"Secured Creditor" means a Person holding a Secured Claim, with respect to, and to the extent of such Secured Claim;

"**Superintendent's Levy**" means the levy payable to the Superintendent of Bankruptcy pursuant to sections 60(4) and 147 of the BIA;

"**Timbercreek**" means, collectively, Timbercreek Mortgage Servicing Inc. and 2292912 Ontario Inc.;

"**Unaffected Claim**" means:

- (a) the Administrative Fees and Expenses;
- (b) the Claim of Timbercreek;
- (c) the Claim of Westmount;
- (d) the Claim of 2576725 Ontario Inc., which is secured by, among other things, an equitable mortgage encumbering the Property;
- (e) any Claim of the City of Toronto;
- (f) all Condo Purchaser Claims;
- (g) all Construction Lien Claims, but only to the extent such Claims are valid in accordance with the *Construction Act* (Ontario) and have been perfected by the Proposal Implementation Date; and
- (h) such other Claims as the Company and Proposal Sponsor may agree with the consent of the Proposal Trustee;

"**Unaffected Creditor**" means a creditor holding an Unaffected Claim, with respect to and to the extent of such Unaffected Claim;

"**Undeliverable Distributions**" has the meaning ascribed to it in Section 5.04;

"**Westmount**" means Westmount Guarantee Services Inc.;

"**YSL**" has the meaning ascribed to it in the recitals; and

"**YSL Project**" means the mixed-use commercial and residential condominium development to be constructed on the Property.

1.02 Intent of Proposal

This Proposal is intended to provide all Affected Creditors a greater recovery than they would otherwise receive if the Company were to become bankrupt under the BIA. More specifically, the Proposal will provide for a payment in full of Secured Claims and will provide a significant recovery in respect of Affected Creditor Claims. While the exact recovery cannot be determined until all Claims have been determined, the Company expects Affected Creditors to receive a significant, if not a full recovery, on their Claims and, in any event, a greater recovery than would occur if the Company were to become a bankrupt under the BIA.

In consideration for, among other things, its sponsorship of this Proposal, including the satisfaction of all Secured Claims, Preferred Claims and the establishment of the Affected Creditor Cash Pool, on the Proposal Implementation Date, title to the Property, subject only to the Permitted Encumbrances, as well as the Company's interests and obligations under the Assumed Contracts and Condo Purchase Agreements shall be acquired by the Proposal Sponsor, or its nominee in accordance with the terms hereof.

1.03 Date for Any Action

In the event that any date on which any action is required to be taken under this Proposal by any of the parties is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.04 Time

All times expressed in this Proposal are local time in Toronto, Ontario, Canada unless otherwise stipulated. Time is of the essence in this Proposal.

1.05 Statutory References

Except as otherwise provided herein, any reference in this Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.06 Successors and Assigns

The Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors, and assigns of any Person named or referred to in the Proposal.

1.07 Currency

Unless otherwise stated herein, all references to currency and to "\$" in the Proposal are to lawful money of Canada.

1.08 Articles of Reference

The terms "hereof", "hereunder", "herein" and similar expressions refer to the Proposal and not to any particular article, section, subsection, clause or paragraph of the Proposal and include any agreements supplemental hereto. In the Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of the Proposal.

1.09 Interpretation Not Affected by Headings

The division of the Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of a table of contents and headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.10 Numbers

In this Proposal, where the context requires, a word importing the singular number will include the plural and *vice versa* and a word or words importing gender will include all genders.

ARTICLE II CLASSIFICATION AND TREATMENT OF AFFECTED PARTIES

2.01 Classes of Creditors

For the purposes of voting on the Proposal, there was only one class of creditors, being the Affected Creditors Class. For the purposes of voting on the Proposal, each Convenience Creditor was deemed to vote in and as part of the Affected Creditors Class.

2.02 Treatment of Affected Creditors

- (a) As soon practicable after the Proposal Implementation Date, and after taking an adequate reserve in respect of any unresolved Claims pursuant to Section 5.03:
 - i. all Affected Creditors (other than Convenience Creditors and Affected Creditors holding Conditional Claims where one or more Conditional Claim Conditions have not been completed) shall receive, in respect of such Affected Creditor Claim, its Pro Rata Share of the Affected Creditor Cash Pool, net of the Superintendent's Levy, made by the Proposal Trustee from the Affected Creditor Cash Pool from time to time in accordance with Article V hereof, provided that aggregate Distributions to an Affected Creditor shall not exceed 100% of the value of such Affected Creditor's Proven Claim; and
 - ii. all Convenience Creditors shall receive in respect of such Convenience Creditor Claims, the Convenience Creditor Consideration, net of the Superintendent's Levy;
- (b) Subject to Section 2.03, on the Proposal Implementation Date, each Affected Creditor Claim shall, and shall be deemed to have been irrevocably and finally extinguished, discharged and released, and each Affected Creditor shall have no further right, title or interest in or to its Affected Creditor Claim.

2.03 Conditional Claims Protocol

If an Affected Creditor submits a proof of claim to the Proposal Trustee indicating that its Claim against the Company is a Conditional Claim due to the fact that one or more pre-conditions to such Affected Creditor's right to payment by the Company had not been satisfied as at the Filing Date due to the acts or omissions of such Affected Creditor, then:

- (a) such Affected Creditor shall have until the Conditional Claim Completion Deadline to complete or otherwise satisfy all outstanding pre-conditions to payment in accordance with the terms of the applicable agreement between such Affected

Creditor and the Company (all such conditions, "**Conditional Claim Conditions**"), and provide notice of such completion to the Proposal Trustee along with reasonable proof thereof;

- (b) if such Affected Creditor provides the Proposal Trustee with proof of the completion of all applicable Conditional Claim Conditions prior to the Conditional Claim Completion Deadline, then, subject to the Proposal Trustee's confirmation of same, such Affected Creditor's Conditional Claim shall be deemed to be a Proven Claim, and such Affected Creditor shall be entitled to a Distribution in accordance with Section 5.02, and, effective immediately upon issuance of such distribution to the Affected Creditor by the Proposal Trustee, the releases set out in Section 7.01 shall become effective; and
- (c) if such Affected Creditor has not satisfied one or more Conditional Claim Conditions by the Conditional Claim Completion Deadline, then, effective immediately upon the Conditional Claim Completion Deadline, such Affected Creditor's Conditional Claim shall be irrevocably and finally extinguished and such Affected Creditor shall have no further right, title or interest in and to its Conditional Claim and the releases set out in Section 7.01 shall become effective in respect of such Conditional Claim.

2.04 Existing Equityholders and Holders of Equity Claims

Subject to Section 7.01, all Equity Claims shall be fully, finally and irrevocably and forever compromised, released, discharged, cancelled, extinguished and barred as against the Property on the Proposal Implementation Date in accordance with Section 6.011.1(1)(1)(h).

2.05 Application of Proposal Distributions

All amounts paid or payable hereunder on account of the Affected Creditor Claims (including, for greater certainty, any securities received hereunder) shall be applied as follows: (i) first, in respect of the principal amount of the Affected Creditor Claim, and (ii) second, in respect of the accrued but unpaid interest on the Affected Creditor Claim.

2.06 Full Satisfaction of All Affected Creditor Claims

All Affected Creditors shall accept the consideration set out in Section 2.02 hereof in full and complete satisfaction of their Affected Creditor Claims, and all liens, certificates of pending litigation, executions, or other similar charges or actions or proceedings in respect of such Affected Creditor Claims will have no effect in law or in equity against the Property, or other assets and undertaking of the Company. Upon the Implementation of the Proposal, any and all such registered liens, certificates of pending litigation, executions or other similar charges or actions brought, made or claimed by Affected Creditors will be and will be deemed to have been discharged, dismissed or vacated without cost to the Company and the Company will be released from any and all Affected Creditor Claims of Affected Creditors, subject only to the right of Affected Creditors to receive Distributions as and when made pursuant to this Proposal.

2.07 Undeliverable Distributions

Undeliverable Distributions shall be dealt with and treated in the manner provided for in the BIA and the directives promulgated pursuant thereto.

ARTICLE III
CREDITORS' MEETING AND AMENDMENTS

3.01 Meeting of Affected Creditors

As set out in the Interim Decision, the Requisite Majority approved the Proposal at the Creditors' Meeting.

3.02 Assessment of Claims

The provisions of section 135 of the BIA will apply to all proofs of claim submitted by Affected Creditors, including in respect of Disputed Claims. In the event that a duly submitted proof of claim has been disallowed or revised for voting purposes by the Proposal Trustee, and such disallowance has been disputed by the applicable Affected Creditor in accordance with Section 135(4) of the BIA, or in the case of any Claim that is a Conditional Claim as at the time of the Creditors' Meeting, then the dollar value for voting purposes at the Creditors' Meeting shall be the dollar amount of such disputed claim or Conditional Claim, as the case may be, set out in the proof of claim submitted by such Affected Creditor, without prejudice to the determination of the dollar value of such Affected Creditor's disputed claim or Conditional Claim for distribution purposes.

Except as expressly provided herein, the Proposal Trustee's determination of claims pursuant to this Proposal and the BIA shall only apply for the purposes of this Proposal, and such determination shall be without prejudice to a Creditor's right to submit a revised proof of claim in subsequent proceedings in respect of the Company should this Proposal not be implemented.

3.03 Modification to Proposal

Subject to the provisions of the BIA, after the Creditors' Meeting (and both prior to and subsequent to the issuance of the Approval Order) and subject to the consent of the Proposal Trustee and the Proposal Sponsor, the Company may at any time and from time to time vary, amend, modify or supplement the Proposal.

ARTICLE IV
PREFERRED CLAIMS AND MANDATORY PAYMENTS

4.01 Crown Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Crown Claims, if any, will be paid by the Proposal Trustee, in full with related interest and penalties as prescribed by the applicable laws, regulations and decrees.

4.02 Preferred Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Preferred Claims, if any, will be paid in full by the Proposal Trustee.

ARTICLE V FUNDING AND DISTRIBUTIONS

5.01 Proposal Sponsor to Fund

- (a) On the Proposal Implementation Date, the Proposal Sponsor shall deliver to the Proposal Trustee by way of wire transfer (in accordance with wire transfer instructions provided by the Proposal Trustee at least three (3) business days prior to the Proposal Implementation Date) the amount necessary to establish the Affected Creditor Cash Pool in accordance with the provisions of this Proposal, provided that any surplus amounts over and above the Affected Creditor Cash Pool amount of \$30,900,000 that are returned to the Company in connection with the transfer of the YSL Project to the Proposal Sponsor shall be promptly returned to the Proposal Sponsor, including, without limitation, the cash collateral to be released by TD Bank when the letters of credit held by the City of Toronto and the Toronto Transit Commission are replaced by letters of credit to be provided by the Proposal Sponsor; and
- (b) The Proposal Trustee shall hold the Affected Creditor Cash Pool in a segregated account and shall distribute such cash, net of any reserves established in respect of unresolved Claims, in accordance with Section 5.03 of the Proposal.
- (c) The Proposal Sponsor shall effect payments in respect of the Unaffected Claims to those parties entitled to such payments directly and shall provide the Proposal Trustee with proof of such payments, as applicable.

5.02 Distributions

As soon as possible after the Proposal Implementation Date and the payments contemplated by Sections 4.01 and 4.02, the Proposal Trustee shall make a Distribution to each Affected Creditor with a Proven Claim, in an amount equal to such Affected Creditor's Pro Rata Share of the Affected Creditor Cash Pool, net of the Superintendent's Levy, and net of any amounts held in reserve in respect of unresolved Claims, in accordance with Section 5.03.

Thereafter, the Proposal Trustee may make further Distributions to Affected Creditors from time to time from the reserves established pursuant to Section 5.03, as unresolved Claims are resolved in accordance with the terms of Section 3.02.

5.03 Reserves for Unresolved Claims

Prior to making any Distribution to Affected Creditors pursuant to Section 5.02, the Proposal Trustee shall set aside in the Affected Creditor Cash Pool sufficient funds to pay all Affected

Creditors with Disputed Claims or Conditional Claims the amounts such Affected Creditors would be entitled to receive in respect of that particular Distribution pursuant to this Proposal, in each case as if their Disputed Claim or Conditional Claim, as the case may be, had been a Proven Claim at the time of such Distribution. Upon the resolution of each Disputed Claim in accordance with the BIA, or upon final resolution of any Conditional Claim, any funds which have been reserved by the Proposal Trustee to deal with such Disputed Claim or such Conditional Claim, as applicable, but which are not required to be paid to the Affected Creditor shall remain in the Affected Creditor Cash Pool and become available for further Distributions to Affected Creditors in respect of their Proven Claims.

5.04 Method of Distributions

Unless otherwise agreed to by the Proposal Trustee and an Affected Creditor, all Distributions made by the Proposal Trustee pursuant to this Proposal shall be made by cheque mailed to the address shown on the proof of claim filed by such Affected Creditor or, where an Affected Creditor has provided the Trustee with written notice of a change of address, to such address set out in that notice. If any delivery or distribution to be made pursuant to Article V hereof in respect of an Affected Creditor Claim is returned as undeliverable, or in the case of a distribution made by cheque, the cheque remains uncashed (each an "**Undeliverable Distribution**"), no other crediting or delivery will be required unless and until the Proposal Trustee is notified of the Affected Creditor's then current address. The Proposal Trustee's obligations to the Affected Creditor relating to any Undeliverable Distribution will expire six months following the date of delivery or mailing of the cheque or other distribution, after which date the Proposal Trustee's obligations under this Proposal in respect of such Undeliverable Distribution will be forever discharged and extinguished, and the amount that the Affected Creditor was entitled to be paid under the Proposal shall be distributed to the Proposal Sponsor.

5.05 Residue After All Distributions Made

In the event that any residual amount remains in the Affected Creditor Cash Pool following the Proposal Trustee's final Distribution to Affected Creditors as provided herein, such residual funds shall be held by the Proposal Trustee pending receipt of a duly issued direction from all of the holders of Class A Preferred Units of YG LP, or otherwise by order of the Court.

ARTICLE VI IMPLEMENTATION

6.01 Proposal Implementation Date Transactions

Commencing at the Effective Time, the following events or transactions will occur, or be deemed to have occurred and be taken and effected, in the following order in five minute increments (unless otherwise indicated) and at the times and in the order set out in this Section 6.01 (or in such other manner or order or at such other time or times as the Company and the Proposal Sponsor may agree, each acting reasonably), without any further act or formality required on the part of any Person, except as may be expressly provided herein:

- (a) Either the Proposal Sponsor will, at its election, but subject to obtaining the consent of the applicable Secured Creditor, assume the Secured Claims, or on behalf of the Company, the Proposal Sponsor will make payment in full to Secured Creditors in respect of their Secured Claims, in accordance with Section 5.01(c) calculated as at the Closing Date;
- (b) the releases in respect of Secured Claims referenced in section 7.01 shall become effective, and any registrations on title to the Property in respect of such Secured Claims shall, unless otherwise agreed between the Secured Creditor and the Proposal Sponsor with the consent of the Proposal Trustee, be discharged from title to the Property;
- (c) the Proposal Sponsor shall provide to the Proposal Trustee the amount necessary to establish the Affected Creditor Cash Pool, in accordance with Section 5.01(a), in full and final settlement of all Affected Creditor Claims;
- (d) the Proposal Sponsor shall provide the Proposal Trustee with an amount necessary to satisfy the Administrative Fees and Expenses, including a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated to be incurred in connection with the administration of Distributions, resolution of any unresolved Claims pursuant to Section 5.03, and the Proposal Trustee's discharge;
- (e) title to the Property shall be registered in the name of the Proposal Sponsor, or its nominee, together with any charges applicable to security held by the lenders to the Proposal Sponsor in respect of the purchase of the Property and construction of the Project;
- (f) the assumption of the Assumed Contracts by the Proposal Sponsor, or its nominee, shall become effective;
- (g) all Affected Creditor Claims (including without limitation all Convenience Creditor Claims) shall, and shall be deemed to be, irrevocably and finally extinguished and the Affected Creditors shall have no further right, title or interest in and to their respective Affected Creditor Claims, except with respect to their right to receive a Distribution, if applicable, and in such case, only to the extent of such Distribution;
- (h) subject to Section 7.01, all Equity Claims shall, and shall be deemed to be, irrevocably and finally extinguished and all Existing Equityholders shall have no further right, title or interest in and to their respective Equity Claims as against the Property; and
- (i) the releases in respect of Affected Creditor Claims (other than Conditional Claims with Conditional Claim Conditions not satisfied as at the Effective Time) referred to in Section 7.01 shall become effective.

ARTICLE VII

RELEASES

7.01 Release of Released Parties

At the applicable time pursuant to Section 6.01(b), in the case of Secured Claims, and Section 6.01(i), in respect of Affected Creditor Claims, each of the Released Parties shall be released and discharged from all present and future actions, causes of action, damages, judgments, executions, obligations, liabilities and Claims of any kind or nature whatsoever arising on or prior to the Proposal Implementation Date in connection with this Proposal and the Project, and any proceedings commenced with respect to or in connection with this Proposal, the Project, the transactions contemplated hereunder, and any other actions or matters related directly or indirectly to the foregoing, provided that nothing in this paragraph shall release or discharge (i) any of the Released Parties from or in respect of their respective obligations under this Proposal or any order issue by the Court in connection with this Proposal or any document ancillary to any of the foregoing, (ii) any Released Party from liabilities or claims which cannot be released pursuant to s. 50(14) of the BIA, as determined by the final, non-appealable judgment of the Court, or (iii) any Released Party from any Secured Claim of Timbercreek. The foregoing release shall not be construed to prohibit a party in interest from seeking to enforce the terms of this Proposal, including with respect to Distributions, or any contract or agreement entered into pursuant to, in connection with or contemplated by this Proposal. Notwithstanding the foregoing, the directors and officers of the Company, its affiliates, the former directors and officers, and general partner of the Company shall not be released in respect of any (x) Equity Claim as defined in section 2 of the BIA or any analogous claim in respect of a partnership interest or (y) any claim by a former employee of the Company or its affiliates relating to unpaid wages or other employment remuneration.

7.02 Injunctions

All Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Proposal Implementation Date, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever of any Person against the Released Parties, as applicable; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, guarantee, decree or order against the Released Parties; (iii) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (iv) taking any actions to interfere with the implementation or consummation of this Proposal or the transactions contemplated hereunder; provided, however, that the foregoing shall not apply to the enforcement of any obligations under this Proposal or any document, instrument or agreement executed to implement this Proposal.

ARTICLE VIII
CONDITIONS PRECEDENT

8.01 Conditions Precedent

This Proposal will take effect on the Proposal Implementation Date. The Implementation of this Proposal on the Proposal Implementation Date is subject to the satisfaction or waiver (in the sole discretion of the Proposal Sponsor) of the following conditions precedent (collectively, the "**Conditions Precedent**"):

- (a) the Proposal is approved by the Required Majority;
- (b) the Approval Order, in form and substance satisfactory to the Proposal Sponsor, has been issued, has not been stayed and no appeal therefrom is outstanding;
- (c) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Authority, no application shall have been made to any Governmental Authority, and no action or investigation shall have been announced, threatened or commenced by any Governmental Authority, in consequence or in connection with the Proposal or the Project that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or inhibit), the Proposal or any part thereof or the Project or any part thereof or requires or purports to require a variation of the Proposal or the Project;
- (d) registrations in respect of all encumbrances, including without limitation any registrations in respect of Construction Lien Claims, but excluding the Permitted Encumbrances, shall have been deleted from title to the Property, provided that (a) should the Implementation of the Proposal not occur following the deletion of an Affected Creditor's encumbrance pursuant to this provision, such Affected Creditor shall have the right to renew such registration, and (b) the Company and/or the Proposal Sponsor shall be at liberty to pay security into Court (by way of a bond or similar instrument) in respect of any Construction Lien Claim;
- (e) the Proposal Sponsor, or its nominee, shall have entered into assignment and assumption agreements in respect of all Assumed Contracts, or an assignment order pursuant to section 84.1 of the BIA shall have been issued, in each case in form and substance satisfactory to the Proposal Sponsor, provided that it shall be a condition of the assumption of each Assumed Contract that the written agreements set out in the list of Assumed Contracts provided by the Proposal Sponsor (as amended from time to time) represent the totality of the contractual arrangements between the Company and each applicable counterparty, and no verbal or extra-contractual arrangements will be recognized by the Proposal Sponsor;
- (f) sufficient financing for the acquisition of the Property by the Proposal Sponsor, or its nominee, shall have been provided by Otera Capital Inc., on terms satisfactory to the Proposal Sponsor, and all material conditions precedent to such financing shall be capable of completion by the Proposal Sponsor prior to the Proposal Implementation Date;

- (g) the Proposal Implementation Date shall occur on the day that is three Business Days following the issuance of the Approval Order, or such other date prior to the Outside Date as may be agreed by the Proposal Sponsor;
- (h) any required resolutions authorizing the Company to file this Proposal and any amendments thereto will have been approved by the board of directors of the Company;
- (i) the Proposal Sponsor Agreement shall not have been terminated by the Proposal Sponsor; and
- (j) the Company and the Proposal Sponsor shall have delivered a certificate to the Proposal Trustee that all of the conditions precedent to the Implementation of the Proposal have been satisfied or waived (the "**Implementation Certificate**").

Upon the Proposal Trustee's receipt of the Implementation Certificate, the Affected Creditor Cash Pool and the funding required by Section 6.01(d), the Implementation of the Proposal shall have been deemed to have occurred and all actions deemed to occur upon Implementation of the Proposal shall occur without the delivery or execution of any further documentation, agreement or instrument.

ARTICLE IX

EFFECT OF PROPOSAL

9.01 Binding Effect of Proposal

After the issuance of the Approval Order by the Court, subject to satisfaction of the Conditions Precedent, the Proposal shall be implemented by the Company and shall be fully effective and binding on the Company and all Persons affected by the Proposal. Without limitation, the treatment of Affected Creditor Claims under the Proposal shall be final and binding on the Company, the Affected Creditors, and all Persons affected by the Proposal and their respective heirs, executors, administrators, legal representatives, successors, and assigns. For greater certainty, this Proposal shall have no effect upon Unaffected Creditors.

9.02 Amendments to Agreements and Paramountcy of Proposal

Notwithstanding the terms and conditions of all agreements or other arrangements with Affected Creditors entered into before the Filing Date, for so long as an event of default under this Proposal has not occurred, all such agreements or other arrangements will be deemed to be amended to the extent necessary to give effect to all the terms and conditions of this Proposal. In the event of any conflict or inconsistency between the terms of such agreements or arrangements and the terms of this Proposal, the terms of this Proposal will govern and be paramount.

9.03 Deemed Consents and Authorizations of Affected Creditors

At the Effective Time each Affected Creditor shall be deemed to have:

- (a) executed and delivered to the Company all consents, releases, assignments, and waivers, statutory or otherwise, required to implement and carry out this Proposal in its entirety;
- (b) waived any default by the Company in any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company that has occurred on or prior to the Proposal Implementation Date; and
- (c) agreed, in the event that there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company as at the date and time of Court approval of the Proposal (other than those entered into by the Company on, or with effect from, such date and time) and the provisions of this Proposal, that the provisions of this Proposal shall take precedence and priority and the provisions of such agreement or other arrangement shall be amended accordingly.

ARTICLE X
ADMINISTRATIVE FEES AND EXPENSES

10.01 Administrative Fees and Expenses

Administrative Fees and Expenses including a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated to be incurred in connection with the administration of Distributions, resolution of any unresolved Claims pursuant to Section 5.03, and the Proposal Trustee's discharge will be paid in cash by the Proposal Sponsor on the Proposal Implementation Date.

ARTICLE XI
INDEMNIFICATION

11.01 Indemnification of Proposal Trustee

The Proposal Trustee shall be indemnified in full by the Proposal Sponsor for: (a) all personal liability arising from fulfilling any duties or exercising any powers or duties conferred upon it by this Proposal or under the BIA, except for any willful misconduct or gross negligence; and (b) all Administrative Fees and Expenses reasonably incurred but not covered by the payment set out in Section 10.01.

ARTICLE XII
POST FILING GOODS AND SERVICES

12.01 Payment of Payroll Deductions and Post Filing Claims

The following shall continue to be paid in the ordinary course by the Company prior to and after the Court Approval Date and shall not constitute Distributions or payments under this Proposal:

- (a) all Persons, who may advance monies, or provide goods or services to the Company after the Filing Date shall be paid by the Company in the ordinary course of business;
- (b) current source deductions and other amounts payable pursuant to Section 60(1.2) of the BIA, if applicable, shall be paid to Her Majesty in Right of Canada in full by the Company as and when due; and
- (c) current goods and services tax (GST), and all amounts owing on account of provincial sales taxes, if applicable, shall be paid in full by the Company as and when due.

ARTICLE XIII
TRUSTEE, CERTIFICATE OF COMPLETION, AND DISCHARGE OF TRUSTEE

13.01 Proposal Trustee

KSV Restructuring Inc. shall be the Proposal Trustee pursuant to this Proposal and upon the making of the Distributions and the payment of any other amounts provided for in this Proposal, the Proposal Trustee will be entitled to be discharged from its obligations under the terms of this Proposal. The Proposal Trustee is acting in its capacity as Proposal Trustee under this Proposal, and not in its personal capacity and shall not incur any liabilities or obligations in connection with this Proposal or in respect of the business, liabilities or obligations of the Company, whether existing as at the Filing Date or incurred subsequent thereto.

The Proposal Trustee shall not incur, and is hereby released from, any liability as a result of carrying out any provisions of this Proposal and any actions related or incidental thereto, save and except for any gross negligence or willful misconduct on its part (as determined by a final, non-appealable judgment of the Court).

13.02 Certificate of Completion and Discharge of Proposal Trustee

Upon the Proposal Trustee having received the Implementation Certificate, and all Distributions to Affected Creditors having been administered in accordance with Article V, the terms of the Proposal shall be deemed to be fully performed and the Proposal Trustee shall provide a certificate to the Company, the Proposal Sponsor and to the Official Receiver pursuant to Section 65.3 of the BIA and the Proposal Trustee shall be entitled to be discharged.

ARTICLE XIV
GENERAL

14.01 Valuation

For purposes of voting and Distributions, all Claims shall be valued as at the Filing Date.

14.02 Preferences, Transfers at Undervalue

In conformity with Section 101.1 of the BIA, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal. As a result, all of the rights, remedies, recourses and Claims described therein:

- (a) all such rights, remedies and recourses and any Claims based thereon shall be completely unavailable to the Proposal Trustee or any Affected Creditors against the Company, the Property, or any other Person whatsoever; and
- (b) the Proposal Trustee and all of the Affected Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any Claims based thereon against the Company, the Property any other Person.


14.03 Governing Law

The Proposal shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. Any disputes as to the interpretation or application of the Proposal and all proceedings taken in connection with the Proposal shall be subject to the exclusive jurisdiction of the Court.

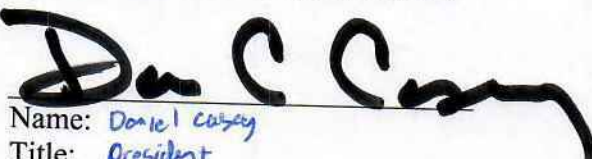
[remainder of page left intentionally blank]

Dated at Toronto, this 15th day of July, 2021.

YSL RESIDENCES INC.

Per: 
Name: Daniel Casey
Title: President
I have the authority to bind the Corporation.

**YG LIMITED PARTNERSHIP, by its
general partner 9615334 CANADA INC.**

Per: 
Name: Daniel Casey
Title: President
I have the authority to bind the Corporation.

SCHEDULE A

PERMITTED ENCUMBRANCES

<u>Instrument Number</u>		<u>Description</u>
EP138153	-	Canopy Agreement with the City of Toronto
EP146970	-	Encroachment Agreement with the City of Toronto
CT114131	-	Encroachment Agreement with the City of Toronto
CT169812	-	Canopy Agreement with the City of Toronto
CA11215	-	Development Agreement with the City of Toronto
CA231470	-	Encroachment Agreement with the City of Toronto
AT5142530	-	Heritage Easement Agreement with the City of Toronto
AT5154721	-	Heritage By-Law
AT5154722	-	Heritage By-Law
AT5157423	-	Heritage By-Law
AT5157424	-	Heritage By-Law
AT5246455	-	Section 37 Agreement
AT5473163	-	Application to Register a Court Order (Equitable Mortgage)

**IN THE MATTER OF THE NOTICES OF INTENTION TO
MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP AND
YSL RESIDENCES INC.**

Consolidated Court File No. 31-2734090

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
COMMERCIAL LIST**

**ORDER
(Proposal Approval)**

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
181 Bay Street, Suite 1800
P.O. Box 754
Toronto, ON M5J 2T9

Harry Fogul (LSO # 151520)

Tel: (416) 865-7773

Fax: (416) 863-1515

Email: hfogul@airdberlis.com

*Lawyers for YG Limited Partnership and
YSL Residences Inc.*

This is "Exhibit "C" referred to in the Affidavit
of Heyla Vettyvel,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 22,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.



A Commissioner for Taking Affidavits

Appendix “F”

YG Limited Partnership and YSL Residences Inc.
Proposal Distribution - Illustrative Scenarios
As at July 14, 2021
(Unaudited, \$)

	2nd Amended Proposal	3rd Amended Proposal V2	Notes
Affected Creditor Cash Pool	37,700,000	30,900,000	
Affected Creditor Claims, as Filed			
Consenting Lienholder Claims	-	11,514,234	
Non-Consenting Lienholder Claims		64,910	
Lien Claims (Affected Creditors)	11,579,145	-	
Maria Athanasoulis Claim	19,000,000	19,000,000	
Five Employee Claims Represented by Naymark Law	3,058,201	3,058,201	
Potential Broker Claims	13,197,656	13,197,656	
Unsecured Claims - Related Party	38,283,619	-	
Other Filed Third Party Unsecured Claims	7,013,500	7,013,500	
Total Affected Creditor Claims, as Filed, Before Adjustments	92,132,121	53,848,502	
Add: Estimate for Claims Not Yet Filed	1,078,884	1,078,884	
Less: Consenting Lienholder Claims	-	11,514,234	Not paid from Affected Creditor Cash Pool
Less: Non-consenting Lienholder Claims	-	64,910	Not paid from Affected Creditor Cash Pool
Total Affected Creditor Claims, Before Undernoted Adjustments	93,211,005	43,348,242	

Affected Creditor Claims	Maximum Claims	Minimum Claims	Maximum Claims	Minimum Claims	
Maria Athanasoulis Claim, as Filed	19,000,000	19,000,000	19,000,000	19,000,000	
Adjustment (High)	-	-	-	-	High: Assumes Ms. Athanasoulis Claim is admitted in full for distribution purposes (\$1 million wrongful dismissal and balance for profit-sharing).
Adjustment (Low)	-	19,000,000	-	19,000,000	Low: Assumes that the portion admitted for distribution is nil.
Claim for Distribution Purposes	19,000,000	-	19,000,000	-	
Five Employee Claims Represented by Naymark Law, as Filed	3,058,201	3,058,201	3,058,201	3,058,201	
Adjustment (High)	-	-	-	-	High: Assumes claims are admitted in full.
Adjustment (Low)	-	3,058,201	-	3,058,201	Low: Assumes that the portion admitted for distribution is nil.
Claim for Distribution Purposes	3,058,201	-	3,058,201	-	
Potential Broker Claims	13,197,656	13,197,656	13,197,656	13,197,656	
Adjustment (High)	-	-	-	-	High: Assumes broker claims satisfy the conditions to be admitted claims under the 3rd Amended Proposal V2.
Adjustment (Low)	-	8,345,447	-	8,345,447	Low: Assumes claims totaling \$4.85 million are admitted for distribution purposes, which is consistent with the amount allowed for voting purposes.
Claim for Distribution Purposes	13,197,656	4,852,209	13,197,656	4,852,209	
Estimate for Claims Not Yet Filed	1,078,884	1,078,884	1,078,884	1,078,884	
Adjustment (High)	-	-	-	-	High: Assumes these claims are filed and admitted in full for distribution purposes.
Adjustment (Low)	-	1,078,884	-	1,078,884	Low: Assumes no further claims are filed or allowed for distribution purposes.
Claim for Distribution Purposes	1,078,884	-	1,078,884	-	
Total Affected Creditor Claims	93,211,005	61,728,472	43,348,242	11,865,709	
% Recovery for Affected Creditors	40%	58%	71%	100%	

Distributions

	2nd Amended Proposal	3rd Amended Proposal V2	Notes
Lien Claims (Affected Creditors)	4,683,286	6,715,904	
Maria Athanasoulis Claim	7,684,715	-	13,543,802
Five Employee Claims Represented by Naymark Law	1,236,916	-	2,179,983
Potential Broker Claims	5,337,907	2,814,281	9,407,707
Unsecured Claims - Related Party	-	-	-
Other Filed Third Party Unsecured Claims	2,836,671	4,067,830	4,999,445
Unsecured Claims - Not Yet Filed	436,364	-	769,063
Total Estimated Distributions	22,215,858	13,598,015	30,900,000
Potential Distributions to Equityholders	-	-	19,034,291

Under the 2nd Amended Proposal, the Affected Creditor Cash Pool is limited to 58% of the Affected Creditor Claims admitted for distribution purposes to a maximum of \$65 million of such claims (being \$37.7 million). Under the 3rd Amended Proposal V2, the Affected Creditor Cash Pool is a fixed amount, being \$30.9 million.

This is "Exhibit "D" referred to in the Affidavit
of Heyla Vettyvel,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 22,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.



A Commissioner for Taking Affidavits

Oladosu, Emily

From: Laskin, Elie
Sent: February 1, 2022 10:14 AM
To: 'Mitch Vininsky'
Cc: Vettyvel, Heyla; 'Murtaza Tallat'
Subject: RE: CBRE's Proof of Claim - YSL Residences Inc.
Attachments: CBRE,Cresford- Gowling Demand Letter with Enclosures - 25 January 2022(49250711.1).pdf; 363-385 Yonge Street_ RealNet (1).pdf

Hi Mr. Vininsky,

Thanks. I have attached:

- our demand letter (sent Jan 25) which includes the Agreement and an explanation of CBRE's work (see Tabs 1 and 2); and
- the Realnet record showing the property sold for \$168,737,563.00

In short, CBRE was the listing broker for the property and found the purchaser, Concord Adex. The property sold for \$168,737,563.00. Under the Agreement, CBRE is owed .65% of the Gross Sale Price which is \$1,096,794.16. With HST on that (\$142,583.24), the total amount owed to CBRE is \$1,239,377.40.

Please let me know if this suffices.

Thanks,
Elie

Elie Laskin
Associate
T +1 416 862 3621
M + 1 647 966 1217
elie.laskin@gowlingwlg.com



From: Mitch Vininsky <mvininsky@ksvadvisory.com>
Sent: February 1, 2022 9:46 AM
To: Laskin, Elie <Elie.Laskin@ca.gowlingwlg.com>
Cc: Vettyvel, Heyla <Heyla.Vettyvel@ca.gowlingwlg.com>; Murtaza Tallat <mtallat@ksvadvisory.com>
Subject: RE: CBRE's Proof of Claim - YSL Residences Inc.

This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.

Please provide us with a copy of the agreement referenced in the affidavit and a full description of the services rendered by CBRE to YSL. We would also like a calculation supporting the amount claimed.

Regards,

| Mitch Vininsky



Managing Director

T 416.932.6013
M 416.254.4912
W www.ksvadvisory.com

From: Laskin, Elie <Elie.Laskin@gowlingwlg.com>
Sent: January 28, 2022 12:27 PM
To: Mitch Vininsky <mvininsky@ksvadvisory.com>
Cc: Vettyvel, Heyla <Heyla.Vettyvel@gowlingwlg.com>
Subject: CBRE's Proof of Claim - YSL Residences Inc.

Hi Mr. Vininsky,

I hope you're well. I am counsel to CBRE Limited, in respect of the non-payment of fees owing by YSL Residences Inc. and Cresford Developments Inc.

I spoke to Harry Fogul earlier and understand that KSV is trustee to YSL's bankruptcy proceedings, but assets have not yet been distributed. CBRE was not notified of this bankruptcy which is why it did not submit a Proof of Claim. I've attached CBRE's Proof of Claim here in hopes that you will accept it, given the circumstance.

Please let me know if you have any questions.

I hope to hear from you soon.

Kind regards,
Elie

Elie Laskin
Associate

T +1 416 862 3621
M +1 647 966 1217
elie.laskin@gowlingwlg.com



Gowling WLG (Canada) LLP
Suite 1600, 1 First Canadian Place
100 King Street West
Toronto ON M5X 1G5
Canada



gowlingwlg.com

Gowling WLG | 1,400+ legal professionals | 18 offices worldwide

The information in this email is intended only for the named recipient and may be privileged or confidential. If you are

not the intended recipient please notify us immediately and do not copy, distribute or take action based on this email. If this email is marked 'personal' Gowling WLG is not liable in any way for its content. E-mails are susceptible to alteration. Gowling WLG shall not be liable for the message if altered, changed or falsified.

Gowling WLG (Canada) LLP is a member of Gowling WLG, an international law firm which consists of independent and autonomous entities providing services around the world. Our structure is explained in more detail at www.gowlingwlg.com/legal.

References to 'Gowling WLG' mean one or more members of Gowling WLG International Limited and/or any of their affiliated businesses as the context requires. Gowling WLG (Canada) LLP has offices in Montréal, Ottawa, Toronto, Hamilton, Waterloo Region, Calgary and Vancouver.

TAB 1

**IN THE MATTER OF THE BANKRUPTCY OF YSL
RESIDENCES INC. OF THE CITY OF TORONTO, IN THE
PROVINCE OF ONTARIO**

AFFIDAVIT OF ELIE LASKIN

I, Elie Laskin, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a lawyer with Gowling WLG (Canada) LLP, solicitors and duly authorized agents for CBRE Limited ("**CBRE**" or the "**creditor**") and, as such, have knowledge of the matters contained in this affidavit. Where I have received and relied on information provided to me by others, I verily believe that information to be true.
2. I am advised by Maya Zor, senior counsel at CBRE, that CBRE entered into an agreement with YSL Residences Inc. ("**YSL**"), whereby YSL agreed to pay CBRE to serve as the exclusive listing brokerage for the sale of the properties located at 363 Yonge Street, 367 Yonge Street, 369 Yonge Street, 373 Yonge Street, 377 Yonge Street, 379 Yonge Street, 381 Yonge Street, 385 Yonge Street, and 391 Yonge Street, Toronto Ontario (the "**Property**").
3. I am advised by Ms. Zor that CBRE performed services in accordance with the agreement and the Property was sold on July 22, 2021.
4. I am advised by Ms. Zor that on or about October 13, 2021, CBRE issued its invoice to YSL in the amount of \$1,239,377.40 and this amount remains outstanding (the "**Unpaid Invoice**").
5. A copy of the Unpaid Invoice is attached as **Exhibit 1**.

YSL Owes CBRE \$1,239,377.40

6. As of the date of this affidavit, the total amount owing to CBRE by YSL is \$1,239,377.40.

SWORN before me on January 28, 2022 via video conference at the City of Toronto, in the Province of Ontario, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
Heyla Vettyvel



Elie Laskin

THIS IS EXHIBIT "1" TO THE AFFIDAVIT OF
ELIE LASKIN SWORN JANUARY 28, 2022

A handwritten signature in blue ink, appearing to read 'HEYLA VETTYVEL', written over a horizontal line.

HEYLA VETTYVEL

INVOICE

Date: 13-Oct-2021

Our Ref. #: 20210100750

Our HST Number: 101047751RT0001

Our GST Number: 101047751RT0001

Our PST Number: 1022408280 TQ0001

Attention: Ted Dowbiggin
Cresford Developments
59 Hayden Street
Suite/Unit: 200,
Toronto, Ontario, M4Y 0E7

Property Type: Land

365-385 Yonge Street, Toronto, Ontario

CLIENT:

Cresford Developments
59 Hayden Street
Suite/Unit: 200,
Toronto, Ontario, M4Y 0E7

Details

Description	Amount
Fee for services rendered.	\$ 1,096,794.16
HST @ 13.00 %	
Total:	\$ 1,096,794.16
Taxes:	\$ 142,583.24
Gross:	\$ 1,239,377.40
Total Billable:	\$ 1,239,377.40

Summary

Payable to: CBRE Limited
Terms: Due upon receipt

\$ 1,239,377.40

Please remit payment to the Deal Administrator

Wire to be paid into:

Scotiabank
P.O. Box 4234
Postal Station A
Toronto, ON. M5W 5P6

Bank # 0002
Transit # 47696
Account# 10270 18
Swift# NOSCCATT

145 King Street West
Suite 1100
Toronto, ON M5H 1J8
Tel: 416 362 2244 Fax: 416 362 8085
www.cbre.ca

TAB 2

*Bankruptcy and Insolvency Act ("Act")***Proof of Claim**

(Section 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1), and Paragraphs 51(1)(e) and 66.14(b) of the Act)

All notices or correspondence regarding this claim must be forwarded to the following address:

Creditor Name: CBRE Limited Telephone: (416) 369 7253
 Address: 100 King Street West Suite 1600 Toronto, Ontario M5X 1G5 Fax: _____
 Email: elie.laskin@ca.gowlingwlg.com
 Account No.: 1027018

In the matter of the bankruptcy (or the proposal, or the receivership) of YSL Residences Inc. (name of debtor) of Toronto, Ontario (city and province) and the claim of CBRE Limited, creditor.

I, Elie Laskin (name of creditor or representative of the creditor), of Toronto, Ontario (city and province), do hereby certify:

1. That I am a creditor of the above-named debtor (or that I am lawyer (state position or title) of CBRE Limited (name of creditor)).
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That the debtor was, at the date of bankruptcy, (or the date of the receivership, or in the case of a proposal, the date of the notice of intention or of the proposal, if no notice of intention was filed), namely the 30th day of April, 2021, and still is, indebted to the creditor in the sum of \$ _____, as specified in the statement of account (or affidavit) attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)
4. (Check and complete appropriate category.)

A. UNSECURED CLAIM (AFFECTED CLAIM) OF \$ 1,239,377.40
 (other than as a customer contemplated by Section 262 of the Act)
 That in respect of this debt, I do not hold any assets of the debtor as security and
 (Check appropriate description.)

Regarding the amount of \$ 1,239,377.40 I do not claim a right to a priority.

Regarding the amount of \$ _____ I claim a right to a priority under Section 136 of the Act.
 (Set out on an attached sheet details to support priority claim.)

B. SECURED CLAIM OF \$ _____
 That in respect of this debt, I hold assets of the debtor valued at \$ _____ as security, particulars of which are as follows:
 (Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)


C. CONSTRUCTION LIEN CLAIM OF \$ _____
 That in respect of this debt I have registered a lien on title to the Debtors' real property in accordance with the *Construction Act* (Ontario), particulars of which are as follows:

(Give full particulars of the lien, including the date on which the lien was registered and the value secured by such lien, and attach a copy of any relevant documents, including any statement of claim).

- 5. That, to the best of my knowledge, I am (or the above-named creditor is) (or am not or is not) related to the debtor within the meaning of Section 4 of the Act, and have (or has) (or have not or has not) dealt with the debtor in a non- arm’s-length manner.
- 6. That the following are the payments that I have received from, the credits that I have allowed to, and the transfers at undervalue within the meaning of Subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of Section 4 of the Act or were not dealing with each other at arm’s length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Subsection 2(1) of the Act: (Provide details of payments, credits and transfers at undervalue.)

Dated at Toronto, Ontario, this 28 day of January, 2022.

Witness 


Creditor Authorized Signatory

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: A trustee may, pursuant to Subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 201(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.

DIRECTIONS FOR COMPLETION OF THIS FORM ARE ON THE REVERSE SIDE



CONDITIONAL CLAIM ADDENDUM

By checking the box below, you are electing for your Claim to be treated as a Conditional Claim (as defined in the Proposal). By electing for your claim to be treated as a Conditional Claim, you are recognizing that:

- a) One or more contractual conditions in your arrangements with the Company were not satisfied as at April 30, 2021 (referred to in the Proposal as "Conditional Claim Conditions");
- b) You are undertaking to complete all Conditional Claim Conditions and provide proof of such completion by no later than the Conditional Claim Completion Deadline; and
- c) You understand that the failure to complete all Conditional Claim Conditions by the Conditional Claim Completion Deadline will result in your Claim being fully, finally and irrevocably disallowed.

I hereby elect for my Claim to be treated as a Conditional Claim:

Creditor Authorized Signatory

CHECKLIST FOR PROOF OF CLAIM

This checklist is provided to assist you in preparing the accompanying proof of claim form and, where required, proxy form in a complete and accurate manner. Please specifically check each requirement.

Under Section 109 of the *Bankruptcy and Insolvency Act* only those creditors who have filed their claims in the proper form with the trustee, before the time appointed for the meeting, are entitled to vote at the meeting.

Section 124 states that every creditor shall prove his claim and the creditor who does not prove his claim is not entitled to share in any distribution that may be made.

General

- The signature of a witness is required;
- The claim must be signed personally by the individual completing this declaration;
- Provide the complete address and email address where all notices or correspondence are to be forwarded;
- The amount of the statement of account must correspond to the amount indicated on the proof of claim.

Notes:

- It is permissible to file a proof of claim by email.
- A creditor may vote either in person (be videoconference) or by proxy at any meeting of creditors if the proof of claim is filed with the trustee prior to the time appointed for the meeting.
- A quorum at any meeting of creditors consists of at least one creditor with a valid proof of claim in attendance in person or by proxy.
- A corporation may vote through an authorized agent or mandatary at meetings of creditors.
- In order for a duly authorized person to have a right to vote, they must be a creditor or be the holder of a properly executed proxy. The name of the creditor must appear in the proxy.
- A creditor who is participating in any distribution from an estate must have filed a proof of claim prior to the distribution being declared.
- In the case of an individual bankrupt, by checking the appropriate box or boxes at the bottom of the proof of claim form, you may request that the trustee advise you of any material change in the financial situation of the bankrupt or the amount the bankrupt is required to pay into the bankruptcy, and a copy of the trustee's report on the discharge of the bankrupt.

Paragraph 1

- Creditor must state full and complete legal name of company or firm;
- If the individual completing the proof of claim is not the creditor himself, he/she must state his/her position or title.

Paragraph 3

- The amount owing must be set out in paragraph 3.
- A detailed statement of account must be attached to the proof of claim and must show the date, the number and the amount of all the invoices or charges, together with the date, the number and the amount of all credits or payments. A statement of account is not complete if it begins with an amount brought forward.

Paragraph 4

- **Paragraph A** applies to ordinary unsecured claims, referred to as Affected Claims in the Proposal. In addition to recording the amount of the claim, please indicate whether the claim has a priority pursuant to Section 136 of the Act.

- **Paragraph B** applies to secured claims. Please indicate the dollar value of the security and attach copies of the security document. In addition, please attach copies of the security registration documents, where appropriate.
- **Paragraph C** applies to builders lien claims, referred to as Construction Lien Claims in the Proposal. Please indicate the dollar value of the claim.

Paragraph 5

- All claimants must indicate whether or not they are related to the debtor, as defined in Section 4 of the Act, or dealt with the debtor in a non-arm's-length manner.

Paragraph 6

- All claimants must attach a detailed list of all payments or credits received or granted, as follows:
 - a) Within the three (3) months preceding the initial bankruptcy event (including the bankruptcy or the proposal), in the case where the claimant and the debtor are not related;
 - b) Within the twelve (12) months preceding the initial bankruptcy event (including the bankruptcy or the proposal), in the case where the claimant and the debtor were not dealing at arm's length.

Conditional Claim Addendum

- All claimants who want their claim to be treated as a Conditional Claim (as defined in the proposal) must complete the Addendum by checking the box and signing where indicated.
- Conditional Claims apply where the claimant has not completed one or more conditions precedent to establishing its entitlement to payment from the Company prior to April 30, 2021 (referred to as Conditional Claim Conditions in the Proposal).
- If the Conditional Claim Addendum is completed, the claimant will have until the Conditional Claim Completion Deadline to provide the Proposal Trustee with proof of completion of all Conditional Claim Conditions. If the Conditional Claim Addendum is not completed, the claimant's claim will be treated as an ordinary claim.

APPOINTING PROXY

Note: The Act permits a proof of claim to be made by a duly authorized representative of a creditor but, in the absence of a properly executed proxy, does not give such an individual the power to vote at the first meeting of creditors nor to act as the proxyholder of the creditors.

General

- In order for duly authorized persons to have a right to vote, they must themselves be creditors or be the holders of a properly executed proxy. The name of the creditor must appear in the proxy.

Notes:

- A creditor may vote either in person or by proxyholder.
- A proxy may be filed by no later than one Business Day prior to the meeting of creditors.
- A proxy can be filed with the trustee in person, by mail or by any form of telecommunication.
- A proxy does not have to be under the seal of a corporation unless required by its incorporating documents or its bylaws.
- The individual designated in a proxy cannot be substituted unless the proxy provides for a power of substitution.
- Bankrupts/debtors may not be appointed as proxyholders to vote at any meeting of their creditors.
- The trustee may be appointed as a proxyholder for any creditor.
- A corporation cannot be designated as a proxyholder.

IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.

District of: Ontario
Division No: 09 - Toronto
Consolidated Court File No.: 31-2734090

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF HEYLA VETTYVEL

GOWLING WLG (CANADA) LLP

Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

C. Haddon Murray (#61640P)

T: 416-862-3604
haddon.murray@GowlingWLG.com

Elie Laskin (#80044Q)

T: 416-862-3621
elie.laskin@GowlingWLG.com

Lawyers for the plaintiff, CBRE Limited

Email for party served:

hfogul@airdberlis.com; dporter@airdberlis.com; bkofman@ksvadvisory.com;
mvininsky@ksvadvisory.com; mtallat@ksvadvisory.com;
rschwill@dwpv.com;nrenner@dwpv.com; gruber@bennettjones.com;
mightonj@bennettjones.com;jdietrich@cassels.com; mwunder@cassels.com;
jbornstein@cassels.com; sthaker@lolg.ca;slaubman@lolg.ca;
mgottlieb@lolg.ca; djmiller@tgf.ca; asoutter@tgf.ca; jmaclellan@blg.com;
sroy@litigate.com; agrossman@litigate.com; stalebi@litigate.com;
george@chaitons.com;jgibson@naymarklaw.com; dneyark@naymarklaw.com;
carmstrong@goodmans.ca;mdunn@goodmans.ca; jbsugar@sugarlawgroup.com;
pcho@weirfoulds.com;rsb@botnicklaw.com; duvernet@gsnh.com;
jkanji@osler.com; lbruschetta@osler.com;brendanbowles@glaholt.com;
johnpaulventrella@glaholt.com;christopher.statham@devrylaw.ca

TAB 3

District of: Ontario
Division No: 09 - Toronto
Consolidated Court File No.: 31-2734090

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3 AS AMENDED

**IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.**

AFFIDAVIT OF EDWARD DOWBIGGIN

I, Edward (Ted) Dowbiggin, of the City of Toronto, in the Province of Ontario,

MAKE OATH AND SAY:

1. I am the President of Cresford Capital Inc., which is related to Cresford (Rosedale) Developments Inc. ("**Cresford**"). I was the President of Cresford Capital Inc. from 2011 until March 2022. Cresford is related to the corporations that are the parents (collectively, the "**Cresford Group**") of YG Limited Partnership and YSL Residences Inc. ("**YSL**"), and therefore, I have knowledge of the matters contained in this affidavit. Where I have received and relied on information provided to me by others, I verily believe that information to be true.
2. Cresford is a real estate developer operating primarily in Ontario. The Cresford Group incorporated companies for the purposes of developing properties. YSL was incorporated for the purposes of developing the property located at 363-391 Yonge Street and 3 Gerrard Street East (the "**YSL Property**").

3. Various Cresford Group corporations owned other properties in Toronto for the purpose of development. These development properties were located at 484 Yonge Street ("**Halo**"), 33 Yorkville Ave ("**Yorkville**"), and 587 Yonge Street ("**Clover**"). The corporations related to each of the above properties have been subject to insolvency proceedings.

My Background

4. I began working at Cresford Capital Inc. in 2002 and became the President in 2011 until March 2022. I am no longer involved in the Cresford Group.
5. I have worked in the real estate industry for over 50 years. I began around 1970 as a real estate broker, largely selling new homes. Around 1984, I started my own brokerage which focused on selling commercial land for office and retail development. From about 1991 to 1993, I worked for Canada Deposit Insurance Corporation. From about 1993 to 2000, I worked for TD Securities selling mortgage-backed securities. And around 2000, I worked with the Real Estate Transaction group at Deloitte.
6. I have been involved in approximately 500 real estate deals since I began working in the real estate industry.

Relationship with CBRE

7. I have been working with CBRE since about 1992, when I was working at Canada Deposit Insurance Corporation. At that time, CBRE was involved in the sales of

numerous properties for Canada Deposit and I worked largely with Peter Senst, a real estate sales representative at CBRE.

8. When I joined Cresford, Mr. Senst introduced me to Casey Gallagher, another CBRE sales representative. CBRE, through its real estate representatives Mr. Senst and Mr. Gallagher, sold the Cresford Group the YSL Property, Halo, and Yorkville. A Cresford Group corporation bought the Clover property directly from the vendor.

CBRE's Involvement in the Sale of the YSL Property

9. In January of 2020, I called Mr. Gallagher to ask if CBRE would be the exclusive listing brokerage for the sale of the YSL Property. I explained that Cresford was experiencing financial difficulties and wanted to free up the equity it had in the YSL Property. I asked CBRE to prepare a list of potential purchasers that they could introduce Cresford/YSL to who would be good candidates to purchase the YSL Property.
10. I contacted Mr. Gallagher both because CBRE had prior experience with the YSL Property, having sold it to Cresford/YSL, and because I believe they were the two best real estate sales representatives in Toronto to find a buyer for a development property in the price range of the YSL Property.

YSL's Agreement with CBRE

11. Mr. Gallagher agreed that CBRE would be the exclusive listing brokerage for the YSL Property during my initial call with him in January 2020. I directed CBRE to begin reaching out to potential purchasers on behalf of Cresford/YSL.
12. There was no written agreement between YSL and Cresford at that time. However, based on our discussions and my experience in the real estate industry (including my understanding of with the standard terms on which real estate brokers like CBRE are engaged), I understood that we had an agreement (the "**Oral Agreement**") that CBRE would introduce Cresford/YSL to potential purchasers for the YSL Property and, should one of those purchasers ultimately acquire the property, CBRE would be entitled to a commission of 0.65% of whatever consideration was given for the property (the "**Commission**"). The Commission would be owed to CBRE if the purchase was related to their introduction.
13. I understood that CBRE's entitlement to Commission was not dependent on whether the YSL Property sold in a certain time frame. The value provided by CBRE was the introduction of Cresford/YSL to a purchaser, not selling within a set period of time.
14. Based on my experience in the industry, the Commission was typical for a deal of similar nature to the YSL Property. In particular, with respect to the entitlement to the Commission, it was common for negotiations to take place over months for deals of this size. This was the case with the YSL Property.

15. I considered the Oral Agreement to be binding and it was clear in my mind that CBRE was engaged as YSL's exclusive listing brokerage.
16. In February 2020, after I had an initial call with Mr. Gallagher, I went to the CBRE office to further discuss the sale of the YSL Property and in particular, CBRE's marketing approach. I met with Mr. Gallagher and Mr. Senst and who suggested that CBRE introduce YSL to Concord Adex ("**Concord**"), Menkes Developments Ltd. ("**Menkes**"), Lanterra Developments Ltd. ("**Lanterra**"), and Westbank Corp. ("**Westbank**").
17. On February 21, 2020, CBRE sent me an email attaching a contract (the "**Written Agreement**") and mandate letter ("**Mandate Letter**") for the engagement of CBRE as YSL's exclusive listing brokerage. The email and attachments are Exhibits H-J of the Affidavit of Casey Gallagher (the "**Gallagher Affidavit**").
18. Although I reviewed the Written Agreement and Mandate Letter when I received them, I did not sign the Written Agreement. My failure to execute the Written Agreement was inadvertent. I was very busy at the time dealing with Cresford's operations and financial difficulties and the Written Agreement was not a high priority as it merely confirmed and expanded on the terms of the Oral Agreement.

CBRE Introduced YSL to Concord

19. On February 24, 2020, Mr. Gallagher emailed me to say that Terry Hui, Concord's Chief Executive Officer, wanted to meet with a principle at Cresford. Mr. Gallagher's email is attached as Exhibit K to the Gallagher Affidavit.

20. Because I was in Mexico at this time, CBRE proposed an initial conference call introduction between Concord and YSL.
21. CBRE arranged the call that took place on February 25, 2020 between myself, Gabriel Leung (Concord's Vice President, Development), and Mr. Gallagher. The purpose of the call was to discuss Concord's potential purchase of the YSL Property. A copy of the email where CBRE arranged the introduction call is attached as Exhibit L to the Gallagher Affidavit.
22. After this introduction call, I flew from Mexico to Vancouver in order to meet with Mr. Hui in order to discuss the potential deal between YSL and Concord. CBRE organized the meeting.
23. Following the meeting, I began working directly with Concord (largely, with Gabriel Leung and Cliff McCracken, Concord's Senior Vice President). I did not expect CBRE to be involved in this stage of Cresford/YSL's relationship with Concord.
24. Although the proposed structure and mechanism of the deal between Cresford and Concord went through many iterations, negotiations were ongoing from the point of Concord's introduction until Cresford and Concord agreed that the property would be sold through a proposal made pursuant to section 50(2) of the *Bankruptcy and Insolvency Act* ("**BIA**"). But for CBRE introducing Concord, the sale would not have occurred.
25. Despite Cresford/YSL working directly with Concord after CBRE's introduction, I continued to reach out to Mr. Gallagher and Mr. Senst to get advice about the sale to Concord and the market conditions generally:

- a. Around March 10, 2020, I had a call with Mr. Gallagher and Mr. Senst and they provided information about the market generally in order to inform YSL's negotiations with Concord. A copy of an email prior to that meeting is attached as Exhibit R to the Gallagher Affidavit; and
 - b. I had another call with Mr. Gallagher and Mr. Senst on May 15, 2020 about the status of the deal with Concord. The calendar invitation for that meeting is attached as Exhibit Y to the Gallagher Affidavit.
26. In accordance with our agreement, CBRE also introduced YSL (by way of either arranging meetings or connecting via email) to at least seven¹ other potential purchasers for the YSL Property.

CBRE is Entitled to the Commission

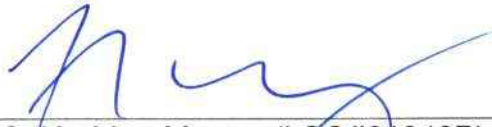
27. On April 30, 2021, YSL and YG Limited Partnership filed notices of intention to make a proposal pursuant to section 50(1) of the BIA (the “**Proposal Proceedings**”). I understand that CBRE filed a claim in the Proposal Proceedings in respect of the Commission.
28. On February 1, 2022, Dave Mann, of Cresford, responded to an email from Mitch Vininsky of KSV Restructuring Inc., the proposal trustee (“**Proposal Trustee**”), requesting information regarding CBRE’s Claim. Mr. Mann informed the Proposal Trustee that YSL did have an agreement with CBRE on the fees to be paid to CBRE, CBRE introduced Concord, and CBRE performed services throughout the

¹ Menkes, Lanterra, Westbank, Diamante Development, OneProperties, Tricon Residential and Robert Hiscox (on behalf of Constantine Enterprises Inc.).

sale process. I agree with the statements in Mr. Mann's email which is attached as attached as **Exhibit A** to my affidavit.

29. YSL did not pay CBRE the Commission because it was insolvent. CBRE performed all of the duties that were asked of it as exclusive listing brokerage including introducing Cresford Group/YSL to Concord, who ultimately purchased the YSL Property. Based on my understanding of the agreement between YSL and CBRE, CBRE is entitled to the Commission.

SWORN before me at the City of Toronto
in Province of Ontario on July 25, 2022.

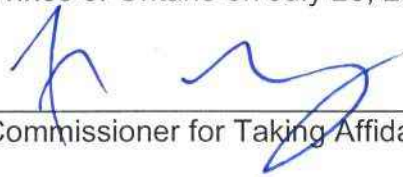


C. Haddon Murray (LSO#61640P)
(or as may be)



EDWARD (TED) DOWBIGGIN

This is "Exhibit "A" referred to in the Affidavit of
Ted Dowbiggin,
sworn before me at the City of Toronto, in the
Province of Ontario on July 25, 2022.



A Commissioner for Taking Affidavits

From: Dave Mann <dmann@cresford.com>
Date: Tue, 1 Feb 2022 at 08:52
Subject: RE: CBRE's Proof of Claim - YSL Residences Inc.
To: Mitch Vininsky <mvininsky@ksvadvisory.com>
Cc: Murtaza Tallat <mtallat@ksvadvisory.com>, dowbigginted@gmail.com <dowbigginted@gmail.com>

Hi Mitch,

I spoke to Ted and he did have a meeting with CBRE in early 2020. There was an agreement made on the fees to be paid to CBRE. There was nothing in writing but this was normal practice with the two parties. Concord was introduced by CBRE and they performed services throughout the process. The claim is correct.

Thanks

From: Mitch Vininsky [mailto:mvininsky@ksvadvisory.com]
Sent: January 28, 2022 2:43 PM
To: Dave Mann <dmann@cresford.com>
Cc: Murtaza Tallat <mtallat@ksvadvisory.com>
Subject: FW: CBRE's Proof of Claim - YSL Residences Inc.

Dave,

We received this claim today. Can you provide us with background and a copy of whatever agreement was signed with CBRE?



Mitch Vininsky

Managing Director

T 416.932.6013

M 416.254.4912

W www.ksvadvisory.com

From: Laskin, Elie <Elie.Laskin@gowlingwlg.com>
Sent: January 28, 2022 12:27 PM
To: Mitch Vininsky <mvininsky@ksvadvisory.com>
Cc: Vettyvel, Heyla <Heyla.Vettyvel@gowlingwlg.com>
Subject: CBRE's Proof of Claim - YSL Residences Inc.

Hi Mr. Vininsky,

I hope you're well. I am counsel to CBRE Limited, in respect of the non-payment of fees owing by YSL Residences Inc. and Cresford Developments Inc.

I spoke to Harry Fogul earlier and understand that KSV is trustee to YSL's bankruptcy proceedings, but assets have not yet been distributed. CBRE was not notified of this bankruptcy which is why it did not submit a Proof of Claim. I've attached CBRE's Proof of Claim here in hopes that you will accept it, given the circumstance.

Please let me know if you have any questions.

I hope to hear from you soon.

Kind regards,

Elie

Elie Laskin
Associate

T +1 416 862 3621

M +1 647 966 1217

elie.laskin@gowlingwlg.com

Gowling WLG (Canada) LLP
Suite 1600, 1 First Canadian Place
100 King Street West
Toronto ON M5X 1G5
Canada

gowlingwlg.com

Gowling WLG | 1,400+ legal professionals | 18 offices worldwide

The information in this email is intended only for the named recipient and may be privileged or confidential. If you are not the intended recipient please notify us immediately and do not copy, distribute or take action based on this email. If this email is marked 'personal' Gowling WLG is not liable in any way for its content. E-mails are susceptible to alteration. Gowling WLG shall not be liable for the message if altered, changed or falsified.

Gowling WLG (Canada) LLP is a member of Gowling WLG, an international law firm which consists of independent and autonomous entities providing services around the world. Our structure is explained in more detail at www.gowlingwlg.com/legal.

References to 'Gowling WLG' mean one or more members of Gowling WLG International Limited and/or any of their affiliated businesses as the context requires. Gowling WLG (Canada) LLP has offices in Montréal, Ottawa, Toronto, Hamilton, Waterloo Region, Calgary and Vancouver.

This communication is intended only for the party to whom it is addressed, and may contain information which is privileged or confidential. Any other delivery, distribution, copying or disclosure is strictly prohibited and is not a waiver of privilege or confidentiality. If you have received this telecommunication in error, please notify the sender immediately by return electronic mail and destroy the message.

IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.

District of: Ontario
Division No: 09 - Toronto
Consolidated Court File No.: 31-2734090

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF EDWARD DOWBIGGIN

GOWLING WLG (CANADA) LLP

Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

C. Haddon Murray (#61640P)

T: 416-862-3604
haddon.murray@GowlingWLG.com

Elie Laskin (#80044Q)

T: 416-862-3621
elie.laskin@GowlingWLG.com

Lawyers for the plaintiff

Email for party served:

Harry Fogul - hfogul@airdberlis.com
Bobby Kofman - bkofman@ksvadvisory.com
Robin Schwill - rschwill@dwpv.com
David Gruber - gruberd@bennettjones.com
Jane Dietrich - jdietrich@cassels.com
Matthew Gottlieb - mgottlieb@olg.ca
D.J. Miller - djmiller@tgf.ca
James MacLellan - jmaclellan@blg.com
Shara N. Roy - sroy@litigate.com
George Benchetrit - george@chaitons.com
Jamie Gibson - jgibson@naymarklaw.com
Christopher Armstrong - carmstrong@goodmans.ca
Joshua B. Sugar - jbsugar@sugarlawgroup.com
Philip Cho - pcho@weirfoulds.com
Reuben S. Botnick - rsb@botnicklaw.com
Kaleigh Du Vernet - duvernet@gsnh.com
Justin Kanji - jkanji@osler.com
Brendan Bowles - brendanbowles@glaholt.com
Christopher Statham - christopher.statham@devrylaw.ca

TAB 4

District of: Ontario
Division No: 09 - Toronto
Consolidated Court File No.: 31-2734090

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3 AS AMENDED

**IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.**

SUPPLEMENTARY AFFIDAVIT OF HEYLA VETTYVEL

I, Heyla Vettyvel, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a lawyer with Gowling WLG (Canada) LLP, solicitors and duly authorized agents of CBRE Limited (“**CBRE**”) and, as such, have knowledge of the matters contained in this affidavit. Where I have received and relied on information provided to me by others, I verily believe that information to be true.
2. This affidavit is a supplement to my initial affidavit, sworn July 22, 2022 (the “**Initial Affidavit**”). Capitalized terms that are not defined in this affidavit have the meaning set out in the Initial Affidavit.
3. At paragraph 13 of my Initial Affidavit sworn July 22, 2022 I referred to the Notice of Disallowance of the Proposal Trustee dated February 10, 2022. The Notice of Disallowance is attached at **Exhibit A** to this supplementary affidavit.

- 4. Attached as **Exhibit B** to this affidavit is an email from Jesse Mighton, counsel to Concord, to counsel to CBRE, the Cresford Group and the Proposal Trustee dated February 11, 2022, stating that Mr. Hui of Concord “acknowledges that CBRE made an initial introduction to Ted Dowbiggin (Cresford)”.

SWORN by video conference by Heyla Vettyvel at the City of Toronto, in the Province of Ontario before me at the City of Toronto on July 27, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



DocuSigned by:
Elie Laskin
 BAAD7B19897B4D2...

**Commissioner for Taking Affidavits
 (Elie Laskin LSO #80044Q)**
 (or as may be)

DocuSigned by:
Heyla Vettyvel
 8BEBB2814D694A0...

Heyla Vettyvel

This is Exhibit A referred to in the Affidavit of
Heyla Vettyvel,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 27,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Elio Laskin

BAAD7B19897B4D2

A Commissioner for Taking Affidavits



Mitch Vininsky
ksv advisory inc.

150 King Street West, Suite 2308
Toronto, Ontario, M5H 1J9
T +1 416 932 6013
F +1 416 932 6266
mvininsky@ksvadvisory.com
ksvadvisory.com

February 10, 2022

DELIVERED BY EMAIL AND REGISTERED MAIL

Elie Laskin
Gowling WLG (Canada) LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON M5X 1G5

Dear Ms. Laskin:

Re: The Proposal of YSL Residences Inc. and YG Limited Partnership (together, the “Company”)

KSV Restructuring Inc., in its capacity as proposal trustee of the Company, acknowledges receipt of the proof of claim filed in your capacity as counsel to CBRE Limited in the amount of \$1,239,377.40.

We have disallowed the claim for the reasons outlined in the attached notice.

Should you have any questions regarding this matter, do not hesitate to contact the undersigned.

Yours very truly,

KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YSL RESIDENCES INC. AND YG LIMITED PARTNERSHIP
AND NOT IN ITS PERSONAL CAPACITY

A handwritten signature in blue ink, appearing to read 'M. Vininsky', written over a circular stamp or mark.

Per: Mitch Vininsky

MV:rk
Encl.

**ksv advisory inc.**

150 King Street West, Suite 2308

Toronto, Ontario, M5H 1J9

T +1 416 932 6262

F +1 416 932 6266

ksvadvisory.com

Estate File No.: 31-2734090

**IN THE MATTER OF THE PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**NOTICE OF DISALLOWANCE OF CLAIM
(Subsection 135(3) of the *Bankruptcy and Insolvency Act* (“Act”))**

TAKE NOTICE THAT, as Proposal Trustee acting in the matter of the Proposal of YSL Residences Inc. (“Residences”) and YG Limited Partnership Inc. (the “Partnership” and together with Residences, the “Companies”), we have this day disallowed your claim. The reason for the disallowance is as follows:

- The claim is in respect of an invoice submitted by CBRE Limited (“CBRE”) to “Cresford” dated October 13, 2021 in the amount of \$1,096,794.16 plus HST (the “Invoice”). The Invoice refers to services rendered by CBRE in connection with serving as the exclusive listing brokerage for the land located at 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario, (the “Property”). The Property was to be developed by the Companies into a significant condominium project.
- A demand letter dated November 26, 2021 from CBRE to the Companies (the “CBRE Letter”) references that the Invoice was issued in respect of an Exclusive Sales Listing Agreement dated February 20, 2020 (the “Agreement”) between CBRE and the Companies, pursuant to which the Companies “agreed to pay commission equivalent to 0.65% of the Gross Sale Price of the Property” (the “Commission”). The CBRE Letter further states that “CBRE has complied with and performed its obligations under the Agreement.” The term of the Agreement is six months from February 20, 2020 to August 20, 2020 (the “Term”). The Agreement is appended to the CBRE Letter and it is unsigned.
- The Property was conveyed on or about July 22, 2021 (the “Conveyance”) to Concord Adex Inc., an entity related to Concord Properties Developments Corp., the eventual sponsor (“Sponsor”) of the Companies’ Proposal proceedings which were commenced on April 30, 2021.

- Dave Mann, CFO of the Cresford Group of Companies (“Cresford”) advised the Proposal Trustee that CBRE introduced Cresford to the Sponsor. The Sponsor advised the Proposal Trustee that “Cresford, through its representative Ted Dowbiggin, first approached Concord in early 2020 to discuss four of Cresford's distressed projects, however Concord did not have any interest in the YSL project at this time.” and that “In September/October 2020, Cresford re-engaged Concord to discuss the YSL project, after it had canvassed a number of other developers. After this outreach in fall 2020 until the time of the proposal proceedings, Cresford and Concord were consistently engaged to explore potential alternatives for the YSL project”.
- The Agreement states the following with regards to the Commission:
 - *“The Commission shall be earned by the Brokerage in the event that **during the Term:** (a) the Owner enters into a binding agreement of purchase and sale for the Property with a purchaser procured by the Brokerage, the Owner or from any other source whatsoever, and such sale closes; or (b) the Owner is a corporation, partnership or other business entity and an interest in such corporation, partnership or other business entity is transferred, whether by merger or outright purchase or otherwise in lieu of sale of the Property.”*
- Furthermore, the Agreement has a holdover clause which states that:
 - *“The Owner further agrees to pay the Brokerage the Commission **if, within 90 calendar days after the expiration of the Term,** the Property is sold to, or the Owner enters into an agreement of purchase and sale for the Property with, or negotiations continue, resume or commence and thereafter continue leading to the execution of a binding agreement of purchase and sale for the Property, provided the transaction subsequently closes, with any person or entity (including his/her/its successors, assigns or affiliates) with whom the Brokerage has negotiated (either directly or through another agent) or to whom the Property was introduced or submitted, from any source whatsoever, or to whom the Owner was introduced, from any source whatsoever, prior to the expiration of the Term; with or without the involvement of the Brokerage.”*
- The Proposal Trustee has disallowed the claim in full as:
 - The Agreement is not signed and therefore is not binding;
 - The Sponsor advised that at all times it dealt directly with the Companies and that it did not have any dealings with CBRE;
 - The Conveyance does not meet the definition of an event giving rise to a Commission; and
 - To the extent any Commission could apply, which is denied, the Commission was not earned during the Term, or within the 90 calendar days following the expiration of the Term.

AND FURTHER TAKE NOTICE, that if you are dissatisfied with our decision in disallowing your claim as set out above, you may appeal to the Ontario Superior Court of Justice ("Court") within the 30-day period after the day on which this notice is served, or within such other period as the Court may, on application made within the same 30-day period, allow.

DATED at Toronto, Ontario, this 10th day of February, 2022.

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.
AND NOT IN ITS PERSONAL CAPACITY**

This is Exhibit B referred to in the Affidavit of
Heyla Vettyvel,
sworn remotely before me at the City of
Toronto, in the Province of Ontario, on July 27,
2022, in accordance with [O. Reg. 431/20](#),
Administering Oath or Declaration Remotely.

DocuSigned by:

Elio Laskin

BAAD7B19897B4D2

A Commissioner for Taking Affidavits

From: [Jesse Mighton](#)
To: [Laskin, Elie](#)
Cc: [Vettyvel, Heyla](#); [Harry Fogul](#); [Mitch Vininsky](#); [Schwill, Robin](#); [David Gruber](#)
Subject: RE: Acknowledgement re CBRE / 363 Yonge Sale to Concord [BJ-WSLegal.FID5464265]
Date: February-11-22 2:53:57 PM
Attachments: [image001.png](#)

This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.

Hi Elie, we have discussed your email below with Mr. Hui. While he acknowledges that CBRE made an initial introduction to Ted Dowbiggin (Cresford), he does not have any knowledge of a brokerage agreement or similar arrangement between Cresford and CBRE relating to the project formerly known as Yonge Street Living (YSL) residences.

We have copied the Proposal Trustee and Cresford's counsel on this email to provide all parties with visibility.

Sincerely,



Jesse Mighton
Associate, Bennett Jones LLP

T. [416 777 6255](tel:4167776255) | F. [416 863 1716](tel:4168631716)
BennettJones.com

From: Laskin, Elie <Elie.Laskin@gowlingwlg.com>
Sent: Thursday, February 10, 2022 9:43 AM
To: Jesse Mighton <MightonJ@bennettjones.com>
Cc: Vettyvel, Heyla <Heyla.Vettyvel@gowlingwlg.com>
Subject: Acknowledgement re CBRE / 363 Yonge Sale to Concord

Hi Mr. Mighton,

I hope you are well. We are counsel to CBRE Limited. Quite a while ago, CBRE entered into a brokerage agreement with YSL Residences Inc. and Cresford Developments Inc. for the sale of the attached property. I understand you represented the buyer, Concord Adex.

You may know YSL Residences Inc. and Cresford Developments Inc. are currently in bankruptcy proceedings. CBRE is seeking to recover the commission fee from the sale of the property, which remains unpaid. I understand that Ted Dowbiggin (Cresford) confirmed CBRE's role with Terry Hui (Concord). However, we were asked to reach out to you for formal acknowledgment of CBRE's role as the broker on this deal. I'll then pass this acknowledgement along to the trustee who will decide whether to accept CBRE's claim.

Please let me know if you have any questions. I hope to hear from you soon.

Thanks,

Elie

Elie Laskin

Associate

T +1 416 862 3621

M + 1 647 966 1217

elie.laskin@gowlingwlg.com



The information in this email is intended only for the named recipient and may be privileged or confidential. If you are not the intended recipient please notify us immediately and do not copy, distribute or take action based on this email. If this email is marked 'personal' Gowling WLG is not liable in any way for its content. E-mails are susceptible to alteration. Gowling WLG shall not be liable for the message if altered, changed or falsified.

Gowling WLG (Canada) LLP is a member of Gowling WLG, an international law firm which consists of independent and autonomous entities providing services around the world. Our structure is explained in more detail at www.gowlingwlg.com/legal.

References to 'Gowling WLG' mean one or more members of Gowling WLG International Limited and/or any of their affiliated businesses as the context requires. Gowling WLG (Canada) LLP has offices in Montréal, Ottawa, Toronto, Hamilton, Waterloo Region, Calgary and Vancouver.

Bennett Jones is committed to protecting the health of our people, clients and communities. Proof of vaccination is required in order to enter our offices. Those who are not fully vaccinated should request to attend meetings via video or audio conference.

The contents of this message may contain confidential and/or privileged subject matter. If this message has been received in error, please contact the sender and delete all copies. If you do not wish to receive future commercial electronic messages from Bennett Jones, you can unsubscribe at the following link: <http://www.bennettjones.com/unsubscribe>

IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.

District of: Ontario
Division No: 09 - Toronto
Consolidated Court File No.: 31-2734090

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

SUPPLEMENTARY AFFIDAVIT OF HEYLA VETTYVEL

GOWLING WLG (CANADA) LLP

Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

C. Haddon Murray (#61640P)

T: 416-862-3604
haddon.murray@GowlingWLG.com

Elie Laskin (#80044Q)

T: 416-862-3621
elie.laskin@GowlingWLG.com

Lawyers for the plaintiff, CBRE Limited

Email for party served:

hfogul@airdberlis.com; dporter@airdberlis.com; bkofman@ksvadvisory.com;
mvininsky@ksvadvisory.com; mtallat@ksvadvisory.com;
rschwill@dwpv.com;nrenner@dwpv.com; gruber@bennettjones.com;
mightonj@bennettjones.com;jdietrich@cassels.com; mwunder@cassels.com;
jbornstein@cassels.com; sthaker@lolg.ca;slaubman@lolg.ca;
mgottlieb@lolg.ca; djmiller@tgf.ca; asoutter@tgf.ca; jmaclellan@blg.com;
sroy@litigate.com; agrossman@litigate.com; stalebi@litigate.com;
george@chaitons.com;jgibson@naymarklaw.com; dnamark@naymarklaw.com;
carmstrong@goodmans.ca;mdunn@goodmans.ca; jbsugar@sugarlawgroup.com;
pcho@weirfoulds.com;rsb@botnicklaw.com; duvernet@gsnh.com;
jkanji@osler.com; lbruschetta@osler.com;brendanbowles@glaholt.com;
johnpaulventrella@glaholt.com;christopher.statham@devrylaw.ca

TAB 5

District of: Ontario
Consolidated Court File No. 31-2734090
Division No: 09 – Toronto

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
COMMERCIAL LIST**

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C.
1985, c. B-3 AS AMENDED

**IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.**

AFFIDAVIT OF CHRIS WAI

I, CHRIS WAI, of the City of Vancouver, in the Province of British Columbia, make oath and say as follows:

1. I am a director of SixOne Investment Ltd., and as such have knowledge of the matters contained in this affidavit. The facts stated in this affidavit are within my personal knowledge. Where I do not have direct knowledge of the matters set out below, I have stated the source of my knowledge and believe it to be true.

The Limited Partners

2. YG Limited Partnership and YSL Residences Inc. (together, the “**Debtors**”) were, respectively, the beneficial and registered owners of certain lands in Toronto which were intended to be developed into a mixed-use condominium building (the “**YSL Project**”).
3. YG Limited Partnership is comprised of three kinds of partners:
 - (a) a general partner, 9615334 Canada Inc., a member of the Cresford Group;

- (b) holders of Class A Preferred Units (the “Class A LPs”); and
- (c) the holder of Class B Units (formerly a member of the Cresford Group).

4. The Class A LPs are as follows:

Limited Partners	Number of Class A Preferred Units	Capital Contribution
The “YongeSL LPs”		
YongeSL Investment Limited Partnership	7,100	\$7.1 million
2124093 Ontario Inc.	500	\$0.5 million
SixOne Investment Ltd.	1,000	\$1.0 million
E&B Investment Corporation	500	\$0.5 million
TaiHe International Group Inc.	1,000	\$1.0 million
The “Other Class A LPs”		
Chi Long Inc.	700	\$0.7 million
8451761 Canada Inc.	2,000	\$2.0 million
2504670 Canada Inc.	2,000	\$2.0 million
Total:	14,800	\$14.8 million

- 5. The YongeSL LPs represent approximately two-thirds (by value and number) of the Class A LPs. The Class A LPs collectively advanced the principal amount of \$14.8 million to YG Limited Partnership in exchange for their Class A Preferred Units.
- 6. Pursuant to the YG Limited Partnership partnership agreement, the Class A LPs are entitled to a preferred return from the proceeds of the YSL Project after its creditors are paid.

Background to this Proceeding

- 7. In April 2021, the Debtors filed Notices of Intention to Make a Proposal under the *Bankruptcy and Insolvency Act*.

8. KSV Restructuring Inc. was appointed as the Debtors' proposal trustee (in that capacity, the "**Proposal Trustee**").
9. The Debtors made their proposal in May 2021, which they amended twice in June 2021. The proposal, as amended, was approved by the Debtors' creditors in June 2021.
10. The Class A LPs opposed the approval of the Debtors' amended proposal on the basis that it was not made in good faith and was designed to prefer the interests of the Cresford Group.
11. Justice Dunphy agreed and refused to approve the proposal (*YG Limited Partnership and YSL Residences (Re)*, 2021 ONSC 4178). His Honour did, however, permit the Debtors to file a further amended proposal that addressed the concerns he identified in his reasons for refusing to allow the proposal. The Debtors did file such a further amended proposal (the "**Proposal**"), which Justice Dunphy approved (*YG Limited Partnership and YSL Residences (Re)*, 2021 ONSC 5206).
12. Generally, the Proposal provided for the transfer of the YSL Project lands to another developer, Concord (the "**Proposal Sponsor**"), the payment in full or assumption of secured and other priority claims, and the payment by the Proposal Sponsor of \$30.9 million. The Proposal provided that those funds would be distributed to the Debtors' unsecured creditors. If, after distribution of such amount to the unsecured creditors, there remains a surplus ("**Surplus**"), that Surplus will be distributed to the Class A LPs.
13. I understand that subject to the resolution of 3 outstanding claims (including CBRE's claim) in a manner favourable to the Debtors' estates, there will be amounts available to distribute to the Class A LPs. Depending on the resolution of these claims, such amounts

may be sufficient to repay the capital contributions of the Class A LPs in full, plus some return on investment.

- 14. The YongeSL LPs support the disallowance of CBRE’s claim against the Debtors in this proceeding.

SWORN before me via videoconference by CHRIS WAI, stated as being located in the City of Vancouver, in the Province of British Columbia, before me at the City of Toronto, in the Province of Ontario, this 19th day of August, 2022, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*.

Commissioner for Taking Affidavits, etc.

Alexander Sautler
 Barrister & Solicitor

CHRIS WAI

IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.

279

District of Ontario
Division No: 09- Toronto
Consolidated Court File No: 31-2734090

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
COMMERICAL LIST

Proceeding commenced at **Toronto**

AFFIDAVIT OF CHRIS WAI

Thornton Grout Finnigan LLP

TD West Tower, Toronto-Dominion Centre
100 Wellington Street West, Suite 3200
Toronto, ON M5K 1K7

D.J. Miller (LSO# 34393P)

Tel: (416) 304-0559
Email: djmiller@tgf.ca

Alexander Soutter (LSO# 72403T)

Tel: (416) 304-0595
Email: asoutter@tgf.ca

Lawyers for the YongeSL LPs

TAB 6

YG Limited Partnership v. YSL Residences Inc.

TED DOWBIGGIN
on Wednesday, August 31, 2022



77 King Street West, Suite 2020
Toronto, Ontario M5K 1A1

neesonsreporting.com | 416.413.7755

1 District of: Ontario
2 Consolidated Court File No. 31-2734090
3 Division No: 09 - Toronto
4 ONTARIO
5
6 SUPERIOR COURT OF JUSTICE
7 (IN BANKRUPTCY AND INSOLVENCY)
8 COMMERCIAL LIST
9
10 IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY
11 ACT, R.S.C. 1985, c. B-3 AS AMENDED
12
13 IN THE MATTER OF THE NOTICES OF INTENTION TO
14 MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP AND
15 YSL RESIDENCES INC.
16 -----
17 --- This is the Cross-examination of TED
18 DOWBIGGIN on his affidavit sworn July 25th,
19 2022, via Neesons, a Veritext Company's virtual
20 platform, on the 31st day of August, 2022.
21 -----
22
23
24
25

1 (All via virtual platform)

2 A P P E A R A N C E S:

3 Alexander Soutter, Esq., for the YongeSL LPs

4

5 C. Haddon Murray, Esq., for CBRE Limited

6 Elie Laskin, Esq.

7

8 Robin Schwill, Esq., for KSV Restructuring

9 Inc., in its capacity

10 as Proposal Trustee

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25 Reported by: Leila Heckert, CVR, RCP-M

I N D E X

PAGE

WITNESS: TED DOWBIGGIN

Examination by: Mr. Soutter.....6

The following list of undertakings, advisements
and refusals is meant as a guide only for the
assistance of counsel and no other purpose.

INDEX OF UNDERTAKINGS

The questions/requests undertaken are noted by
U/T and appear on the following page/line:
None.

INDEX OF ADVISEMENTS

The questions/requests taken under advisement
are noted by a U/A and appear on the following
page/line: None.

INDEX OF REFUSALS

The questions/requests refused are noted by R/F
and appear on the following page/line: None.

1	INDEX OF EXHIBITS	
2	NO. / DESCRIPTION	PAGE
3	None.	
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 -- Upon commencing at 2:31 P.M.

2 REPORTER'S NOTE: Whereupon the
3 following was read to all participants:

4 THE REPORTER: As you all know,
5 because we are using Zoom, we all need to take
6 extra care not to speak over one another.

7 If more than one person is talking, it
8 will cut out the audio for me. You may still be
9 able to hear each other, but as I will have both
10 incoming competing audio channels, one will
11 likely be completely cut out.

12 I will do my best to interrupt only
13 when appropriate, but often people won't
14 remember exactly what they've just said, and it
15 also breaks up your train of thought, so it's
16 best to try to slow down and wait until the
17 other person has finished speaking.

18 Would the witness please identify
19 himself and spell your first and last name?

20 THE WITNESS: Ted Dowbiggin, T-E-D,
21 D-O-W-B-I-G-G-I-N.

22 THE REPORTER: Our witness today is
23 TED DOWBIGGIN. I will now affirm the witness.

24 TED DOWBIGGIN: AFFIRMED.

25 EXAMINATION BY MR. SOUTTER:

1 1 Q. Mr. Dowbiggin, thank you for
2 being here today. You swore an affidavit in
3 this proceeding on July 25th, right?

4 A. That's right.

5 2 Q. Do you have that with you?

6 A. Do I have what?

7 MS. LASKIN: Do you have that with
8 you?

9 THE WITNESS: Yes, I do.

10 BY MR. SOUTTER:

11 3 Q. Is it a clean copy or do you have
12 notes on that affidavit?

13 A. It's a clean copy.

14 4 Q. Any other documents with you?

15 A. I guess this is the -- that's the
16 affidavit of Casey Gallagher.

17 5 Q. Do you have any notes on that?

18 A. No.

19 6 Q. Anything else?

20 MS. LASKIN: The Motion Record.

21 MR. SOUTTER: And any notes on that?

22 MS. LASKIN: No.

23 BY MR. SOUTTER:

24 7 Q. You were the president of
25 Crestwood Capital Inc. from 2011 until March

1 2022. Is that right?

2 A. That's right.

3 8 Q. I'm just going to ask you a few
4 other questions about your background here. You
5 say you have significant experience in the real
6 estate industry, right? And you say you've been
7 in the industry for over 50 years?

8 A. That's right.

9 9 Q. About 500 real estate deals?

10 A. Yes.

11 10 Q. And you've worked with Casey
12 Gallagher of CBRE before?

13 A. Yes, I did.

14 11 Q. How many times?

15 A. He sold us -- he sold us YSL. He
16 sold us Clover, which I think you were involved
17 in at some point. He sold us Yorkville, which I
18 think you were involved in, and Halo, he sold
19 us. He also sold us three properties prior to
20 that that were owned by the post office
21 through -- one of them being on Charles Street,
22 one of them on Avenue Road and one on Yonge and
23 Eglinton.

24 And previous to that, his partner,
25 Peter Senst, when I worked at Canada Trust, he

1 sold distressed properties for us. But Casey --
2 I'm trying to think if there's any other deals
3 that he sold to us. But, yeah, that's it, about
4 six properties.

5 12 Q. Okay. And so is it fair, then,
6 to say that you've worked with CBRE many times?

7 A. Multiple times since 1991 when I
8 was at Canada Deposit Insurance and then Canada
9 Trust.

10 13 Q. And many other times with real
11 estate brokerages as well, not just CBRE?

12 A. I gave up my brokerage -- is he
13 asking about my brokerage?

14 14 Q. Is it fair to say that you worked
15 with other real estate brokerages as well as
16 CBRE?

17 A. Oh, yeah, absolutely.

18 15 Q. In your affidavit you say that
19 sometime in January 2020 you had a telephone
20 call with Mr. Gallagher and Mr. Senst of CBRE,
21 right?

22 A. Right.

23 16 Q. And on that call you asked CBRE
24 to prepare a list of potential purchasers to
25 introduce to the YSL project?

1 A. That's right.

2 17 Q. We went over the business terms
3 of CBRE's involvement, right?

4 A. We did.

5 18 Q. We agreed on that .65 percent
6 commission?

7 A. We did.

8 19 Q. Around a month later, on February
9 21st, 2020, Mr. Gallagher sent you an email,
10 right?

11 A. He did.

12 20 Q. And that email enclosed a
13 document called "Exclusive Listing Agreement"
14 and it was dated February 20th, 2020, right?

15 A. Right.

16 21 Q. In your experience, is it
17 standard for listing brokerages to ask their
18 clients to sign a listing agreement?

19 A. Yeah, I mean, I would think so.
20 February 20th, I was in Mexico.

21 22 Q. Okay. I mean, you answered the
22 question.

23 And that agreement sets out the terms
24 governing the parties' relationship, right?

25 A. Right.

1 23 Q. So it's no surprise when you got
2 it?

3 A. No.

4 24 Q. You say later in your affidavit
5 that you inadvertently did not sign the listing
6 agreement, right?

7 A. Right.

8 25 Q. So you meant to sign it?

9 A. What's that?

10 26 Q. You meant to sign it?

11 A. I meant to sign it.

12 27 Q. You intended to?

13 A. Yes, absolutely.

14 28 Q. You just got busy?

15 A. (No response.)

16 29 Q. That was a question. You just
17 became busy?

18 MS. LASKIN: He asked: Did you become
19 busy?

20 THE WITNESS: Well, first of all, I
21 was in Mexico and so I didn't really have the
22 ability to get it back to them. And then I went
23 to Vancouver to meet Mr. Hui, who was with
24 Concorde, he was the CEO of Concorde. So I
25 think it just felt between the cracks at that

1 point.

2 BY MR. SOUTTER:

3 30 Q. But the parties acted as though
4 it was signed?

5 A. Yeah, I mean, we had a 30-year
6 relationship and, you know, nobody questioned.

7 31 Q. Okay. Those are my questions for
8 Mr. Dowbiggin.

9 (Whereupon this examination concludes
10 at 2:38 P.M.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, LEILA HECKERT, CVR, Certified
Verbatim Reporter, certify;

That the foregoing proceedings were
taken before me at the time and place therein
set forth at which time the witness was put
under oath by me;

That the testimony of the witness and
all objections made at the time of the
examination were recorded digitally by me and
were thereafter transcribed;

That the foregoing is a true and
accurate transcript of my shorthand notes so
taken. Dated this 31st day of August 2022.



PER: LEILA HECKERT

CERTIFIED VERBATIM REPORTER

WORD INDEX

< 0 >

09 1:3

< 1 >

1 6:1
10 7:11
11 7:14
12 8:5
13 8:10
14 8:14
15 8:18
16 8:23
17 9:2
18 9:5
19 9:8
1985 1:11
1991 8:7

< 2 >

2 6:5
2:31 5:1
2:38 11:10
20 9:12
2011 6:25
2020 8:19 9:9,
14
2022 1:19, 20
7:1 12:16
20th 9:14, 20
21 9:16
21st 9:9
22 9:21
23 10:1
24 10:4
25 10:8
25th 1:18 6:3
26 10:10
27 10:12
28 10:14
29 10:16

< 3 >

3 6:11
30 11:3
30-year 11:5
31 11:7
31-2734090 1:2
31st 1:20 12:16

< 4 >

4 6:14

< 5 >

5 6:17
50 7:7
500 7:9

< 6 >

6 6:19
65 9:5

< 7 >

7 6:24

< 8 >

8 7:3

< 9 >

9 7:9

< A >

ability 10:22
absolutely 8:17
10:13
accurate 12:15
ACT 1:11
acted 11:3
advisement 3:17
advisements
3:7, 16
affidavit 1:18
6:2, 12, 16 8:18
10:4
affirm 5:23
AFFIRMED 5:24
agreed 9:5
Agreement 9:13,
18, 23 10:6
Alexander 2:3
AMENDED 1:11
answered 9:21
appear 3:13, 18,
23
appropriate 5:13
asked 8:23
10:18
asking 8:13
assistance 3:9
audio 5:8, 10
August 1:20
12:16
Avenue 7:22

< B >

B-3 1:11
back 10:22
background 7:4

BANKRUPTCY

1:7, 10
best 5:12, 16
breaks 5:15
brokerage 8:12,
13
brokerages
8:11, 15 9:17
business 9:2
busy 10:14, 17,
19

< C >

call 8:20, 23
called 9:13
Canada 7:25
8:8
capacity 2:9
Capital 6:25
care 5:6
Casey 6:16
7:11 8:1
CBRE 2:5 7:12
8:6, 11, 16, 20, 23
CBRE's 9:3
CEO 10:24
CERTIFICATE
12:1
Certified 12:4,
21
certify 12:5
channels 5:10
Charles 7:21
clean 6:11, 13
clients 9:18
Clover 7:16
commencing
5:1
COMMERCIAL
1:8
commission 9:6
Company's 1:19
competing 5:10
completely 5:11
concludes 11:9
Concorde 10:24
Consolidated
1:2
copy 6:11, 13
counsel 3:9
Court 1:2, 6
cracks 10:25
Crestwood 6:25

**Cross-
examination**

1:17
cut 5:8, 11
CVR 2:25 12:4

< D >

dated 9:14
12:16
day 1:20 12:16
deals 7:9 8:2
Deposit 8:8
digitally 12:12
distressed 8:1
District 1:1
Division 1:3
document 9:13
documents 6:14
DOWBIGGIN
1:18 3:3 5:20,
23, 24 6:1 11:8
**D-O-W-B-I-G-G-I-
N** 5:21

< E >

Eglinton 7:23
Elie 2:6
email 9:9, 12
enclosed 9:12
Esq 2:3, 5, 6, 8
estate 7:6, 9
8:11, 15
exactly 5:14
Examination
3:4 5:25 11:9
12:12
Exclusive 9:13
EXHIBITS 4:1
experience 7:5
9:16
extra 5:6

< F >

fair 8:5, 14
February 9:8,
14, 20
felt 10:25
File 1:2
finished 5:17
following 3:7,
13, 18, 23 5:3
foregoing 12:6,
14
forth 12:8

< G >

Gallagher 6:16
7:12 8:20 9:9
governing 9:24
guess 6:15
guide 3:8

< H >

Haddon 2:5
Halo 7:18
hear 5:9
Heckert 2:25
12:4, 20
Hui 10:23

< I >

identify 5:18
inadvertently
10:5
incoming 5:10
INDEX 3:11, 16,
21 4:1
industry 7:6, 7
INSOLVENCY
1:7, 10
Insurance 8:8
intended 10:12
INTENTION 1:13
interrupt 5:12
introduce 8:25
involved 7:16,
18
involvement 9:3

< J >

January 8:19
July 1:18 6:3
JUSTICE 1:6

< K >

KSV 2:8

< L >

Laskin 2:6 6:7,
20, 22 10:18
Leila 2:25 12:4,
20
LIMITED 1:14
2:5
Listing 9:13, 17,
18 10:5
LPs 2:3

< M >

made 12:11
March 6:25
MATTER 1:10, 13
meant 3:8 10:8, 10, 11
meet 10:23
Mexico 9:20 10:21
month 9:8
Motion 6:20
Multiple 8:7
Murray 2:5

< N >

Neasons 1:19
NO./DESCRIPTIO
N 4:2
NOTE 5:2
noted 3:12, 18, 22
notes 6:12, 17, 21 12:15
NOTICES 1:13

< O >

objections 12:11
office 7:20
Ontario 1:1, 4
owned 7:20

< P >

P.M 5:1 11:10
page/line 3:13, 19, 23
participants 5:3
parties 9:24 11:3
partner 7:24
PARTNERSHIP 1:14
people 5:13
percent 9:5
person 5:7, 17
Peter 7:25
place 12:7
platform 1:20 2:1
point 7:17 11:1
post 7:20
potential 8:24
prepare 8:24
president 6:24

previous 7:24
prior 7:19
proceeding 6:3
proceedings 12:6
project 8:25
properties 7:19 8:1, 4
PROPOSAL 1:14 2:10
purchasers 8:24
purpose 3:9
put 12:8

< Q >

question 9:22 10:16
questioned 11:6
questions 7:4 11:7
questions/reques
ts 3:12, 17, 22

< R >

R.S.C 1:11
R/F 3:22
RCP-M 2:25
read 5:3
real 7:5, 9 8:10, 15
really 10:21
Record 6:20
recorded 12:12
refusals 3:8, 21
refused 3:22
relationship 9:24 11:6
remember 5:14
Reported 2:25
REPORTER 5:4, 22 12:5, 21
REPORTER'S 5:2 12:1
RESIDENCES 1:15
response 10:15
Restructuring 2:8
Road 7:22
Robin 2:8

< S >

Schwill 2:8
Senst 7:25 8:20

set 12:8
sets 9:23
shorthand 12:15
sign 9:18 10:5, 8, 10, 11
signed 11:4
significant 7:5
slow 5:16
sold 7:15, 16, 17, 18, 19 8:1, 3
Soutter 2:3 5:25 6:10, 21, 23 11:2
Soutter..... .6 3:4
speak 5:6
speaking 5:17
spell 5:19
standard 9:17
Street 7:21
SUPERIOR 1:6
surprise 10:1
swore 6:2
sworn 1:18

< T >

talking 5:7
TED 1:17 3:3 5:20, 23, 24
T-E-D 5:20
telephone 8:19
terms 9:2, 23
testimony 12:10
thought 5:15
time 12:7, 8, 11
times 7:14 8:6, 7, 10
today 5:22 6:2
Toronto 1:3
train 5:15
transcribed 12:13
transcript 12:15
true 12:14
Trust 7:25 8:9
Trustee 2:10
trying 8:2

< U >

U/A 3:18
U/T 3:13
undertaken 3:12
undertakings 3:7, 11

< V >

Vancouver 10:23
Verbatim 12:5, 21
Veritext 1:19
virtual 1:19 2:1

< W >

wait 5:16
WITNESS 3:3 5:18, 20, 22, 23 6:9 10:20 12:8, 10
won't 5:13
worked 7:11, 25 8:6, 14

< Y >

yeah 8:3, 17 9:19 11:5
years 7:7
YG 1:14
Yonge 7:22
YongeSL 2:3
Yorkville 7:17
YSL 1:15 7:15 8:25

< Z >

Zoom 5:5

TAB 7

YG Limited Partnership v. YSL Residences Inc.

CASEY GALLAGHER
on Wednesday, August 31, 2022



77 King Street West, Suite 2020
Toronto, Ontario M5K 1A1

neesonsreporting.com | 416.413.7755

1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

District of: Ontario

Consolidated Court File No. 31-2734090

Division No: 09 - Toronto

ONTARIO

SUPERIOR COURT OF JUSTICE

(IN BANKRUPTCY AND INSOLVENCY)

COMMERCIAL LIST

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY

ACT, R.S.C. 1985, c. B-3 AS AMENDED

IN THE MATTER OF THE NOTICES OF INTENTION TO
MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP AND
YSL RESIDENCES INC.

--- This is the Cross-examination of CASEY
GALLAGHER on his affidavit sworn July 21st,
2022, via Neesons, a Veritext Company's virtual
platform, on the 31st day of August, 2022.

1 (All via virtual platform)

2 A P P E A R A N C E S:

3 Alexander Soutter, Esq., for the YongeSL LPs

4

5 C. Haddon Murray, Esq., for CBRE Limited

6 Elie Laskin, Esq.

7

8 Robin Schwill, Esq., for KSV Restructuring

9 Inc., in its capacity

10 as Proposal Trustee

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25 Reported by: Leila Heckert, CVR, RCP-M

I N D E X

PAGE

WITNESS: CASEY GALLAGHER

Examination by: Mr. Soutter.....6

The following list of undertakings, advisements
and refusals is meant as a guide only for the
assistance of counsel and no other purpose.

INDEX OF UNDERTAKINGS

The questions/requests undertaken are noted by
U/T and appear on the following page/line:
None.

INDEX OF ADVISEMENTS

The questions/requests taken under advisement
are noted by a U/A and appear on the following
page/line: None.

INDEX OF REFUSALS

The questions/requests refused are noted by R/F
and appear on the following page/line: None.

1	INDEX OF EXHIBITS	PAGE
2	NO. /DESCRIPTION	PAGE
3	None.	
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 -- Upon commencing at 3:23 P.M.

2 REPORTER'S NOTE: Whereupon the
3 following was read to all participants:

4 THE REPORTER: As you all know,
5 because we are using Zoom, we all need to take
6 extra care not to speak over one another.

7 If more than one person is talking, it
8 will cut out the audio for me. You may still be
9 able to hear each other, but as I will have both
10 incoming competing audio channels, one will
11 likely be completely cut out.

12 I will do my best to interrupt only
13 when appropriate, but often people won't
14 remember exactly what they've just said, and it
15 also breaks up your train of thought, so it's
16 best to try to slow down and wait until the
17 other person has finished speaking.

18 Would the witness please identify
19 himself and spell your first and last name?

20 THE WITNESS: Casey Gallagher,
21 C-A-S-E-Y, G-A-L-L-A-G-H-E-R.

22 THE REPORTER: Our witness today is
23 CASEY GALLAGHER. I will now affirm the witness.

24 CASEY GALLAGHER: AFFIRMED.

25 EXAMINATION BY MR. SOUTTER:

1 1 Q. Good afternoon, Mr. Gallagher.

2 A. Hello.

3 2 Q. You swore an affidavit in this
4 matter on July 21st of this year, right?

5 A. Correct.

6 3 Q. This is a cross-examination on
7 that affidavit. You have that with you? I
8 guess you're looking at it right now, right?

9 A. Yes.

10 4 Q. Are there any notes on that
11 affidavit?

12 A. No.

13 5 Q. Do you have any other documents
14 with you?

15 A. No.

16 6 Q. What about that bound thing
17 that's on the table there?

18 MS. LASKIN: That's also
19 Mr. Gallagher's affidavit which is bound, Ted's
20 affidavit is here, and the motion record.

21 MR. SOUTTER: Okay. Nothing else?

22 MS. LASKIN: No.

23 BY MR. SOUTTER:

24 7 Q. In your affidavit, you say that
25 sometime in January 2020 you had a telephone

1 call with Mr. Dowbiggin, right?

2 A. Yes.

3 8 Q. And on that call you two agreed
4 that CBRE would work to find a group of
5 potential purchasers to introduce to the YSL
6 project?

7 A. That's correct.

8 9 Q. You went over the business terms
9 of CBRE's involvement?

10 A. We did.

11 10 Q. You agreed on a .65 percent
12 commission?

13 A. No. We put that in a proposal
14 and sent subsequent to that discussion.

15 11 Q. That's the February 21st email
16 and attachments you are referring to?

17 A. Yes.

18 12 Q. Right. So in the call, you just
19 went over the business terms, but in that
20 subsequent email, you sent essentially a
21 document that set out the relationship between
22 the parties, the legal relationship between the
23 parties, right?

24 A. Yes.

25 13 Q. And you expected that

1 Mr. Dowbiggin would sign that listing agreement,
2 right?

3 A. We did.

4 14 Q. And CBRE did its work believing
5 that that agreement would be signed?

6 A. Correct.

7 15 Q. And the parties acted as though
8 it were assigned?

9 A. Correct.

10 16 Q. Those are my questions for
11 Mr. Gallagher.

12 (Whereupon this examination concludes
13 at 3:29 P.M.)
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, LEILA HECKERT, CVR, Certified
Verbatim Reporter, certify;

That the foregoing proceedings were
taken before me at the time and place therein
set forth at which time the witness was put
under oath by me;

That the testimony of the witness and
all objections made at the time of the
examination were recorded digitally by me and
were thereafter transcribed;

That the foregoing is a true and
accurate transcript of my shorthand notes so
taken. Dated this 31st day of August 2022.



PER: LEILA HECKERT

CERTIFIED VERBATIM REPORTER

WORD INDEX

< 0 >

09 1:3

< 1 >

1 6:1

10 7:11

11 7:15

12 7:18

13 7:25

14 8:4

15 8:7

16 8:10

1985 1:11

< 2 >

2 6:3

2020 6:25

2022 1:19, 20

9:16

21st 1:18 6:4

7:15

< 3 >

3 6:6

3:23 5:1

3:29 8:13

31-2734090 1:2

31st 1:20 9:16

< 4 >

4 6:10

< 5 >

5 6:13

< 6 >

6 6:16

65 7:11

< 7 >

7 6:24

< 8 >

8 7:3

< 9 >

9 7:8

< A >

accurate 9:15

ACT 1:11

acted 8:7

advisement 3:17

advisements

3:7, 16

affidavit 1:18

6:3, 7, 11, 19, 20,

24

affirm 5:23

AFFIRMED 5:24

afternoon 6:1

agreed 7:3, 11

agreement 8:1,

5

Alexander 2:3

AMENDED 1:11

appear 3:13, 18,

23

appropriate 5:13

assigned 8:8

assistance 3:9

attachments

7:16

audio 5:8, 10

August 1:20

9:16

< B >

B-3 1:11

BANKRUPTCY

1:7, 10

believing 8:4

best 5:12, 16

bound 6:16, 19

breaks 5:15

business 7:8, 19

< C >

call 7:1, 3, 18

capacity 2:9

care 5:6

CASEY 1:17

3:3 5:20, 23, 24

C-A-S-E-Y 5:21

CBRE 2:5 7:4

8:4

CBRE's 7:9

CERTIFICATE

9:1

Certified 9:4, 21

certify 9:5

channels 5:10

commencing

5:1

COMMERCIAL

1:8

commission

7:12

Company's 1:19

competing 5:10

completely 5:11

concludes 8:12

Consolidated

1:2

Correct 6:5 7:7

8:6, 9

counsel 3:9

Court 1:2, 6

Cross-

examination

1:17 6:6

cut 5:8, 11

CVR 2:25 9:4

< D >

Dated 9:16

day 1:20 9:16

digitally 9:12

discussion 7:14

District 1:1

Division 1:3

document 7:21

documents 6:13

Dowbiggin 7:1

8:1

< E >

Elie 2:6

email 7:15, 20

Esq 2:3, 5, 6, 8

essentially 7:20

exactly 5:14

Examination

3:4 5:25 8:12

9:12

EXHIBITS 4:1

expected 7:25

extra 5:6

< F >

February 7:15

File 1:2

find 7:4

finished 5:17

following 3:7,

13, 18, 23 5:3

foregoing 9:6,

14

forth 9:8

< G >

GALLAGHER

1:18 3:3 5:20,

23, 24 6:1 8:11

G-A-L-L-A-G-H-E-

R 5:21

Gallagher's 6:19

Good 6:1

group 7:4

guess 6:8

guide 3:8

< H >

Haddon 2:5

hear 5:9

Heckert 2:25

9:4, 20

Hello 6:2

< I >

identify 5:18

incoming 5:10

INDEX 3:11, 16,

21 4:1

INSOLVENCY

1:7, 10

INTENTION 1:13

interrupt 5:12

introduce 7:5

involvement 7:9

< J >

January 6:25

July 1:18 6:4

JUSTICE 1:6

< K >

KSV 2:8

< L >

Laskin 2:6

6:18, 22

legal 7:22

Leila 2:25 9:4,

20

LIMITED 1:14

2:5

listing 8:1

looking 6:8

LPs 2:3

< M >

made 9:11

MATTER 1:10,

13 6:4

meant 3:8

motion 6:20

Murray 2:5

< N >

Neesons 1:19

NO./DESCRIPTIO

N 4:2

NOTE 5:2

noted 3:12, 18,

22

notes 6:10 9:15

NOTICES 1:13

< O >

objections 9:11

Ontario 1:1, 5

< P >

P.M 5:1 8:13

page/line 3:13,

19, 23

participants 5:3

parties 7:22, 23

8:7

PARTNERSHIP

1:14

people 5:13

percent 7:11

person 5:7, 17

place 9:7

platform 1:20

2:1

potential 7:5

proceedings 9:6

project 7:6

PROPOSAL

1:14 2:10 7:13

purchasers 7:5

purpose 3:9

put 7:13 9:8

< Q >

questions 8:10

questions/reques

ts 3:12, 17, 22

< R >

R.S.C 1:11

R/F 3:22

RCP-M 2:25

read 5:3

record 6:20

recorded 9:12

referring 7:16
refusals 3:8, 21
refused 3:22
relationship
7:21, 22
remember 5:14
Reported 2:25
REPORTER 5:4,
22 9:5, 21
REPORTER'S
5:2 9:1
RESIDENCES
1:15
Restructuring
2:8
Robin 2:8

< S >
Schwill 2:8
set 7:21 9:8
shorthand 9:15
sign 8:1
signed 8:5
slow 5:16
Soutter 2:3
5:25 6:21, 23
Soutter.....
.6 3:4
speak 5:6
speaking 5:17
spell 5:19
subsequent
7:14, 20
SUPERIOR 1:6
swore 6:3
sworn 1:18

< T >
table 6:17
talking 5:7
Ted's 6:19
telephone 6:25
terms 7:8, 19
testimony 9:10
thing 6:16
thought 5:15
time 9:7, 8, 11
today 5:22
Toronto 1:3
train 5:15
transcribed 9:13
transcript 9:15
true 9:14
Trustee 2:10

< U >
U/A 3:18
U/T 3:13
undertaken 3:12
undertakings
3:7, 11

< V >
Verbatim 9:5, 21
Veritext 1:19
virtual 1:19 2:1

< W >
wait 5:16
WITNESS 3:3
5:18, 20, 22, 23
9:8, 10
won't 5:13
work 7:4 8:4

< Y >
year 6:4
YG 1:14
YongeSL 2:3
YSL 1:15 7:5

< Z >
Zoom 5:5

TAB 8



**Seventh Report to Court of
KSV Restructuring Inc. as Proposal
Trustee of YG Limited Partnership and
YSL Residences Inc.**

September 12, 2022

Contents

	Page
1.0 Introduction.....	1
1.1 Purposes of this Report.....	3
1.2 Currency	3
1.3 Definitions	3
2.0 Background	3
2.1 Applications by the Limited Partners and Senior Mortgagee.....	4
3.0 Final Proposal.....	5
4.0 Creditors	5
5.0 Status of the CBRE Claim.....	7
6.0 Conclusion.....	9

Appendices

Appendix	Tab
Interim Decision dated July 2, 2021	A
Reasons for Decision dated July 16, 2021.....	B
Final Proposal.....	C
CBRE Notice	D
Correspondence dated August 18, 2022.....	E

COURT FILE NO.: BK-21-02734090-0031

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

SEVENTH REPORT TO COURT OF
KSV RESTRUCTURING INC. AS PROPOSAL TRUSTEE

SEPTEMBER 12, 2022

1.0 Introduction

1. This report (“Report”)¹ is filed by KSV Restructuring Inc. (“KSV”) in its capacity as Proposal Trustee (the “Proposal Trustee”) in connection with Notices of Intention to Make a Proposal (the “NOIs”) filed on April 30, 2021 (the “Filing Date”) by YG Limited Partnership (the “Partnership”) and YSL Residences Inc. (“Residences”, and together with the Partnership, the “Companies”), pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”).
2. On May 14, 2021, the Ontario Superior Court of Justice (Commercial List) (the “Court”) issued an order (the “Consolidation Order”) procedurally and substantively consolidating the NOIs (the “NOI Proceedings”) for the purpose of simplifying the administration of the NOI Proceedings, including filing a joint proposal and convening a single meeting of creditors.
3. The principal purpose of the NOI proceedings was to create a stabilized environment to allow the Companies to present a proposal to their creditors that provides them with a recovery greater than they would have received in a bankruptcy or alternative insolvency process.
4. On May 27, 2021, the Companies filed a proposal with the Official Receiver in accordance with Section 62(1) of the BIA (the “Proposal”). On June 3, 2021, the Companies filed an amended proposal (the “First Amended Proposal”) and on June 15, 2021, the Companies filed a further amended proposal (the “Second Amended Proposal”).

¹ Capitalized terms have the meaning provided to them in the Final Proposal (as defined herein), unless otherwise defined in this Report.

5. At a meeting of creditors held on June 15, 2021 (the “Creditors’ Meeting”), the creditors voted to accept the Second Amended Proposal.
6. On June 23, 2021, the Companies sought Court approval of the Second Amended Proposal. Pursuant to the Reasons for Interim Decision of the Court made on June 29, 2021, as amended on July 2, 2021 (the “Interim Decision”), the Court did not approve the Second Amended Proposal.
7. A Court hearing for approval of the Second Amended Proposal was scheduled for July 9, 2021 to allow the Companies time to address the Court’s concerns set out in the Interim Decision and, should they wish, present a further amended proposal for the Court’s consideration. A copy of the Interim Decision is provided in Appendix “A”.
8. Shortly before the motion on July 9, 2021, Concord Properties Developments Corp., the sponsor of the proposals filed in this proceeding (the “Sponsor”), served a further amended proposal (the “Third Amended Proposal”) and an offer of distributions to be made outside of the Third Amended Proposal by the Sponsor to any equityholders² of the Partnership (the “Equityholders”) willing to accept such Offer (the “Equity Offer”).
9. Pursuant to Section 3.03 of the Second Amended Proposal and the Third Amended Proposal, the Companies required the consent of the Proposal Trustee to file the Third Amended Proposal. As the Third Amended Proposal was provided for the first time to the Proposal Trustee just prior to the motion on July 9, 2021, the Proposal Trustee did not have the time it required to review the Third Amended Proposal prior to that hearing. Accordingly, the motion was adjourned to July 16, 2021 to provide the Proposal Trustee with the opportunity to consider the Third Amended Proposal and for the Proposal Trustee to make a recommendation to the Court.
10. The Proposal Trustee’s Fourth Report to Court dated July 15, 2021 set out, among other things, the material changes between the Second Amended Proposal and the Third Amended Proposal, further changes to the Third Amended Proposal (the “Final Proposal”), and the Proposal Trustee’s recommendation to the Court that it approve the Final Proposal.
11. Pursuant to Reasons for Decision dated July 16, 2021, as amended on July 27, 2021 (the “Decision”), the Court approved the Final Proposal. A copy of the Decision is provided in Appendix “B”.
12. No inspectors were appointed in the Final Proposal.

² Defined in the Final Proposal as the holders of the limited partnership units of YG LP and those Equity Claims deemed to be equity pursuant to the Interim Decision.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Companies and the Final Proposal;
 - b) summarize the claim of CBRE Limited (“CBRE”) in these proceedings, including the open and transparent manner in which it has been determined by the Proposal Trustee; and
 - c) recommend that the Court issue an order allowing the CBRE claim as filed in the amount of \$1,239,377.40.

1.2 Currency

1. All references to currency in this Report are to Canadian dollars.

1.3 Definitions

1. Capitalized terms not defined in this Report have the meanings provided to them in the Final Proposal.

2.0 Background

1. Information regarding the Companies, the real estate project that was being developed by the Companies known as Yonge Street Living Residences (the “YSL Project”), the history of these proceedings, the receivership application filed by the first mortgagee of the YSL Project in advance of these proceedings, Timbercreek Mortgage Servicing Inc. (“Timbercreek”), that was pending against the Companies, applications by certain of the Partnership’s limited partners (the “LPs”) and the prior proposals filed in this proceeding is included in the Proposal Trustee’s reports to Court and other materials filed with the Court. Copies of all publicly available information in these proceedings can be found on the Proposal Trustee’s case website at <https://www.ksvadvisory.com/insolvency-cases/case/yg-limited-partnership>.
2. The Companies are part of the Cresford Group of Companies (“Cresford”), a Toronto-based real estate developer. In addition to the NOI Proceedings, several of Cresford’s other developments have been subject to restructuring proceedings.
3. Residences was the registered owner of the real properties municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario (the “Real Property”), acting as a bare trustee and nominee of, for and on behalf of the Partnership.
4. The Partnership was the beneficial owner of the Real Property and was formed for the purpose of developing the Real Property into a mixed-use office, retail and residential condominium development comprised of approximately 1,100 residential units, 190,000 square feet of commercial/retail/institutional space and 242 parking spaces known as the YSL Project.

5. As a result of the successful implementation of the Final Proposal, title to the Real Property was transferred to an affiliate of the Sponsor.
6. In the context of Cresford's various restructuring proceedings, the credibility and availability of Cresford's management, and the reliability of its books and records have been significant issues. As a result, the Proposal Trustee has been involved in addressing the various disputed claims filed in the NOI Proceedings, where in most proposal proceedings the debtor company takes a more active role in the claims process.

2.1 Applications by the Limited Partners and Senior Mortgagee

1. Prior to the Filing Date, certain of the LPs commenced applications (collectively, the "LP Applications") seeking Orders declaring that, among other things:
 - a) the General Partner, 9615334 Canada Inc. (the "GP"), is terminated as general partner of the Partnership;
 - b) any agreements entered into by the GP with the Sponsor are null and void; and
 - c) the GP breached its duty of good faith to the LPs.

Additionally, certain of the LPs sought the appointment of an equitable receiver.

2. On June 1, 2021, the Court heard motions by the LPs to, among other things, lift the stay of proceedings pursuant to Section 69(1) of the BIA and to authorize the LPs to bring the LP Applications. Pursuant to an endorsement made on the same day, the Court, among other things, set a litigation timetable for a hearing scheduled for June 23, 2021 where certain of the LPs' arguments could be made at the same time that the Companies sought approval of the Amended Proposal, assuming that the Amended Proposal had been accepted by the Affected Creditors voting at the Meeting, which they did on June 23, 2021.
3. In advance of the Proposal, the Companies were in default of their loan agreement with Timbercreek. Pursuant to an agreement dated March 26, 2020 among Timbercreek, the Companies and two Cresford entities (the "Forbearance Agreement"), Timbercreek agreed to, among other things, forbear from enforcing its security against the Real Property. Timbercreek subsequently brought a motion to appoint a receiver on November 13, 2020. The receivership application was adjourned several times and remained pending when the NOIs were filed. On several occasions, Timbercreek scheduled an application for the appointment of a receiver if the Companies' NOI Proceedings were unsuccessful.

3.0 Final Proposal

1. The Final Proposal provides for distributions to the Affected Creditors from the Affected Creditor Cash Pool, being a cash pool funded by the Sponsor in the amount of \$30.9 million to be distributed *pro rata* to Affected Creditors with Affected Creditor Claims. The Final Proposal also provides that if any residual amount remains in the Affected Creditor Cash Pool following the final distributions to Affected Creditors, such residual funds, if any, would be held by the Proposal Trustee “pending receipt of a duly issued direction from all of the holders of Class A Preferred Units of YG LP, or otherwise by order of the Court”. A copy of the Final Proposal is provided in Appendix “C”.
2. On July 22, 2021, the Sponsor funded the Affected Creditor Cash Pool. The corporate transactions summarized in Section 6.01 of the Final Proposal were completed on the same day and resulted in, among other things, title to the YSL Project being transferred to an entity related to the Sponsor.

4.0 Creditors

1. Sixty-five (65) claims have been filed against the Companies, including claims from trade creditors, real estate brokerages, professional advisors and former employees³. The status of the claims filed in this proceeding is summarized in the table below.

Creditor	Amount (\$000)		Difference
	Filed	Accepted by Proposal Trustee	
<u>Proven Claims:</u>			
Otis Canada Inc.	4,912	390	4,522
Landpower Real Estate Ltd.	4,500	3,847	653
Homelife Landmark Realty Inc.	3,170	3,145	25
Homelife New World Realty Inc.	1,839	1,524	315
Sarven Cicekian	767	383	384
David Ryan Millar	735	450	285
Sultan Realty Inc.	699	671	28
Mike Catsiliras	681	269	412
Home Standards Brickstone Realty	586	208	378
Louie Giannakopoulos	445	308	137
Other Proven Claims	4,142	3,679	463
Total Proven Claims	22,476	14,874	7,602
<u>Disputed Claims:</u>			
Maria Athanasoulis (disputed)	19,000	TBD	TBD
CBRE	1,239	TBD	TBD
Henry Zhang (disputed by the LPs)	1,520	1,130	390
Total Unresolved Claims	21,759	1,130	20,629
Total Claims	44,235	16,004	28,231

³ Since the Proposal Trustee’s last report, there has been one additional unsecured claim filed by a real estate broker.

2. Of the claims in the table, the following claims remain unresolved, as more fully discussed below (the “Disputed Claims”):
 - a) Ms. Athanasoulis;
 - b) CBRE; and
 - c) Mr. Zhang.
3. On March 24, 2022, the Proposal Trustee paid an interim distribution of 70¢ on the dollar to the creditors with Proven Claims.
4. Since the interim distribution, the Proposal Trustee has resolved various claims, including complex claims filed by four former employees of Cresford (the “Former Employees”), including common employer claims that each Former Employee filed against the Companies. The Proposal Trustee negotiated settlements of these claims, which were approved by the Court on May 24, 2022.
5. The Proposal Trustee paid a catch-up distribution to the Former Employees and other creditors with Proven Claims, except those who continue to have Disputed Claims and four creditors whose claims were recently resolved.
6. The Proposal Trustee has reserved the balance of the Affected Creditor Cash Pool until the Disputed Claims can be determined. The Affected Creditor Cash Pool is approximately \$20.5 million.
7. The Sponsor took an assignment of 28 of 65 Affected Creditor claims, totalling approximately \$12 million. As assignee, the Sponsor participated in the interim distribution and has received approximately \$8.4 million of the total amounts distributed.
8. The table below shows the range of outcomes to stakeholders depending on the resolution of the Disputed Claims. The table illustrates that resolution of the Disputed Claims will determine whether there will be any distributions to the LPs.

Estimated Distributions	Amount (\$000)	
	High	Low
Affected Creditor Cash Pool	30,900	30,900
<u>Claims</u>		
Proven Claims	14,874	14,874
Ms. Athanasoulis	-	19,000
CBRE	1,239	1,239
Mr. Zhang	-	1,130
Total Claims	16,113	36,243
Dividend rate	100%	85.3%
Residual for LPs	14,787	-

5.0 Status of the CBRE Claim

1. CBRE, a real estate brokerage, filed a proof of claim dated January 28, 2022 in the amount of approximately \$1.2 million. The claim relates to an invoice submitted by CBRE to “Cresford” dated October 13, 2021 and refers to services rendered by CBRE as the exclusive listing broker for the YSL Project pursuant to an unsigned listing agreement between CBRE and Residences (the “Listing Agreement”).
2. The Proposal Trustee disallowed CBRE’s claim in full for the reasons set out in its Notice of Disallowance of Claim dated February 10, 2022 (the “CBRE Notice”). A copy of the CBRE Notice is provided as Appendix “D”.
3. One of the key issues in respect of CBRE’s claim is the applicability of the “holdover clause” in the Listing Agreement, which reads as follows:

HOLDOVER

4.1

The Owner further agrees to pay the Brokerage the Commission if, within 90 calendar days after the expiration of the Term, the Property is sold to, or the Owner enters into an agreement of purchase and sale for the Property with, or negotiations continue, resume or commence and thereafter continue leading to the execution of a binding agreement of purchase and sale for the Property, provided the transaction subsequently closes, with any person or entity (including his/her/its successors, assigns or affiliates) with whom the Brokerage has negotiated (either directly or through another agent) or to whom the Property was introduced or submitted, from any source whatsoever, or to whom the Owner was introduced, from any source whatsoever, prior to the expiration of the Term; with or without the involvement of the Brokerage. The Brokerage is authorized to continue negotiations with such persons or entities. The Brokerage agrees to submit a list of such persons or entities to the Owner within 10 business days following the expiration of the Term, provided, however, that if a written offer has been submitted, then it shall not be necessary to include the offeror's name on the list.

4. The Term expired on August 20, 2020, and the Final Proposal was approved on July 16, 2021, well outside the 90-day period. Accordingly, the holdover provision would only be applicable if “*negotiations continue, resume or commence*” with the Sponsor within such 90-day period and the Sponsor was someone “*to whom the Property was introduced or submitted, ..., or to whom the Owner was introduced ... prior to the expiration of the Term*”.
5. The CBRE Notice was issued based on, among other things, representations the Proposal Trustee received from the Sponsor that the Sponsor dealt directly with Cresford and that it did not have any dealings with CBRE in respect of the YSL Project.
6. Requiring CBRE to respond to the Sponsor’s representations would have involved the Proposal Trustee receiving affidavit evidence from CBRE and, in light of that, possibly responding to affidavit evidence from the Sponsor.

7. Given the nature of these proceedings with the history of other stakeholders claiming to have information relevant to the Proposal Trustee's assessments, the Proposal Trustee determined that the best and most transparent way of determining CBRE's claim, based on the information available to it at the time, was to disallow the claim on the basis set out in the CBRE Notice and to permit CBRE to file a full evidentiary response by way of an appeal on notice to all. In this way, all parties would be able to review and respond to the evidence as they saw fit once on one complete record.
8. On February 11, 2022, following the issuance of the CBRE Notice, counsel for the Sponsor copied the Proposal Trustee on email correspondence with counsel for CBRE. In that correspondence, the Sponsor stated that while CBRE had introduced the Sponsor to Cresford, the Sponsor had no "*knowledge of a brokerage agreement or similar arrangement between Cresford and CBRE relating to the project formerly known as Yonge Street Living (YSL) residences*".
9. On March 10, 2022, CBRE served its notice of motion to appeal the CBRE Notice on the service list in these proceedings with scheduling to be dealt with at a case conference on March 16, 2022. Parties intending on taking a position on CBRE's motion were invited to attend at the case conference.
10. The case conference was held before Mr. Justice Cavanagh, at which the LPs' counsel attended. Mr. Justice Cavanagh scheduled the appeal to be heard on September 26, 2022.
11. The Proposal Trustee then canvassed with CBRE's counsel whether the dispute could be dealt with earlier by means of an arbitration, but no agreement could be reached on the terms for doing so.
12. On July 25, 2022, CBRE served its complete motion record containing its affidavit evidence regarding CBRE's role related to the YSL Project and its introduction to the Sponsor. CBRE's position is supported by an affidavit of Ted Dowbiggin, the President of Cresford Capital Inc. CBRE's evidence illustrates an ongoing dialogue between Concord and Cresford, after such introduction, that resulted in the transaction implemented through the Final Proposal. CBRE also provided evidence from Mr. Dowbiggin that Cresford dealt with CBRE on the basis that the listing agreement was in force, notwithstanding that it was never signed. In the Proposal Trustee's view, the ongoing dialogue between Cresford and the Sponsor, as well as Cresford's and CBRE's conduct related to the listing agreement, suggests that the holdover provisions apply and therefore entitle CBRE to its fee.
13. Based on the evidence provided by CBRE, the Proposal Trustee advised the service list that the Proposal Trustee would not be filing any responding material. Rather, at the hearing scheduled for September 26, 2022, the Proposal Trustee will seek the Court's approval of a settlement of the appeal with CBRE by admitting CBRE's claim, as filed, and the withdrawal of the appeal on a without costs basis. The Proposal Trustee informed the service list that, should any party wish to file their own responding material, the current schedule proposed this be done on or before August 18, 2022, and that the Proposal Trustee reserves the right to file reply materials to any responding materials.

14. On August 18, 2022, counsel to the LPs sent a letter to counsel to the Proposal Trustee, among other things, informing the Proposal Trustee that they had instructions to challenge CBRE's appeal and requesting a copy of CBRE's proof of claim and the CBRE Notice. The Proposal Trustee subsequently provided these documents to the LPs' counsel on a without prejudice basis to the Proposal Trustee's and CBRE's rights to contest the LPs' standing on CBRE's motion. A copy of the August 18, 2022 letter is attached as Appendix "E".
15. As of the date of this Report, no parties in these proceedings other than the LPs have contested the Proposal Trustee's allowance of CBRE's claim, including the Proposal Sponsor, which is the largest creditor in these proceedings by way of assignment of the claims discussed in paragraph 4.7 above.
16. The LPs served their responding motion record on August 19, 2022. Their motion record contained no evidence contesting or challenging any of the evidence submitted by CBRE.
17. The LPs then requested to cross-examine Mr. Dowbiggin and Mr. Gallagher, CBRE's other affiant and an Executive Vice President on the National Investment Team at CBRE. The Proposal Trustee understands that CBRE consented to the cross-examinations being conducted without prejudice to contesting the LPs rights to cross-examine CBRE's affiants.
18. The Proposal Trustee notes that the Final Proposal provides that all of the reasonable administrative fees and expenses of the Proposal Trustee must be funded by the Sponsor. Accordingly, all of the Proposal Trustee's costs and expenses, including those of its legal counsel, incurred in dealing with the LPs' opposition to this motion are ultimately payable by the Sponsor and, therefore, do not erode any of the potential recoveries of the LPs.

6.0 Conclusion

1. It is the Proposal Trustee's view that CBRE's claim in the amount of \$1,239,377.40 should be allowed and the appeal dispensed, without costs.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YG LIMITED PARTNERSHIP AND
YSL RESIDENCES INC.,
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”

CITATION: YG Limited Partnership and YSL Residences (Re), 2021 ONSC 4178
COURT FILE NOS.: CV-21-00655373-00CL/BK-21-02734090-0031,
CV-21-00661386-00CL & CV-21-00661530-00CL
DATE: 20210629

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

RE: IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED

AND:

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A
PROPOSAL OF YG LIMITED PARTNERSHIP AND YSL RESIDENCES

APPLICATION UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED

AND RE: 2504670 CANADA INC., 8451761 CANADA INC. and CHI LONG INC.,
Applicants

AND

CRESFORD CAPITAL CORPORATION, YSL RESIDENCES INC,
9615334 CANADA INC., YG LIMITED PARTNERSHIP and DANIEL
CASEY, Respondents

AND RE: 2583019 ONTARIO INCORPORATED AS GENERAL PARTNER OF
YONGESL INVESTMENT LIMITED PARTNERSHIP, 2124093 ONTARIO
INC., SIXONE INVESTMENT LTD., E&B INVESTMENT CORPORATION
and TAIHE INTERNATIONAL GROUP INC., Applicants

AND

9615334 CANADA INC. AS GENERAL PARTNER OF YG LIMITED
PARTNERSHIP and YSL RESIDENCES INC., Respondents

BEFORE: S.F. Dunphy J.

COUNSEL: *Harry Fogul and Miranda Spence*, for YG Limited Partnership and YSL
Residences Inc.

Shaun Laubman and Sapna Thakker, for 2504670 Canada Inc., 8451761
Canada Inc., and Chi Long Inc.

Alexander Soutter, for YongeSL Investment Limited Partnership, 2124093 Ontario Inc., SixOne Investment Ltd., E&B Investment Corporation, and TaiHe International Group Inc.

David Gruber, Jesse Mighton, and Benjamin Reedijk, for Concord Properties Developments Corp. and its affiliates

Jane Dietrich and Michael Wunder, for 2292912 Ontario Inc. and Timbercreek Mortgage Servicing Inc.

Robin B. Schwill, for KSV Restructuring Inc. in its capacity as the proposal trustee

Roger Gillot and Justin Kanji, for Kohn Pedersen Fox Associates PC

Reuben S. Botnick, for Royal Excavating & Grading Limited COB as Michael Bros. Excavation

Daniel Naymark and Jamie Gibson, for Sarven Cicekian, Mike Catsiliras, Ryan Millar and Marco Mancuso

Brendan Bowles and John Paul Ventrella, for GFL Infrastructure Group Inc.

Mark Dunn and Carlie Fox, for Maria Athanasoulis

George Benchetrit, for 2576725 Ontario Inc.

Joshua B. Sugar, for R. Avis Surveying Inc.

Paul Conrod, for Restoration Hardware Inc.

James MacLellan and Jonathan Rosenstein, for Westmount Guarantee Services Inc.

Albert Engle, for Priestly Demolition Inc.

HEARD at Toronto: June 23, 2021

AMENDED REASONS FOR INTERIM DECISION

Note: these reasons were amended on July 2, 2021 as more fully described in the in the concluding paragraphs hereof.

[1] The debtors are seeking approval of a bankruptcy proposal that has obtained the near unanimous approval of those affected creditors who cast a vote. Two groups of limited partnership unitholders have challenged the actions of the General Partner of the debtor YG Limited Partnership for much of the past year and urge me to annul the bankruptcy entirely or to reject the proposal and, if need be, to allow a Receiver or Trustee in bankruptcy to canvass the market fairly and objectively. Another unsecured creditor urges me to disregard much of the appraisal evidence tendered because she has been excluded from examining it and the result is a record that casts grave doubt as to whether fair value for stakeholders is being realized by this process.

[2] For the reasons that follow, I have decided that I will not approve the Proposal in the form it has been presented to me. The Proposal is yet able to be amended pursuant to art. 3.01 thereof and it is possible that an amendment may be formulated to address the concerns raised by the findings I outline below before a final decision on the fate of the Proposal is made.

Background facts

[3] A central issue in this case is the value of the “YSL Project” – the property owned by the debtor YSL as bare trustee for the limited partnership (the debtor YG LP) charged with developing it. Valuation is an area on which I must tread lightly in terms of what I can record in writing so as not to impact adversely any potential sale process that may be necessary in future.

[4] What follows is a general description of the capital structure of the debtors and the project sufficient to permit an understanding of the issues. For comparison purposes, it is relevant to consider the size of the project. There is no dispute that the “as if completed” value of the project is above \$1 billion. How much above and based on which assumptions is an issue, but I provide the round figure solely for comparison purposes relative to the debt and equity interests discussed.

[5] The project is fully zoned and permitted for construction of an 85-story retail and condominium complex planned for the corner of Yonge St. and Gerard in downtown Toronto. Substantial pre-sales have been made. Demolition of the old structures and shoring up of the excavation have been largely completed. Unfortunately, things ground to halt in March of 2020 and the project has been stuck in the “hole in the ground” stage ever since.

The project ownership structure

[6] YP GP has a General Partner with nominal capital and a nominal interest in the limited partnership. The “equity” in the partnership effectively resides in the “A” units with approximately \$14.8 million in capital but a capped right to return on that capital equivalent

to interest (12.25% per year rate of return) and the “B” units who alone receive all of the residual profits from the project without limit.

[7] The owner of the “B” units and the General Partner are under common control within the Cresford group of companies as are the parties recorded as payees of the \$38.3 million related party debt to which I shall refer.

The project debt structure

[8] The secured debt – including registered mortgages and construction liens – stands at about \$160 million. The figure for secured debt is slightly misleading. There is just over \$100 million in deposits from condominium pre-sales made for the most part prior to 2019. These are insured by the second secured creditor whose claim would increase dollar for dollar if the relevant purchase agreements were repudiated and the deposits had to be returned. For this reason and to have an “apples to apples” idea of the debt structure, a figure of about \$260 million in secured debt is appropriate.

[9] The third-party unsecured debt that has been identified by the Trustee is in the range of approximately \$20 million plus or minus a few million dollars depending upon reserves allowed for claims yet to be filed or finalized. There are also various litigation claims outstanding the largest of which is from a former officer claiming that the limited partnership was a common employer and seeking, among other things, to enforce oral profit-sharing agreements. I have reviewed the Trustee’s report and in particular the Trustee’s reasoned conclusion that these claims are too contingent to be considered valid for voting purposes. I concur in that assessment. A conservative and prudent assessment of potential total unsecured claims is thus in the range of about \$25 million – a figure advanced with full knowledge that the total of all contingent claims identified could be in the same order of magnitude again. For the purposes of this motion, I find the figures estimated by me above are reasonable – those findings are, of course, without prejudice to the creditors holding such claims proving them in due course.

[10] There is also \$38.3 million in outstanding advances to YG LP recorded on its books from related parties. I have found those claims to be equity claims for all purposes relevant to this hearing for reasons I shall expand upon below.

[11] In round figures, one can thus consider there to be approximately \$260 million of secured debt and about \$20-\$25 million of unsecured debt outstanding. The Proposal assumes all of the former and would pay 58% of the latter when finalized. The “fulcrum” stakeholders in this case are thus the unsecured creditors to the extent of the 42% of their claims that are compromised (\$8.4 to \$10.5 million) plus the “A” limited partners in YG LP (\$14.8 million plus accrued “interest” entitlements) – such figures based upon the estimates and rulings that I have made and explained herein.

Summary of nine findings made

[12] The process of sifting through the mountains of evidence presented to me by the parties has been made exceptionally time-consuming and tedious by reason of the lack of usable electronic indexing in much of the materials filed. Tabs or electronic hyperlinks within compilations of electronically filed documents are non-existent in all but the most recently filed documents and there are many, many thousands of pages of documents presented. The profession is going to need to get on top of this problem as judges cannot and will not in future undertake such gargantuan efforts to sift through a case when a few moments of care and attention at the front end could simplify it to such a great degree.

[13] Time does not permit me to set forth in writing a complete account of my review of the evidence and my conclusions – a written summary of which I was about 75% through before the impossibility of completing it in the form intended within the time available became obvious. I shall instead present below nine conclusions which encapsulate my reasons for finding that the Proposal as it currently stands has failed to satisfy me of the matters required by s. 59(2) of the BIA or the common law test of good faith.

(i) *The McCracken Affidavit is inadmissible*

[14] As is often the case in Commercial Court matters, this case proceeded on a “real time” schedule. In addition to the bankruptcy case that was commenced with an NOI filed on behalf of the debtors on April 30, 2021, there were two applications commenced the day before by two groups of YG LP limited partners seeking, among other things, the removal of the General Partner and various declarations challenging the authority of the General Partner to act on behalf of the partnership in any capacity and alleging breaches of fiduciary duty by the General Partner. The Proposal itself was filed on May 27, 2021 working towards a scheduled June 10, 2021 creditor meeting. On June 1, 2021 I issued directions for the conduct of all three proceedings with a view to having the sanction hearing ready to proceed on June 23, 2021.

[15] The Proposal Sponsor is Concord Properties. Concord is not a party to any of these proceedings although it is central to all three. Concord sponsored the Proposal and is bearing all the costs of it under a Proposal Sponsor Agreement dated April 30, 2021.

[16] The limited partner applicants issued subpoenas to Mr. McCracken – apparently the officer of Concord responsible for this Proposal. On the advice of counsel, Mr. McCracken declined to appear absent an order compelling him to do so. Counsel took the position that leave was required under the Bankruptcy Rules to compel him to appear in the bankruptcy proceeding and declined to produce him.

[17] The position taken was a curious one given my specific direction on June 1 that I was *not* applying the BIA stay to the two applications and that specific aspects of both

applications would be heard and decided together on June 23, 2021 when the fairness hearing was conducted. The case timetable made specific allowances for responding records with respect to the limited partner applications and facts in relation to them. My ruling on June 1, 2021 was in both the civil and bankruptcy proceedings and bore the style of cause of both.

[18] Whether leave was or was not formally required to *compel* Mr. McCracken to appear, his failure has consequences in terms of the fairness of the process leading to the approval motion in front of me. The opponents of the Proposal were deprived of the opportunity to explore aspects of the unfairness or unreasonableness of the Proposal that they had raised. There was insufficient time available in the tight timetable to drop everything and bring a leave application. The position taken ran utterly contrary to the spirit and intent of my ruling on June 1, 2021 at which Concord's counsel appeared *and made submissions*. This is the sort of issue that counsel applying the "three C's" of the Commercial List ought to have agreed to disagree upon and produced the witness without prejudice to objections that might be raised.

[19] It is against the foregoing backdrop that the affidavit of Mr. McCracken – delivered the day prior to the fairness hearing – must be considered.

[20] The affidavit was filed far too late to permit any interested party to respond to it effectively or to cross-examine upon it. None of the subject-matter of the affidavit was new information. The affidavit was entirely devoted to providing responses to various issues seen in written arguments or that arose on the cross-examination of other witnesses.

[21] Concord appeared to consider itself sufficiently at interest to appear through counsel on June 1, 2021 while declining to submit to examination because of its non-party status when preparations for this hearing were in full swing a few days later. Permitting the admission of this affidavit at this juncture would be to sanction unfairness of the highest order. A timetable was worked out for the hearing of this motion – worked out, I might add, at a motion that Concord was present at through counsel. Whether or not Concord had the *right* to insist upon a further motion to compel its attendance during the pre-hearing procedures, it certainly knew that taking that position when there was no time available to challenge it in court would have the practical effect that it did.

[22] Lying in the weeds is a strategy, but it does not confer the right to spring out of them at will. I find the McCracken affidavit to be inadmissible and attach no weight to it.

(ii) *No weight can be attached to the CBR April 2021 Appraisal*

[23] The parties have very hotly debated the valuation evidence that is on the record before me. A portion of that valuation evidence has been sealed. My reason for doing so is straightforward: the approval of the Proposal cannot be taken for granted and it is thus

reasonably foreseeable that the project may have to be sold by a Trustee or Receiver in the near future and the ability of whichever court officer is charged with undertaking that sale to achieve the highest and best price available ought not to be impaired more than the circumstances already have by the disclosure of appraisals that may serve to skew market expectations. A significant portion of such evidence is part of the public record and between the public information and the use of carefully-framed circumlocutions I believe that I can convey my conclusions and reasons for them regarding the valuation evidence with reasonable clarity.

[24] Two of the appraisals before me, both from CBRE, are the most central to the questions I must determine. The first in time is dated August 8, 2019 providing CBRE's opinion of value as at July 30, 2019. This appraisal was prepared for the parent company of the debtors within the Cresford group and is based on the particular assumptions set out therein, including some supplied by Cresford. The second in time, also by CBRE, is dated April 30, 2021 as of March 16, 2021. This latter appraisal was prepared for Concord based on the assumptions set out therein, including some supplied by Concord. I shall not discuss in a public document the actual appraisal amounts in either, focusing instead on the differences between them.

[25] For present purposes, it is sufficient for me to observe that the 2021 CBRE appraisal is lower than the 2019 CBRE appraisal and lower by an amount that is significantly higher than the sum of the compromised amount of unsecured claims under the Proposal plus the total capital of the "B" unitholders in YG LP.

[26] I find that I can attach little weight to the 2021 CBRE appraisal in these circumstances because:

- a. The assumptions given to CBRE by Concord were materially different than those used in the 2019 CBRE appraisal including as to such things as leasable square footage of residential and retail space;
- b. When it formulated the instructions to CBRE, Concord was in the process of attempting to negotiate a Proposal to acquire the property through the bankruptcy process given lack of limited partner consents and was being commissioned at a time when Concord had a clear and obvious interest in having appraisal evidence suggesting that the project was at least partly underwater;
- c. The downward alterations made by Concord to the square footage assumptions used by CBRE are unexplained, untested and appear to be admitted as having been quite preliminary at all events;

- d. Concord did not submit Mr. McCracken to cross-examination to examine in depth the reasons for the significant negative difference between the two instructions given to CBRE on the conflicting appraisals;
- e. The differences between the two have not been reasonably or adequately reconciled. There has been no general downward correction to residential real estate in Toronto that has been brought to the court's attention nor can the difference between the two appraisals reasonably be attributed solely to pandemic-induced alterations to the retail environment.

(iii) *ALL Construction Lien Claims are Unaffected Creditors under the Proposal*

[27] Under the Proposal, Construction Lien Claims are defined as "Unaffected Creditors". The Trustee indicates that the total amount of such claims is \$11.865 million. Of this total, fifteen lien claimants with \$9.19 million in lien claims outstanding entered into assignment agreements with the Proposal Sponsor. As these are non-voting Unaffected Creditors under the Proposal, Concord required them to file claims as Affected Creditors in order to acquire the right to vote and to name a proxy designated by Concord.

[28] There was some controversy about what precisely the lien claimants received in return for agreeing to convert claims that were to be paid \$1.00 per \$1.00 of valid claims under the Proposal into claims receiving no more than \$0.58 per dollar of claim value. The Trustee-reported second-hand information from Concord denying any "side" deals does little to address this concern. Assurances as to the lack of a side deal do not serve the purpose of permitting a reasonable understanding of the main deal. None of them have been disclosed beyond a skeletal summary and Concord declined to permit a representative to be examined prior to the hearing.

[29] It is of course open to the Proposal Sponsor to make any proposal that satisfies the formal requirements of the BIA if the debtor is prepared to adopt it and submit it to the creditors and the creditors are willing to accept it with their eyes open. In this case however the Proposal Sponsor has induced \$9.19 million of otherwise Unaffected Creditors to file claims as something they are not by definition (i.e. Affected Creditors) thereby effectively reducing the size of the cap from \$65 million to \$55.8 million and the maximum pool of funds available to the actual Affected Creditors described by the Proposal from \$37.7 million to \$32.4 million. These are material changes impacting all Affected Creditors that follow from arrangements made by the Proposal Sponsor outside the terms of the Proposal.

[30] The Proposal makes no provision for creditors "downshifting" their claims voluntarily. Lien claims are defined as "Unaffected Claims" and I see no basis for them to be accepted under the Proposal on any other basis particularly where doing so operates to the obvious detriment of the affected class members. This is not a case of a

secured creditor valuing its security and filing an unsecured claim for the shortfall. There are consequences to such a valuation exercise that are absent here.

[31] The “electing” lien claimants have little in common with the actual Affected Creditors who had no election to make. Despite having made the election, assuming there was any basis in the Proposal to make such an election (and it appears to me that there was not), such creditors retained their security intact. Pursuant to art. 9.01 of the Proposal, the Proposal would have “no effect upon Unsecured Creditors” which definition does not cease to apply to them by virtue of a make-shift “election” for which the Proposal makes no provision. They did not agree to surrender their security nor even to value it in the bankruptcy process. They agreed to sell their claims on whatever terms they chose to accept from the Proposal Sponsor secure in the knowledge that if, for any reason, the Proposal does not move forward, their security remains intact and unaffected.

[32] This is an element of unfairness in this that I find particularly disturbing. It is all the more disturbing when I am not at all persuaded that the unsecured creditors face the spectre of near certain annihilation in the event of a bankruptcy or receivership but face the very real prospect of additional and illegitimate dilution of their claim value were I to approve the Proposal as presented with the presence of lien claimants in the Affected Creditor pool.

(iv) *The related party claims must be treated as equity*

[33] A fundamental principle of the BIA is that equity claims are subordinate to debt claims. This principle is voiced in s. 60(1.7) of the BIA that provides quite simply that “[n]o proposal that provides for the payment of an equity claim is to be approved by the court unless the proposal provides that all claims that are not equity claims are to be paid in full before the equity claim is to be paid”. Section 140.1 expresses a similar requirement in respect of dividends more generally. While there is some similarity behind the concept of “equity claims” in Canadian insolvency law and that of “equitable subordination” the two are separate and one and must not be confused with the other: *U.S. Steel Canada Inc. (Re)*, 2016 ONCA 662 (CanLII) at para. 101.

[34] The limited partner applicants submit that the intercompany advances appearing in the general ledger of YG LP should be treated as equity claims within the meaning of the BIA. The debtors on the other hand urge me to pass over this issue entirely arguing that approval of the proposal does not entail approval of any payment of intercompany claims. Such claims will ultimately be determined by the Trustee and if disallowed for any reason will receive no distribution.

[35] I cannot accept the debtors’ argument that I should sweep the equity claims under the carpet to be dealt with another day in another forum. This is so for the following reasons:

- a. The applicant limited partners have no standing to challenge the proof of the related party claims within the bankruptcy process even if their claims against related parties are not themselves released by the Proposal.
- b. On June 1, 2021 I directed that issues raised in the two applications would be dealt with on June 23. A theme in those applications was, among others, the allegation that the General Partner had been seeking to divert substantial payments to Cresford from various investor proposals negotiated by the Cresford group ahead of limited partners, the allegations that representations had been made in the Subscription Documents and elsewhere that Cresford entities would be paid out of distribution after the “A” unit limited partners, that counsel for Cresford had confirmed that the intercompany loans were subordinated to the limited partners, that the General Partner had acted in breach of its fiduciary duties and that the Proposal was not being advanced in good faith; and
- c. The timetable I approved on June 1 specifically contemplated the foregoing aspects of those applications being dealt with on June 23, 2021.

[36] If the related party claims are equity claims under the BIA, then it is also highly likely that the notional purchase price for the project being paid by the Proposal Sponsor under the Proposal must be viewed as being \$22 million less than it might otherwise appear, a fact that is also material to the matters I must consider on this motion.

[37] The allegations of the applicant limited partners in the two outstanding applications challenge the good faith with which the Proposal has been advanced by the General Partner in part on the theory that the Proposal has in fact been advanced to secure payment of the related party claims in priority to the “A” unitholders and without securing their consent.

[38] For the foregoing reasons, I cannot avoid a consideration of whether the related party claims are equity claims. My conclusions on that subject are an integral part of any conclusion I must make on the subject of good faith or the criteria to be considered under s. 59(2) of the BIA.

[39] Are the related party claims identified by the Trustee in this case “equity claims”?

[40] The BIA contains a definition of “equity claims” that is deliberately non-exhaustive. In *Sino-Forest Corporation (Re)*, 2012 ONCA 816 (CanLII) (at para. 44) the Court of Appeal found that the term should be given an expansive meaning to best secure the remedial intentions of Parliament.

[41] Subsequent cases have explored the concept of “equity claim” with a view to fleshing out its parameters. Some of the guidelines that can be distilled from that jurisprudence include the following:

- a. Neither the “intention of the parties” as between non-arm’s length parties nor the formal characterization they apply is conclusive as to the true nature of the transaction: *Tudor Sales Ltd. (Re)*, 2017 BCSC 119 (CanLII) at para. 35 and *Alberta Energy Regulator v Lexin Resources Ltd*, 2018 ABQB 590 (CanLII) at para. 37.
- b. The manner in which the transaction was implemented, and the economic reality of the surrounding circumstances must be examined to determine the true nature of the transaction with the form selected being merely the “point of departure” of the examination: *Lexin* at para. 37.
- c. It is helpful to consider whether the parties to the transaction had a subjective intent to repay principal or interest on the alleged loan from the cash flows of the alleged borrower and, if so, was that expectation reasonable: *Lexin* at para. 41.
- d. It is also helpful to consider the “list of factors” that courts have looked at in such cases – being careful not to apply them in a mechanical way or as a definitive checklist: *Lexin* at paras. 42-43.
- e. Among the factors to examine are:
 - i. the presence or absence of a fixed maturity date and schedule of payments (absence of such terms being a potential indicator of equity);
 - ii. the presence or absence of a fixed rate of interest and interest payments. Again, it is suggested that the absence of a fixed rate of interest and interest payments is a strong indication that the advances were capital contributions rather than loans;
 - iii. the source of repayments. If the expectation of repayment depends solely on the success of the borrower’s business, the cases suggest that the transaction has the appearance of a capital contribution;
 - iv. the security, if any, for advances; and
 - v. the extent to which the advances were used to acquire capital assets. The use of the advance to meet the daily operating needs for the corporation, rather than to purchase capital assets, is arguably indicative of bona fide indebtedness: *Lexin* at paras. 42-43.

[42] The related party claims may be broken down into different buckets for the purposes of this analysis. The first one consists of payments that were made to retire loans taken out for the specific purpose of financing equity interests in YG LP. This

involved loans used to buy out the \$15 million investment of a former limited partner, loans used to finance the Cresford group of companies' \$15 million equity investment in Class B units as well as interest paid on both of these loans some or all of which has been recorded as obligations of YG LP on its books.

[43] Clearly advances made or charged to YG LP for the direct or indirect purpose of financing the purchase of an equity interest in YG LP are likely to the point of certainly to be characterized as equity claims of YG LP for the purposes of insolvency law. The evidence to this point supports the reasonable inference that a very substantial portion of the advances charged to YG LP by non-arm's length parties can be so characterized.

[44] A second category of advances made can only be described as "miscellaneous" comprised of various sporadic payments made by members of the Cresford group of companies that were recorded in the ledger of the limited partnership net of other payments made by the limited partnership to the Cresford group.

[45] The terms of the intercompany advances recorded on the general ledger of the limited partnership share the following characteristics:

- a. They were all non-interest bearing without any defined term or maturity date; and
- b. There are no loan documents evidencing any of them.

[46] Such payments as there were from YG LP on account of these advances were sporadic. The nature of the YG LP project is such that there is no cash flow nor any expectation of cash flow being available to repay the intercompany advances recorded until project completion when deposits and sales proceeds become available. The evidence does not suggest that intercompany advances were primarily short-term bridge advances pending the receipt of project financing that was to be used to repay them.

[47] There is substantial evidence that the related party advances were intended to be subordinated to holders of "A" units of YG LP and are thus equity claims. In the interest of time, I shall only summarize this evidence:

- a. Direct written representations were made to the investors in YG LP "A" units as part of the subscription process that after payment of "project expenses" only "external lenders" debt would be repaid ahead of them and that distributions to "Cresford" – unambiguously referencing the group of companies rather than one entity – would come after repayment of invested capital and the agreed return on investment to the limited partner investors;
- b. Cresford's communications to the limited partners never disclosed the existence of any "debt" owed to Cresford even when portraying "current debt" in various discussions with or disclosures made to them until very

recently (and long after the advances in question were recorded on YG LP's books);

- c. Other Cresford group projects with similar capital structures also made representations that intercompany advances were treated as equity;
- d. There was a direct, written representations made by prior counsel to the General Partner in October 2020 that such intercompany advances were "subsequent in priority" to the YG LP "A" unit investors – that admission has since been retracted without an adequate explanation for why it was an alleged error; and
- e. Cresford's CFO also advised that the YG LP "A" unitholders would be paid in priority to "Cresford" a term used to describe the related group of Cresford companies under common control.

[48] A review of the foregoing factors in light of the jurisprudence leads me to the conclusion that the related party advances must be considered as equity claims for the purposes of this motion at least. Virtually all indicators reviewed point towards equity and there is little to no evidence leaning the other way.

(v) *The implied value of the Proposal is \$22 million less than assumed*

[49] The Proposal operates to reduce the payments made to unsecured creditors if claims are lower than the \$65 million cap. The converse is not the case. Absent the lien claims and the intercompany claims there is no mathematical prospect of the \$65 million cap being operative unless the contingent and late-filed claims are resolved at levels far in excess of any reasonable estimate. This means that the consideration paid by Concord under the Proposal must be considered to be worth \$22 million less than it might have been had the related party claims not been equity claims.

(vi) *The general partner had authority to file the NOI*

[50] The two groups of limited partners have raised three broad categories of objections to the capacity of the general partner to have filed the NOI and sought approval of the Revised Proposal: (i) as a matter of law, all partners including limited partners, must approve filing for bankruptcy; (ii) pursuant to the Limited Partnership Agreement, the general partner lacked the authority to file for bankruptcy; and (iii) the general partner ceased to be general partner prior to the filing. I shall consider each of these in turn.

S. 85(1) of the BIA

[51] Section 85(1) of the BIA provides that it "applies to limited partnerships in like manner as if limited partnerships were ordinary partnerships, and, on all the general

partners of a limited partnership becoming bankrupt, the property of the limited partnership vests in the trustee.”.

[52] The limited partners’ position was that since all partners of a general partnership must authorize a bankruptcy filing and since s. 85(1) of the BIA applies the law in relation to general partnerships to limited partnerships in “like manner”, it follows that an NOI must be authorized by all limited partners in addition to the general partner. In support of this interpretation they cite the case of *Aquaculture component Plant V Limited Partnership (Re)*, 1995 CanLII 9324 (NS SC) where two NOI’s filed on behalf of limited partnerships were annulled on this basis.

[53] While the decision of Hamilton J. in the *Aquaculture* case is entitled to deference, it is not binding upon me. I find that I am unable to agree with its reasoning.

[54] The *Aquaculture* case stands quite alone in the jurisprudence on this topic – alone in the sense that none appear to have followed or disagreed with it as far as the research conducted by the parties has been able to determine. In the 26 years since it was decided, a significant number of limited partnerships have passed through our bankruptcy courts either for proposals or liquidations without apparent objection on this score. That practice of course does not have the effect of altering the law but it is at least a factor to consider given the number of times since then that Parliament has examined the BIA including with the addition of s. 59(4) that authorized changes to the constating documents of a debtor including a limited partnership.

[55] I reach a different conclusion than was reached in *Aquaculture* for the following reasons:

- a. The use of general “in like manner” language in s. 85(1) of the BIA is intended to ensure that the provision is interpreted consistent with the objects of the BIA and not in a manner as to defeat those objects or render the benefits of the BIA largely inaccessible to limited partnerships. The procedure for filing an NOI was intended to offer debtors a swift and relatively low cost means of seeking creditor protection after a secured creditor gives the required ten-day notice of its intention to enforce. Requiring unanimous consent for filing of an NOI would have the practical effect of making the benefits of bankruptcy law unavailable to limited partnerships in practice in a large number of cases. Limited partnerships often have large numbers of limited partners and the time required to convene a meeting and obtain unanimous consent would require more time than secured creditors are required by law to give in the way of notice.
- b. Provincial law generally provides that only general partners may bind a limited partnership (in Manitoba, s. 54(1) of the *The Partnership Act*, CCSM c P30) and the BIA treats partnerships and limited partnerships as a full

“debtor”. The policy behind requiring all *general* partners to authorize a bankruptcy filing is obvious – all are liable without limit for the liabilities of the partnership. The same is not the case with a limited partnership.

- c. Section 59 of *The Partnership Act* also provides that actions or suits in relation to the limited partnership may be brought and conducted by and against the general partners as if there were no limited partners. This too supports the proposition that the consent of limited partners is not required for the filing of an NOI on behalf of the partnership.

[56] I find that s. 85(1) of the BIA did not require the asset of each limited partner to the filing of an NOI.

[57] The limited partners also pointed to provisions of the Limited Partnership Agreement to allege that the General Partner had automatically ceased to be general partner of the partnership by reason of certain actions or that that it lacked the authority to file on behalf of the partnership.

Did the General Partner cease to be a general partner of YG LP at any time?

[58] The Proposal Sponsor Agreement is dated April 30, 2021 and was entered into between Concord as Proposal Sponsor and YG LP acting through the General Partner. It was executed prior to filing the NOI but *after* the two limited partner groups had filed their separate applications seeking, among other things, to remove the General Partner. To the extent it is relevant, there can be no question but that Concord was aware of the terms of the Limited Partnership Agreement at all relevant times when negotiating and entering into the Proposal Sponsor Agreement.

[59] Pursuant to s. 1.1 of the Proposal Sponsor Agreement, YG LP agreed to “use commercially reasonable efforts to effect a financial restructuring of [YG LP] that will result in the acquisition of the Property by the Proposal Sponsor together with [YG LP’s] rights, title and interests in and to such Project-related contracts as may be stipulated”. A draft of a proposal, substantially similar to the Proposal before this court for approval, was appended as a schedule to the Proposal Sponsor Agreement. The agreement was signed by Mr. Daniel Casey on behalf of each of the Cresford companies named as parties including YG LP.

[60] Section 10.14 of the YG LP Limited Partnership Agreement provides that “None of the following actions shall be taken unless it has *first* been approved by Special Resolution: (a) approving or disapproving the sale or exchange of all or substantially all of the business or assets of the Partnership”(emphasis added).

[61] The Proposal contemplated by the Proposal Sponsor Agreement clearly provides for the sale or exchange of all or substantially all of the business or assets of the Partnership. Section 1.1 of the Proposal Sponsor Agreement obliged YG LP to “use

commercially reasonable efforts” to cause this to occur, including by filing the NOI and to requesting court approval of the Proposal. As obliged by the Proposal Sponsor Agreement, YG LP filed an NOI, filed the Proposal and subsequently sought court approval of the Proposal.

[62] Entering into the Proposal Sponsor Agreement constituted the “approval” of YG LP to the sale or exchange of all or substantially all of the business or assets of the Partnership” even if approvals of other parties were also required in order to *complete* the transaction. The prohibition in art. 10.14(a) attaches to the approval of the action and not its completion.

[63] Section 7.1(c) of the Limited Partnership Agreement creates an Event of Default if the General Partner “becomes insolvent ... consents to or acquiesces in the benefit of [the BIA]”. By filing the NOI as a general partner of YG LP, the General Partner necessarily admitted to being insolvent at the time the NOI was filled out. There is no evidence that such state of insolvency arrived suddenly that day. The General Partner has accordingly admitted to the existence of an insolvency default under s. 7.1(c) of the Limited Partnership Agreement at some time prior to filing the NOI failing which no NOI would have been possible. By signing the Proposal Sponsor Agreement and agreeing to file the NOI to advance the Proposal, the General Partner also consented to the receiving the benefit of the BIA proposal provisions.

[64] For all of the foregoing reasons, the signing of the Proposal Sponsor Agreement amounts to an admission of further breaches of the Limited Partnership Agreement.

[65] Do such breaches entail the automatic removal of the authority of the General Partner to act as such at the time the NOI was actually filed? The answer in my view is that none of them have that effect.

[66] Section 11.2 of the Limited Partnership Agreement concerns the removal of the General Partner. Pursuant to s. 11.2(a), the General Partner “may be removed” by a court of competent jurisdiction on certain named grounds. That has not occurred. Section 11.2(b) provides that the General Partner “shall cease to be general partner” if any of the named events occurs. None of the agreement to file an NOI, the state of being insolvent or the signing of the Proposal Sponsor Agreement can be read to be included in the list of events listed in s. 11.2(b). The *aftermath* of the filing of the NOI may well be such a trigger but the answer to that question would require me to contend with the effects of the automatic stay which has not been raised before me.

[67] Accordingly, I find that the NOI filed by the General Partner was not void or subject to any similar infirmity. The foregoing conclusion refers only to the actual filing of the NOI and specifically does not apply to the breaches of the Limited Partnership Agreement consequent upon entering into the Proposal Sponsorship Agreement discussed above.

(vii) *The Proposal was the product of a flawed process and breaches of fiduciary duty by the General Partner*

[68] There are two aspects to this part of the objections raised by the objecting limited partners. First, it is alleged that during the year leading up to the Proposal Sponsor Agreement, the General Partner breached its fiduciary duty to act in the best interests of the partnership by seeking to advance the interests of non-arm's length parties to the detriment of the limited partners while simultaneously frustrating every effort of the limited partners to access the information that the Limited Partnership Agreement and the Manitoba *Partnership Act* gave them the rights to see. Second, it is alleged that negotiating and entering into the Proposal Sponsor Agreement was a breach of fiduciary duties of the General Partner in that this was nothing less than deliberately negotiating and entering into an agreement to breach the Limited Partnership Agreement.

[69] As the sole general partner of YG LP, the General Partner was responsible for the management of the affairs of the limited partnership and was the only one able to bind the partnership. The General Partner owed a fiduciary duty to all of the partners of the firm in discharging that role and pursuant to s. 64 of *The Partnership Act*, is liable to account, both at law and in equity to the limited partners for its management of the firm.

[70] As I have outlined above, entering into the Proposal Sponsor Agreement was a clear violation of s. 10.14 of the Limited Partnership Agreement as it agreed to a process whereby substantially all of the property of the firm would be conveyed to a third party without the assent of the limited partners. The fact that the BIA stay of proceeding may impede or prevent the limited partners from seeking a direct remedy for that breach when the agreement was subsequently put into action by filing the NOI does not detract from the existence of a present breach the moment pen was put to paper. Further, whether the negotiations of the Proposal Sponsor Agreement consumed two weeks or two months, it was a breach of fiduciary duty to plan and then put into execution a deliberate breach of the Limited Partnership Agreement and doing so in the teeth of a pending application to stop the General Partner adds further weight to that conclusion.

[71] The debtors suggested that being in the proximity of insolvency dissolved or altered the fiduciary duties of the general partner owed to the limited partners. It is true that the law recognizes that the interests of creditors assume a greater weight the closer to insolvency the enterprise approaches. None of this dissolves the fiduciary obligations of the General Partner so much as it adds to them. It is at this point that the other aspect of the complaint of the limited partners enters the analysis.

[72] Nothing in what I have written suggests that a general partner cannot file an NOI where doing so appears on all of the facts and in the good faith exercise of the best business judgment of the general partner to be in the best interests of the enterprise as a whole to do so – a judgment that necessarily accounts for the obligations of the firm owed to its creditors.

[73] This filing was different because it came with strings attached: a binding Proposal Sponsor Agreement that granted exclusivity to a single party and obliged the General Partner to pursue one path and one path only to emerge from the process. Those strings did not get attached as a result of a process which itself discharged faithfully the fiduciary duties of the General Partner. Rather they were attached as the culmination of almost a year of battling to keep information away from limited partners that they had a right to access (in most cases at least) and the squandering of an expensively purchased window of restructuring breathing room looking not for the solution best able to discharge all of the obligations of the partnership but rather looking for the investor best able to secure the optimal outcome for the Cresford group of companies generally. In that process the limited partners were an obstacle to be circumvented and bankruptcy provided a possible key.

[74] Good faith in such circumstances is not assumed but must be shown. The evidence presented to me has rather persuasively convinced me that good faith took a back seat to self-interest.

[75] The parties have expended considerable effort in outlining the details of what occurred in that time frame. In the interests of time, I shall summarize the important take-aways from those events:

- a. Until the Proposal Sponsor Agreement and the April 2021 CBRE report prepared for Concord, *all* appraisal evidence showed a profitable project likely to result in full coverage for all of the outstanding third-party debt obligations plus all of the obligations owed to limited partners;
- b. The General Partner presented two potential transactions to the “A” unit limited partners in the second half of 2020 that provided for the full payment of all debt, the payment of approximately \$38 million to non-arm’s length parties related to the General Partner and payment of obligations owed to the limited partners at a discount – the latter of the two proposals emanated from Concord;
- c. The two proposals failed to proceed primarily because the General Partner was unable to provide a satisfactory explanation as to why Cresford related parties were to receive a substantial payment when limited partners were asked to accept a compromise the obligations due to them and limited partners had been assured that Cresford group obligations ranked behind them both when they made their investment and as late as October 2020 in a letter from counsel the debtors; and
- d. The limited partners were in a continual tug-of-war trying to pry information out of the General Partner having had to resort to a court order at the

beginning of this year to obtain access to information that should have been available to them as of right.

[76] Few things are more precious in the restructuring business than time. YG LP was able to “purchase” more than a year of time with the forbearance arrangements that it worked out. That precious time appears to have been devoted solely to finding transactions that offered the greatest level of benefits for the Cresford group of companies. There is no evidence that any canvassing of the market – however constrained the market of developers capable of undertaking the completion of an 85-story mixed use tower in downtown Toronto may be – took place that was not indelibly tainted by the imperative of finding value for the Cresford group of companies rather than for the partnership itself.

(viii) The Affected Creditor vote was unanimous

[77] Despite the fact that I have found that fifteen of the forty-six votes cast in favour of the Proposal ought not to have been considered because they came from Unaffected Creditors, that determination does not impact the conclusion of the Trustee that the required statutory majorities voted in favour of the Proposal. There was but one negative vote cast and the Trustee disallowed that vote as being contingent. I have reviewed the Trustee’s reasons for so ruling and find no fault with them. The removal of fifteen creditors and just over \$9 million in claims does not detract from the fact that thirty-one creditors holding approximately \$9 million in other claims cast votes in favour.

[78] While I am prepared to consider to some degree the impact of the assignment agreements negotiated by Concord (see below), I do not view such agreements as impacting the formal validity of the votes cast.

[79] I find that the Proposal received the required majority of two-thirds in value and over 50% in number of creditors voting in person or by proxy.

(ix) The probative value of most of the Affected Creditor vote is attenuated

[80] In the normal course, the agreement of a broad group of creditors to accept less than 100% of what they are owed is cogent evidence of the fairness and reasonable nature of a proposal. This is so as a matter of common sense and by a very long tradition in our law. It is not an indicator lightly to be ignored.

[81] I must also recognize that whatever doubts the evidence may raise as to the insolvency of the debtors in terms of the realizable value of their assets, there can be little doubt that the liquidity test for insolvency is met. The lien claimants have been unpaid for a year or more without any formal forbearance agreement. The first mortgagee has entered into a forbearance agreements but this expires on June 30, 2021.

[82] There was a window of time to find an out-of-court solution, but it would appear that the debtors have squandered it.

[83] The vote of the Affected Creditors *is* probative of fairness, but I find that its weight is attenuated in this case by the following circumstances:

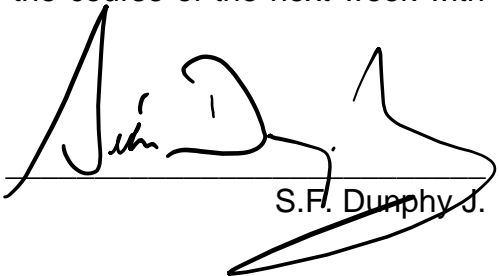
- a. Only a relatively small minority voted who did not also enter into assignment agreements;
- b. The evidence is equivocal about precisely what consideration was received by those who entered into such assignment agreements – a relayed denial of “side-deals” without more adds little to the equation particularly when the deal itself is not disclosed;
- c. Clearly if assigning creditors received or stand to receive more than the value allocated to them under the Proposal, their positive vote says little about the business judgment of the creditors at large to accept the value offered to satisfy their claims but says more about the willingness of the Proposal Sponsor to pay more than has been reflected in the Proposal itself.
- d. This last-in-line class of creditors did not have available to it the range of information produced in connection with this approval motion.

Disposition

[84] I will not approve the Proposal in its present form. I have concluded that, as presented, the Proposal is not reasonable, it is not calculated to benefit the general body of creditors and there are serious issues regarding the good faith with which it has been prepared and presented by the debtors. The debtors and the Proposal Sponsor have the authority under art. 3.06 of the Proposal to amend the Proposal to address the concerns I have raised. It is up to them – with the approval of the Trustee – to do so if they are so inclined.

[85] I am directing the parties to return on Wednesday June 30 at 2:15 pm either to propose amendments to the Proposal that address the concerns I have raised in a substantive way or to address next steps.

[86] These written reasons expand upon the summary reasons I presented orally in a hearing on June 29, 2021. I have released these reasons with relatively little opportunity to proof them and correct typographical errors or minor nits or stylistic glitches. I shall do so over the next week when I have more time available to me and the capacity to call upon my able assistant Ms. Daisy Ng to assist in that effort. Accordingly, I shall be releasing an amended version of these reasons over the course of the next week with such minor and non-substantive corrections.



S.F. Dunphy J.

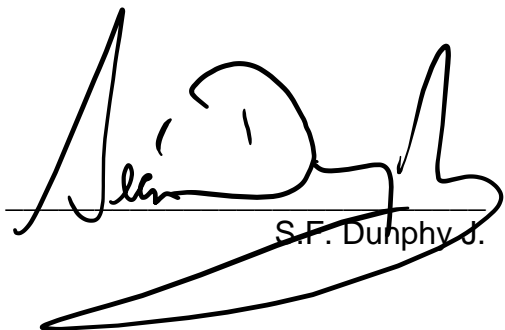
Date: June 29, 2021

The foregoing is the corrected text of my reasons. Orphaned words have been removed or obvious missing words restored along with corrections of minor errors only. The parties have received a blackline version to compare the changes. Since releasing these reasons, I have adjourned the hearing scheduled for June 30, 2021 at 2:15 until July 9, 2021 at 10:00am. In so doing, I issued the following additional directions:

As KSV Restructuring Inc. ("KSV") will become the bankruptcy trustee and court-appointed receiver on July 9, 2021 if no satisfactory amended proposal is approved at that time, this Court hereby authorizes and directs KSV to undertake the steps towards formulating a sales process that it would be undertaking if it had been appointed the receiver today.

KSV's costs of doing so from July 1, 2021 shall be deemed costs of the receiver upon the granting of a receivership order on July 9, 2021 failing which all such costs will be deemed to be costs of the Proposal Trustee in the proposal proceeding.

Issued: July 2, 2021



S.F. Dunphy J.

Appendix “B”

CITATION: YG Limited Partnership and YSL Residences (Re), 2021 ONSC 5206
COURT FILE NOS.: CV-21-00655373-00CL/BK-21-02734090-0031,
CV-21-00661386-00CL & CV-21-00661530-00CL
DATE: 20210716

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

RE: IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED

AND:

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A
PROPOSAL OF YG LIMITED PARTNERSHIP AND YSL RESIDENCES

APPLICATION UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED

AND RE: 2504670 CANADA INC., 8451761 CANADA INC. and CHI LONG INC.,
Applicants

AND

CRESFORD CAPITAL CORPORATION, YSL RESIDENCES INC,
9615334 CANADA INC., YG LIMITED PARTNERSHIP and DANIEL
CASEY, Respondents

AND RE: 2583019 ONTARIO INCORPORATED AS GENERAL PARTNER OF
YONGESL INVESTMENT LIMITED PARTNERSHIP, 2124093 ONTARIO
INC., SIXONE INVESTMENT LTD., E&B INVESTMENT CORPORATION
and TAIHE INTERNATIONAL GROUP INC., Applicants

AND

9615334 CANADA INC. AS GENERAL PARTNER OF YG LIMITED
PARTNERSHIP and YSL RESIDENCES INC., Respondents

BEFORE: S.F. Dunphy J.

COUNSEL: *Harry Fogul and Miranda Spence*, for YG Limited Partnership and YSL
Residences Inc.

Shaun Laubman and Sapna Thakker, for 2504670 Canada Inc., 8451761
Canada Inc., and Chi Long Inc.

Alexander Soutter, for YongeSL Investment Limited Partnership, 2124093 Ontario Inc., SixOne Investment Ltd., E&B Investment Corporation, and TaiHe International Group Inc.

David Gruber, Jesse Mighton, and Benjamin Reedijk, for Concord Properties Developments Corp. and its affiliates

Jane Dietrich and Michael Wunder, for 2292912 Ontario Inc. and Timbercreek Mortgage Servicing Inc.

Robin B. Schwill, for KSV Restructuring Inc. in its capacity as the proposal trustee

Roger Gillot and Justin Kanji, for Kohn Pedersen Fox Associates PC

Reuben S. Botnick, for Royal Excavating & Grading Limited COB as Michael Bros. Excavation

Jamie Gibson, for Sarven Cicekian, Mike Catsiliras, Ryan Millar and Marco Mancuso

Brendan Bowles, for GFL Infrastructure Group Inc.

Mark Dunn, for Maria Athanasoulis

James MacLellan and Jonathan Rosenstein, for Westmount Guarantee Services Inc.

Albert Engle, for Priestly Demolition Inc.

HEARD at Toronto: July 9 and 16, 2021

REASONS FOR DECISION #2 (REVISED PROPOSAL)

[1] On June 29, 2021, I rejected the debtor's application for approval of its Proposal (identified as "Amended Proposal #2") and provided my detailed reasons for doing so on July 2, 2021. In delivering my reasons, I indicated that that it remained possible for the debtors to amend their Proposal if they so chose. The debtors for their part asked me to adjourn the hearing until July 9, 2021 in order to permit them an opportunity to do so. I granted the requested adjournment.

[2] An amended proposal was filed immediately prior to the hearing on July 9, 2021 entitled "Amended Proposal #3" and I have been asked to consider approving such Amended Proposal. I held a hearing on whether Amended Proposal #3 ought to be approved on July 9, 2021. Amended Proposal #3 was filed only a short while prior to that

hearing. I delayed the start of the hearing for an hour to give parties time to review and analyse the document and proceeded to hear their submissions.

[3] As is usual, I called upon the Trustee to give its comments last. The Trustee requested a further week to review the document and to consider its position. I granted that request and the matter was adjourned to July 16, 2021 at 10:00 a.m. This second adjournment was granted – it must be noted – over the objections of the 1st mortgagee Timbercreek whose forbearance agreement with the debtors expired on June 30, 2021 and who has a long-standing hearing date for its receivership application on July 12, 2021. I adjourned the Timbercreek July 12, 2021 hearing to July 16, 2021 as well such that both proceedings were scheduled to appear before me on July 16, 2021.

[4] A term of the adjournment I granted was that the debtors and Timbercreek should both have circulated draft orders (Proposal approval order in the case of the debtors; Receivership Order in the case of Timbercreek) in advance of the hearing on July 16, 2021 with the expectation that I should sign one of the two orders on July 16, 2021.

[5] On July 15, 2021, a second version of Amended Proposal #3 was filed with the Official Receiver and the Trustee issued its Fourth Report commenting on version 2 of Amended Proposal #3. The Trustee's Fourth Report recommended approval of the Proposal as so amended.

[6] This Proposal has been through a few versions and the nomenclature can get confusing. The amendments made in version 2 of Amended Proposal #3 were minor and technical in nature – they did not adversely affect the rights of any Affected Creditor and at least one of them could just as easily have been added to the approval order outside of the Proposal without objection. My references to "Amended Proposal #3" below should be taken as referencing version 2 of Amended Proposal #3 unless the context requires otherwise.

[7] For the reasons that follow, I have decided to approve version 2 of Amended Proposal #3 and I have signed the approval order.

Background facts

[8] I shall not repeat my review of the facts nor my reasons for rejecting Amended Proposal #2 on June 29, 2021. My detailed reasons for that decision were released on July 2, 2021 and should be considered as if incorporated by reference herein.

[9] In broad strokes, the following summarizes the principal amendments made in Amended Proposal #3:

- a. Lien claimants who assigned their claims to the Proposal Sponsor (\$9.2 million) will not share in the pool of cash available to unsecured creditors under the Proposal – all lien claimants will be treated as Unaffected Creditors;

- b. Related party claims (\$38.3 million) will be treated as equity claims and not participate in the pool of cash available to unsecured creditors;
- c. Unsecured creditors' recoveries will no longer be limited to \$0.58 per dollar of proven claim but will share *pro rata* in the pool of cash available to unsecured creditors up to payment in full;
- d. The Proposal Sponsor will fund the full cash pool on Proposal Implementation without reduction should proven claims come in below the amount of the cash pool (\$30.9 million);
- e. The pool of cash available to unsecured creditors is reduced from \$37.7 million to \$30.9 million but subject to the above changes reducing the claims eligible to share in the pool;
- f. Secured creditors claims – including all construction lien claims – remain unaffected and are assumed by the Proposal Sponsor in purchasing the land and project assets;
- g. After Affected Creditor claims have been resolved and all required payments made to them, any residual amount will be returned to the debtor YG Limited Partnership to be dealt with as the partners direct or the court orders; and
- h. Proposal Implementation will occur three days after court approval.

[10] The Fourth Report of the Trustee summarized the impact of these changes. Some of the principal points made by the Trustee include the following:

- a. Construction lien claimants who agreed to assign their claims to the Proposal Sponsor prior to these amendments might potentially receive less under their assignment agreements than they would under Amended Proposal #3 which had not been made when they agreed to assign their claims. The Trustee contacted the assigning creditors. Two were unable to be contacted but have voiced no objection one way or the other. The remainder of them expressed support for the approval of Amended Proposal #3 or made no objection to it. No assigning creditor was opposed.
- b. Version 2 of Amended Proposal #3 contains material improvements to Amended Proposal #2 and addresses concerns raised in my decision of June 29, 2021.
- c. Any payments to equity holders are entirely outside of the Proposal.
- d. The Trustee has analyzed the known unsecured claims that would share in the \$30.9 million pool available to Affected Creditors under Amended Proposal #3. The Trustee's estimate is that Affected Creditors will receive

between 71% of their claims and payment in full under version 2 of Amended Proposal #3 as contrasted with between 40% and 58% of their claims under Amended Proposal #2. The lower assumption is based on all known claims being allowed in full as claimed with an identical estimate for claims not yet filed. In the event none of the disputed or contingent claims were allowed, the Affected Creditors would be paid in full and up to \$19 million may be available to holders of equity claims.

[11] Amended Proposal #3 came with an additional element that the Proposal Sponsor felt it proper to disclose to the Court and the parties. The Proposal Sponsor made a parallel and entirely voluntary offer to holders of limited partnership units in YG LP as well as other claims found by me to be equity claims (i.e. the related party claims) to sell their equity interests for 12.5% of the value of such interests subject to certain structuring conditions.

[12] I cannot say at this juncture whether any equity holders will take the Plan Sponsor up on this offer. The objecting limited partners have shown little interest in it to date at least. The offer has conditions that may or may not be acceptable to them depending upon their own tax situation and their views of value.

[13] Fifty years after the Carter Commission report, it remains the case that business transactions are invariably structured to minimize tax which continues to impact similar economic transactions differently depending upon the structures used. I am satisfied that the “equity offer” is not a disguised transfer of value from creditors to holders of equity claims – the structures required to be used potentially deliver tax attributes to a buyer of the claims that would not otherwise be available. This proposal has been properly disclosed but I do not view it as being particularly relevant to my assessment of Amended Proposal #3. That proposal delivers additional value to creditors under all scenarios compared to its predecessor. There is no diversion of value from creditors to equity holders to be found here. I concur with the Trustee’s assessment that the equity offer is quite independent of the Proposal and does not contravene the *BIA* provisions against payment to equity ahead of debt even if it turns out that creditors receive less than payment in full (and that would be a fairly speculative assumption to make).

[14] The Trustee’s Fourth Report concluded that the Debtors were proceeding with the request for approval of the Amended Proposal #3 in good faith.

Analysis and discussion

[15] This amended proposal is not perfect. The process that led to it was far from ideal. However, as now amended, this Proposal provides a superior outcome for all classes of creditors under every conceivable scenario and addresses all of the concerns raised in my reasons of July 2, 2021 constructively and substantively.

[16] As so amended, I have no hesitation in finding that Amended Proposal #3 is reasonable, it is calculated to benefit the general body of creditors and is being advanced

at this juncture in good faith notwithstanding the defects that I found marred the negotiation and presentation of the initial version of the Proposal.

[17] There were some critical foundational findings that I made in my reasons of July 2, 2021 including:

- a. whatever breaches of the Limited Partnership Agreement may have occurred in the weeks and months prior to the filing of the NOI, the general partner *did* have authority to file the NOI;
- b. the Affected Creditor vote in support of Amended Proposal #2 was in fact unanimous; and
- c. whatever questions there may be regarding the solvency of the debtors from the perspective of the realizable value of their assets, there can be no question of the insolvency of the debtors from a liquidity point of view: secured and unsecured claims alike are overdue and unpaid and the debtors have no means to satisfy their claims in a timely way. Lien claims are more than a year in arrears for the most part while all forbearance periods have expired for the secured debt.

[18] While I found the probative value of the creditor vote to be attenuated somewhat by the factors I listed in those reasons, the vote did and does have probative value and it is material to note that unsecured creditors agreed to accept payment of less than full payment on their claims on June 15, 2021. All of the Affected Creditors will receive a superior outcome under Version 2 of Amended Proposal #3 under any reasonable assumptions. Their approval of the prior version of the Proposal remains as probative in the context of version 2 of Amended Proposal #3 if not more so.

[19] Version 2 of Amended Proposal #3 clearly satisfies the technical requirements of the *BIA* in that Amended Proposal #2 upon which the creditors did vote authorized the amendments that have been made in Amended Proposal #3 (including version 2 thereof).

[20] Version 2 of Amended Proposal #3 has constructively addressed each of the issues I raised in my June 29 ruling and my July 2 written reasons:

- a. The construction lien claims will not dilute the recovery of the unsecured creditors in any way.
- b. The related party claims are to be treated as equity claims and disentitled to share in the cash pool.
- c. While I expressed grave concerns regarding the lack of good faith and the breaches of fiduciary duty that preceded the filing of the NOI and the entry into the Proposal Sponsor Agreement, those concerns were primarily focused on the efforts made to prefer related party claims over those of other stakeholders in the search for an investor. Amended Proposal #3

cannot undo the past of course but it has addressed those findings constructively. The related party claims are treated as equity claims.

- d. There is a strong likelihood that proven creditor claims will be substantially lower than the \$30.9 million pool available to satisfy them and Amended Proposal #3 ensures that such surplus is returned to the limited partnership instead of being retained by the Proposal Sponsor.
- e. The claims of related parties and their priority relative to limited partners will be dealt with within the limited partnership structure itself, in broad daylight and subject to the full range of remedies open to the limited partners to protect their interests should the need arise. The conflicting interests that marred the development of Amended Proposal #2 have been substantially cured by the amendments effected by Amended Proposal #3. Related parties have been put in their proper place in the claims hierarchy.

[21] The strongest critique levelled at Amended Proposal #3 by the limited partners is that it does not answer the question of what the value of the project might have been had the project been offered on the open market in a competitive process. That is a fair criticism but not one that is sufficient to detract from the overwhelmingly positive attributes of this Proposal.

[22] The past cannot be undone and perfection is not the standard against which a proposal is to be measured. Section 59(2) of the *BIA* requires that approval of a proposal must be refused if its terms are not shown to be reasonable and calculated to benefit the general body of creditors. The common law has added to this the requirement that a proposal must be advanced in good faith.

[23] Amended Proposal #3 is both reasonable and calculated to benefit the general body of creditors. It provides for substantially improved outcomes to all creditors whose claims were impaired by Amended Proposal #2 under any reasonable assessment of the facts. As noted above, it is quite likely that a surplus will remain to be returned to the limited partnership after all affected unsecured claims have been paid in full to be dealt with as the limited partners direct (or by court order if necessary).

[24] The debtors are insolvent today. They are properly in bankruptcy proceedings. Their creditors have a right to payment and – to the extent reasonably possible – to payment in full as soon as possible. Amended Proposal #3 offers payment in full to most secured creditors within a matter of days following court approval. Unsecured creditor payments will be subject to reasonable reserves for unresolved claims but these too will begin flowing in short order. This contrasts to a delay of *many* months on the most optimistic of scenarios were a receiver directed to sell the project.

[25] There is a public interest in moving this very substantial project out of the quicksand in which it has become stuck for over a year. Approval of Amended Proposal #3 at this juncture ensures that the Project is in the hands of a solvent entity

with the wherewithal and experience necessary to put it back on track as soon as possible.

[26] The real question before me today is whether limited partners have the right to require creditors to run the risk of a sale process producing an inferior outcome to Amended Proposal #3 in order to test the hypothesis that a greater value might emerge from a fresh marketing of the project in a liquidation process that might result in payment of some or all of the limited partners' equity claims. In my view, they do not.

[27] It is possible that higher values could emerge from a liquidation process but that possibility is not a one way street. The dissatisfaction I expressed in my reasons of July 2, 2021 regarding the quality of the appraisal evidence before me does not imply any level of probability that market value today is *higher* than the values suggested by the April 2021 CBRE appraisal. I was dissatisfied with the quality of *all* of the appraisal evidence because of the lack of evidence reconciling the differences between them and, in particular, assessing the reasonableness of the assumptions made in each.

[28] It is noteworthy that version 2 of Amended Proposal #3 offers the real prospect that a return on equity of more than 100% of the invested capital of the limited partners may come back to YG LP. The limited partners assent will be needed to any use of those funds unless a court order is obtained. The possible upside to limited partners arising from a new sales process has thus become that much more remote under this last revision to the Proposal compared to the first.

[29] There are costs involved in conducting a receivership that would come ahead of any potential surplus being made available to equity claimants such as the limited partners. Some of the risk of a sale process producing a lower outcome could potentially be insured against by procuring a stalking horse bid to put a floor under the sale process. There is no guarantee that a stalking horse bid would be available at or near the implied value of Amended Proposal #3. Stalking horse bids come with a price tag in the form of a break fee that is usually calculated as a percentage of the price. That too would stand to reduce the recoveries to unsecured creditors and create an additional hurdle to any prospect of additional recovery to limited partners.

[30] This is a real bankruptcy. There is nothing artificial about it. Creditors have been unpaid for over a year. I have before me a transaction that provides a pathway to payment of creditor claims in full and quickly while leaving a realistic prospect for equity claims to receive some significant recovery. Every other option requires the creditors – who bear no responsibility for the mess that this project has found itself in – being subjected to the real risk of partial non-payment and substantial delay being added to the very lengthy delay to which they have already been subjected in order to test the hypothesis that a few percentage points of additional value might potentially be found. That is not a risk that it is fair to impose on creditors on these facts and having regard to the important favourable changes made to the Proposal.

Disposition

[31] Accordingly, an order shall issue approving version 2 of Amended Proposal #3. I have reviewed the draft form of approval order uploaded and approved and signed same. It was amended slightly to include in the preamble corrected references to the limited partners who appeared and the evidence they filed.

[32] This Proposal satisfies the technical requirements of the *BIA*. I have concluded that version 2 of Amended Proposal #3 represents a valid amendment to Amended Proposal #2 in accordance with its terms and thus has received the required double majority of creditor approval. The terms of this Proposal are reasonable and calculated to benefit the general body of creditors. The amendments presented have satisfied the concerns raised by me regarding the good faith of the debtors in pursuing *this* Proposal.

[33] I wish in particular to note that I have included, as requested, an order pursuant to s. 195 of the *BIA* permitting provisional execution of the approval order notwithstanding appeal. I have made this order in consideration of two primary factors:

- a. The secured creditors of YG LP have been deferred and stayed for a very, very long time at this point. Some of that deferral was purchased in the form of forbearance agreements with Timbercreek but the last negotiated extension – an extension that included every possible assurance that no further extensions would be sought – expired on June 30, 2021. I made it clear on July 9, 2021 that I would be approving the Proposal or a Receiver today. It would be unjust to Timbercreek to have its period of limbo indefinitely extended by the simple expedient of filing a Notice of Appeal and forcing Timbercreek to seek a lifting of an automatic stay to enforce its security. This project is, at its core, a hard asset consisting of real estate, a bundle of approvals and a hole in the ground. There is no goodwill to speak of. It has been held in limbo for much more than a year at this point and it must either be put in the hands of someone who will bring it forward to completion under the Proposal or of a Receiver who will find someone who can.
- b. Our courts have generally sought to achieve a degree of uniformity of practice as between the CCAA and the *BIA*. Approval of a CCAA Plan is not subject to an automatic stay. An automatic stay in this case would operate as a functional veto of the Proposal itself because the result would be an almost certain slide into receivership unless the stay were promptly lifted.

[34] Timbercreek's receivership application was adjourned by me from July 12, 2016 until today. Based upon my approval of the Proposal today *and subject to the closing of version 2 of Proposal #3 in accordance with its terms by no later than July 31, 2021*, Timbercreek agrees that its application is moot. There is no reason to believe the Proposal will not be completed as planned, however, nothing can be taken for granted. I

am adjourning Timbercreek's application to August 9, 2021 when I shall next be sitting. It is adjourned before me.

[35] Assuming (i) the Trustee confirms to me that the version 2 of Amended Proposal #3 has been completed and (ii) Timbercreek does not advise me in advance of August 9 of its intention to proceed, I shall endorse the Timbercreek application as withdrawn without costs on August 9, 2021. No attendances will be necessary from any party in that eventuality. If there is a reason for the application to move forward, I am relying on the Trustee and Timbercreek to so notify me as soon as practicable after July 31, 2021.

[36] A request was made by the limited partners to make submissions to me regarding costs of the bankruptcy proposal proceeding. For the avoidance of doubt, my signing of the order approving version 2 of Amended Proposal #3 has not disposed of the matter of costs of the proposal proceedings. I have made no order as to costs to this point nor have I heard submissions on the point.

[37] Any party seeking an order of costs in their favour shall have ten days from today to file written submissions and an outline of costs. Submissions should not exceed ten pages excluding the outline of costs. Cases need not be included beyond a hyperlinked table of cases. The Debtors and the Proposal Sponsor shall each have a further ten days to respond to any such requests for costs with similar size restrictions. All submissions are to be uploaded to CaseLines and copied to the Trustee. I am asking the Trustee to provide me with a consolidated set of submissions to which the Trustee may – but shall not be required to – add its own additional comments in the form of a brief supplementary report.

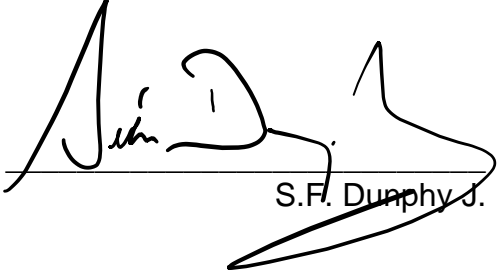
[38] Lastly, I need to give some directions regarding the two civil applications that immediately preceded these bankruptcy proceedings brought by the limited partners of YG LP. My reasons of June 29, 2021 made a number of findings in relation to matters raised in those two applications. However, it must also be clear that neither my ruling of June 29, 2021 nor this decision has fully disposed of either civil application.

[39] It is certainly true that I made findings in the context of the bankruptcy proposal proceedings that were and are relevant to the two applications. Even if those findings were made in the context of the bankruptcy proceedings, the three proceedings were to a degree inextricably intertwined. I was asked to issue a formal order in relation to the findings I did make. I declined to do so not because I am resiling from any findings made – I do not – but because I did not and do not have the full scope of the claims of either application fleshed out before me. I directed certain matters to be explored and argued due to the interrelationship between the proceedings but I do not want my rulings in one context to be taken out of context in another.

[40] The safest course in my view is to let my rulings stand as made knowing that *res judicata* and issue estoppel can be applied as needed to avoid any abuse. I was asked to confirm – and do so now – that costs of those two civil applications have not been dealt

Page: 11

with by me at all. They have not. The limited partner applicants in those two proceedings asked to make submissions regarding costs of the bankruptcy proposal proceeding and I have given them leave to do so as provided above. The costs of the two civil applications remain reserved to the judge disposing of them.



S.F. Dunphy J.

Date: July 16, 2021

Addendum:

As noted, I have reviewed the originally signed reasons and made a small number of clerical and stylistic changes to the text as originally released. As well, I was advised by the Trustee that the transaction was in fact completed on July 22, 2021. Accordingly, I have issued an endorsement today vacating the August 9, 2021 appointment reserved to hear the Timbercreek application and endorsed that matter as being abandoned without costs because moot. No party will be required to appear on August 9, 2021.

Date: July 27, 2021



S.F. Dunphy J.

Appendix “C”

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

**IN THE MATTER OF THE PROPOSAL OF YG LIMITED PARTNERSHIP
AND YSL RESIDENCES INC. PURSUANT TO THE
*BANKRUPTCY AND INSOLVENCY ACT***

AMENDED PROPOSAL #3

WHEREAS, pursuant to Notices of Intention to Make a Proposal dated April 30, 2021, YSL Residences Inc. and YG Limited Partnership (collectively, "YSL" or the "**Company**") initiated proceedings under the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, B-3 as amended (the "**BIA**"), pursuant to Section 50(1) thereof;

AND WHEREAS a creditor proposal was filed in accordance with section 50(2) of the BIA on May 27, 2021 (the "**Original Proposal**");

AND WHEREAS an amendment to the Original Proposal was filed in accordance with section 50(2) of the BIA on June 3, 2021 (the "**First Amended Proposal**");

AND WHEREAS an amendment to the First Amended Proposal was filed in accordance with section 50(2) of the BIA on June 15, 2021 (the "**Second Amended Proposal**");

AND WHEREAS, the Second Amended Proposal was approved by the Requisite Majority of creditors at the Creditors' Meeting held June 15, 2021;

AND WHEREAS, pursuant to the Amended Reasons for Interim Decision issued July 2, 2021 (the "**Interim Decision**"), the Second Amended Proposal was not approved by the Court in the form presented and the Company and the Proposal Sponsor were permitted to amend the Second Amended Proposal to address the issues set out in the Interim Decision;

AND WHEREAS the Company and the Proposal Sponsor wish to amend the Second Amended Proposal on the terms and conditions set out herein with the intention of addressing the issues set out in the Interim Decision;

NOW THEREFORE the Company hereby submits the following third amended proposal under the BIA to its creditors (as amended, the "**Proposal**").

ARTICLE I
DEFINITIONS

1.01 Definitions

In this Proposal:

"**Administrative Fees and Expenses**" means the fees, expenses and disbursements incurred by or on behalf of the Proposal Trustee, the solicitors for the Proposal Trustee, the solicitors of the Company both before and after the Filing Date;

"**Affected Creditor Cash Pool**" means a cash pool in the amount of \$30,900,000 to be comprised of (i) all cash on hand in the Company's accounts as at the Proposal Implementation Date; (ii) any and all amounts refunded to or otherwise received by the Company in connection with the transfer of the YSL Project to the Proposal Sponsor as at the Proposal Implementation Date, and (iii) the balance to be provided by the Proposal Sponsor, subject to the refund of any surplus to the Proposal Sponsor in accordance with Section 5.01(a);

"**Affected Creditor Claim**" means a Proven Claim, other than an Unaffected Claim;

"**Affected Creditors**" means all Persons having Affected Creditor Claims, but only with respect to and to the extent of such Affected Creditor Claims;

"**Affected Creditors Class**" means the class consisting of the Affected Creditors established under and for the purposes of this Proposal, including voting in respect thereof;

"**Approval Order**" means an order of the Court, among other things, approving the Proposal;

"**Assumed Contracts**" means, subject to section 8.01(e), those written contracts entered into by or on behalf of the Company in respect of the Project to be identified by the Proposal Sponsor prior to the Proposal Implementation Date, which are to be assumed by the Proposal Sponsor upon Implementation with the consent of the applicable counterparty or otherwise pursuant to an order issued in pursuant to section 84.1 of the BIA;

"**BIA**" has the meaning ascribed to it in the recitals;

"**Business Day**" means a day, other than a Saturday or Sunday, on which banks are generally open for business in Toronto, Ontario;

"**Claim**" means any right or claim of any Person against the Company in connection with any indebtedness, liability, or obligation of any kind whatsoever in existence on the Filing Date (or which has arisen after the Filing Date as a result of the disclaimer or repudiation by the Company on or after the Filing Date of any lease or executory contract), and any interest accrued thereon to and including the Filing Date and costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise),

and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against the Company with respect to any matter, cause or chose in action, but subject to any counterclaim, set-off or right of compensation in favour of the Company which may exist, whether existing at present or commenced in the future, which indebtedness, liability or obligation (A) is based in whole or in part on facts that existed prior to the Filing Date, (B) relates to a period of time prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA;

"**Company**" has the meaning ascribed to it in the recitals;

"**Conditional Claim**" means any Claim of an Affected Creditor that is not a Proven Claim as at the Filing Date because one or more conditions precedent to establish such Affected Creditor's entitlement to payment by the Company had not been completed in accordance with any applicable contractual terms as at the Filing Date, and such Affected Creditor has indicated in its proof of claim that the Claim should be treated as a Conditional Claim;

"**Conditional Claim Completion Deadline**" means 5:00pm (Toronto time) on September 27, 2021;

"**Conditional Claim Condition**" has the meaning ascribed to it in Section 2.03(a);

"**Conditions Precedent**" shall have the meaning given to such term in section 8.01 hereof;

"**Condo Purchase Agreement**" means an agreement of purchase and sale in respect of a residential condominium unit in the Project between the Company and a Condo Purchaser;

"**Condo Purchaser**" means a purchaser of a residential condominium unit in the Project pursuant to a Condo Purchase Agreement;

"**Condo Purchaser Claim**" means any Claim of a Condo Purchaser in respect of its Condo Purchase Agreement;

"**Construction Lien Claim**" means any Proven Claim in respect of amounts secured by a perfected lien registered against title to the Property and are valid in accordance with the *Construction Act* (Ontario);

"**Construction Lien Creditor**" means a creditor with a Construction Lien Claim;

"**Convenience Creditor**" means an Affected Creditor with a Convenience Creditor Claim;

"**Convenience Creditor Claim**" means (a) any Proven Claims of an Affected Creditor in an amount less than or equal to \$15,000, and (b) any Proven Claim of an Affected Creditor in an amount greater than \$15,000 if the relevant Creditor has made a valid election for the purposes of

this Proposal in accordance with this Proposal prior to the Convenience Creditor Election Deadline;

"Convenience Creditor Consideration" means, in respect of a Convenience Creditor Claim, the lesser of (a) \$15,000, and (b) the amount of the Proven Claim of such Convenience Creditor;

"Court" means the Ontario Superior Court of Justice (Commercial List);

"Court Approval Date" means the date upon which the Court makes the Approval Order;

"Creditors' Meeting" means the duly convened meeting of the Affected Creditors which took place on June 15, 2021;

"Crown" means Her Majesty in Right of Canada or of any Province of Canada and their agents;

"Crown Claims" means the Claims of the Crown set out in Section 60(1.1) of the BIA outstanding as at the Filing Date against the Company, if any, payment of which will be made in priority to the payment of the Preferred Claims and to distributions in respect of the Ordinary Claims, and specifically excludes any other claims of the Crown;

"Disputed Claim" means any Claim which has not been finally resolved as a Proven Claim in accordance with the BIA as at the Proposal Implementation Date;

"Distributions" means a distribution of funds made by the Proposal Trustee from the Affected Creditor Cash Pool to Affected Creditors in respect of Affected Creditor Claims, in accordance with Article V;

"Effective Time" means 12:00 p.m. (Toronto time) on the Proposal Implementation Date;

"Equity Claim" has the meaning ascribed to it in Section 2 of the BIA, and includes, without limitation, the Claims of all limited partners of YG LP and those Equity Claims deemed to be equity pursuant to the Interim Decision;

"Existing Equity" means the limited partnership units of YG LP and those Equity Claims deemed to be equity pursuant to the Interim Decision;

"Existing Equityholders" means the holders of the Existing Equity immediately prior to the Effective Time;

"Filing Date" means April 30, 2021, being the date upon which Notices of Intention to Make a Proposal were filed by the Company with the Official Receiver in accordance with the BIA;

"First Amended Proposal" has the meaning ascribed to it in the recitals;

"Governmental Authority" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (ii) exercising, or entitled or

purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

"**Implementation**" means the completion and implementation of the transactions contemplated by this Proposal;

"**Implementation Certificate**" has the meaning ascribed to it in Section 8.01(j);

"**Interim Decision**" has the meaning ascribed to it in the recitals;

"**Official Receiver**" shall have the meaning ascribed thereto in the BIA;

"**Original Proposal**" has the meaning ascribed to it in the recitals;

"**Outside Date**" means July 31, 2021;

"**Permitted Encumbrances**" means those encumbrances on the Property listed in Schedule "A" hereto;

"**Person**" means any individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority and a natural person in such person's capacity as trustee, executor, administrator or other legal representative;

"**Preferred Claim**" means a Claim enumerated in Section 136(1) of the BIA outstanding as at the Filing Date against the Company, if any, the payment of which will be made in priority to distributions in respect of Affected Creditor Claims;

"**Pro Rata Share**" means the fraction that is equal to (a) the amount of the Proven Claim of an Affected Creditor that is not a Convenience Creditor, divided by (b) the aggregate amount of all Proven Claims held by Affected Creditors who are not Convenience Creditors;

"**Project**" means the mixed-used office, retail and residential condominium development to be constructed on the Property currently consisting of approximately 1,100 residential condominium units and 170 parking units and known as Yonge Street Living Residences;

"**Property**" means the real property owned by the Company and municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario, and legally described by PIN numbers 21101-0042 (LT) to 21101-0049 (LT), inclusive;

"**Proposal**" means this Amended Proposal of the Company, and any amendments, modifications and/or supplements hereto made in accordance with the terms hereof;

"**Proposal Implementation Date**" means the date on which Implementation occurs, which shall occur following the satisfaction of the Conditions Precedent, and no later than the Outside Date;

"**Proposal Sponsor**" means Concord Properties Developments Corp.;

"Proposal Sponsor Agreement" means that agreement entered into among the Proposal Sponsor and the Company as of April 30, 2021, as amended from time to time;

"Proposal Trustee" means KSV Restructuring Inc. in its capacity as trustee in respect of this Proposal, or its duly appointed successor;

"Proposal Trustee's Website" means the following website: www.ksvadvisory.com/insolvency-cases/case/yg-limited-partnership;

"Proven Claim" means in respect of an Affected Creditor, the amount of a Claim as finally determined in accordance with the provisions of the BIA, provided that the Proven Claim of an Affected Creditor with a Claim in excess of \$15,000 that has elected to be a Convenience Creditor by submitting a Convenience Creditor Election Form shall be valued for voting purposes as \$15,000;

"Released Claims" means, collectively, the matters that are subject to release and discharge pursuant to Section 7.01;

"Released Parties" means, collectively, (i) the Company, (ii) each affiliate or subsidiary of the Company; (iii) the Proposal Sponsor, (iv) the Proposal Trustee, and (v) subject to section 7.01, each of the foregoing Persons' respective former and current officers, directors, principals, members, affiliates, limited partners, general partners, managed accounts or funds, fund advisors, employees, financial and other advisors, legal counsel, and agents, each in their capacity as such;

"Required Majority" means an affirmative vote of a majority in number and two-thirds in value of all Proven Claims in the Affected Creditors Class entitled to vote, who were present and voting at the Creditors' Meeting (whether online, in-person, by proxy or by voting letter) in accordance with the voting procedures established by this Proposal and the BIA;

"Second Amended Proposal" has the meaning ascribed to it in the recitals;

"Secured Claims" means:

- (a) The Claim of Timbercreek which is secured by, among other things a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (b) The Claim of Westmount, which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (c) The Claim of 2576725 Ontario Inc. which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (d) All Construction Lien Claims but only to the extent of such Construction Lien Claims;

"Secured Creditor" means a Person holding a Secured Claim, with respect to, and to the extent of such Secured Claim;

"**Superintendent's Levy**" means the levy payable to the Superintendent of Bankruptcy pursuant to sections 60(4) and 147 of the BIA;

"**Timbercreek**" means, collectively, Timbercreek Mortgage Servicing Inc. and 2292912 Ontario Inc.;

"**Unaffected Claim**" means:

- (a) the Administrative Fees and Expenses;
- (b) the Claim of Timbercreek;
- (c) the Claim of Westmount;
- (d) the Claim of 2576725 Ontario Inc., which is secured by, among other things, an equitable mortgage encumbering the Property;
- (e) any Claim of the City of Toronto;
- (f) all Condo Purchaser Claims;
- (g) all Construction Lien Claims, but only to the extent such Claims are valid in accordance with the *Construction Act* (Ontario) and have been perfected by the Proposal Implementation Date; and
- (h) such other Claims as the Company and Proposal Sponsor may agree with the consent of the Proposal Trustee;

"**Unaffected Creditor**" means a creditor holding an Unaffected Claim, with respect to and to the extent of such Unaffected Claim;

"**Undeliverable Distributions**" has the meaning ascribed to it in Section 5.04;

"**Westmount**" means Westmount Guarantee Services Inc.;

"**YSL**" has the meaning ascribed to it in the recitals; and

"**YSL Project**" means the mixed-use commercial and residential condominium development to be constructed on the Property.

1.02 Intent of Proposal

This Proposal is intended to provide all Affected Creditors a greater recovery than they would otherwise receive if the Company were to become bankrupt under the BIA. More specifically, the Proposal will provide for a payment in full of Secured Claims and will provide a significant recovery in respect of Affected Creditor Claims. While the exact recovery cannot be determined until all Claims have been determined, the Company expects Affected Creditors to receive a significant, if not a full recovery, on their Claims and, in any event, a greater recovery than would occur if the Company were to become a bankrupt under the BIA.

In consideration for, among other things, its sponsorship of this Proposal, including the satisfaction of all Secured Claims, Preferred Claims and the establishment of the Affected Creditor Cash Pool, on the Proposal Implementation Date, title to the Property, subject only to the Permitted Encumbrances, as well as the Company's interests and obligations under the Assumed Contracts and Condo Purchase Agreements shall be acquired by the Proposal Sponsor, or its nominee in accordance with the terms hereof.

1.03 Date for Any Action

In the event that any date on which any action is required to be taken under this Proposal by any of the parties is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.04 Time

All times expressed in this Proposal are local time in Toronto, Ontario, Canada unless otherwise stipulated. Time is of the essence in this Proposal.

1.05 Statutory References

Except as otherwise provided herein, any reference in this Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.06 Successors and Assigns

The Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors, and assigns of any Person named or referred to in the Proposal.

1.07 Currency

Unless otherwise stated herein, all references to currency and to "\$" in the Proposal are to lawful money of Canada.

1.08 Articles of Reference

The terms "hereof", "hereunder", "herein" and similar expressions refer to the Proposal and not to any particular article, section, subsection, clause or paragraph of the Proposal and include any agreements supplemental hereto. In the Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of the Proposal.

1.09 Interpretation Not Affected by Headings

The division of the Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of a table of contents and headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.10 Numbers

In this Proposal, where the context requires, a word importing the singular number will include the plural and *vice versa* and a word or words importing gender will include all genders.

ARTICLE II **CLASSIFICATION AND TREATMENT OF AFFECTED PARTIES**

2.01 Classes of Creditors

For the purposes of voting on the Proposal, there was only one class of creditors, being the Affected Creditors Class. For the purposes of voting on the Proposal, each Convenience Creditor was deemed to vote in and as part of the Affected Creditors Class.

2.02 Treatment of Affected Creditors

- (a) As soon practicable after the Proposal Implementation Date, and after taking an adequate reserve in respect of any unresolved Claims pursuant to Section 5.03:
 - i. all Affected Creditors (other than Convenience Creditors and Affected Creditors holding Conditional Claims where one or more Conditional Claim Conditions have not been completed) shall receive, in respect of such Affected Creditor Claim, its Pro Rata Share of the Affected Creditor Cash Pool, net of the Superintendent's Levy, made by the Proposal Trustee from the Affected Creditor Cash Pool from time to time in accordance with Article V hereof, provided that aggregate Distributions to an Affected Creditor shall not exceed 100% of the value of such Affected Creditor's Proven Claim; and
 - ii. all Convenience Creditors shall receive in respect of such Convenience Creditor Claims, the Convenience Creditor Consideration, net of the Superintendent's Levy;
- (b) Subject to Section 2.03, on the Proposal Implementation Date, each Affected Creditor Claim shall, and shall be deemed to have been irrevocably and finally extinguished, discharged and released, and each Affected Creditor shall have no further right, title or interest in or to its Affected Creditor Claim.

2.03 Conditional Claims Protocol

If an Affected Creditor submits a proof of claim to the Proposal Trustee indicating that its Claim against the Company is a Conditional Claim due to the fact that one or more pre-conditions to such Affected Creditor's right to payment by the Company had not been satisfied as at the Filing Date due to the acts or omissions of such Affected Creditor, then:

- (a) such Affected Creditor shall have until the Conditional Claim Completion Deadline to complete or otherwise satisfy all outstanding pre-conditions to payment in accordance with the terms of the applicable agreement between such Affected

Creditor and the Company (all such conditions, "**Conditional Claim Conditions**"), and provide notice of such completion to the Proposal Trustee along with reasonable proof thereof;

- (b) if such Affected Creditor provides the Proposal Trustee with proof of the completion of all applicable Conditional Claim Conditions prior to the Conditional Claim Completion Deadline, then, subject to the Proposal Trustee's confirmation of same, such Affected Creditor's Conditional Claim shall be deemed to be a Proven Claim, and such Affected Creditor shall be entitled to a Distribution in accordance with Section 5.02, and, effective immediately upon issuance of such distribution to the Affected Creditor by the Proposal Trustee, the releases set out in Section 7.01 shall become effective; and
- (c) if such Affected Creditor has not satisfied one or more Conditional Claim Conditions by the Conditional Claim Completion Deadline, then, effective immediately upon the Conditional Claim Completion Deadline, such Affected Creditor's Conditional Claim shall be irrevocably and finally extinguished and such Affected Creditor shall have no further right, title or interest in and to its Conditional Claim and the releases set out in Section 7.01 shall become effective in respect of such Conditional Claim.

2.04 Existing Equityholders and Holders of Equity Claims

Subject to Section 7.01, all Equity Claims shall be fully, finally and irrevocably and forever compromised, released, discharged, cancelled, extinguished and barred as against the Property on the Proposal Implementation Date in accordance with Section 6.011.1(1)(1)(h).

2.05 Application of Proposal Distributions

All amounts paid or payable hereunder on account of the Affected Creditor Claims (including, for greater certainty, any securities received hereunder) shall be applied as follows: (i) first, in respect of the principal amount of the Affected Creditor Claim, and (ii) second, in respect of the accrued but unpaid interest on the Affected Creditor Claim.

2.06 Full Satisfaction of All Affected Creditor Claims

All Affected Creditors shall accept the consideration set out in Section 2.02 hereof in full and complete satisfaction of their Affected Creditor Claims, and all liens, certificates of pending litigation, executions, or other similar charges or actions or proceedings in respect of such Affected Creditor Claims will have no effect in law or in equity against the Property, or other assets and undertaking of the Company. Upon the Implementation of the Proposal, any and all such registered liens, certificates of pending litigation, executions or other similar charges or actions brought, made or claimed by Affected Creditors will be and will be deemed to have been discharged, dismissed or vacated without cost to the Company and the Company will be released from any and all Affected Creditor Claims of Affected Creditors, subject only to the right of Affected Creditors to receive Distributions as and when made pursuant to this Proposal.

2.07 Undeliverable Distributions

Undeliverable Distributions shall be dealt with and treated in the manner provided for in the BIA and the directives promulgated pursuant thereto.

ARTICLE III
CREDITORS' MEETING AND AMENDMENTS

3.01 Meeting of Affected Creditors

As set out in the Interim Decision, the Requisite Majority approved the Proposal at the Creditors' Meeting.

3.02 Assessment of Claims

The provisions of section 135 of the BIA will apply to all proofs of claim submitted by Affected Creditors, including in respect of Disputed Claims. In the event that a duly submitted proof of claim has been disallowed or revised for voting purposes by the Proposal Trustee, and such disallowance has been disputed by the applicable Affected Creditor in accordance with Section 135(4) of the BIA, or in the case of any Claim that is a Conditional Claim as at the time of the Creditors' Meeting, then the dollar value for voting purposes at the Creditors' Meeting shall be the dollar amount of such disputed claim or Conditional Claim, as the case may be, set out in the proof of claim submitted by such Affected Creditor, without prejudice to the determination of the dollar value of such Affected Creditor's disputed claim or Conditional Claim for distribution purposes.

Except as expressly provided herein, the Proposal Trustee's determination of claims pursuant to this Proposal and the BIA shall only apply for the purposes of this Proposal, and such determination shall be without prejudice to a Creditor's right to submit a revised proof of claim in subsequent proceedings in respect of the Company should this Proposal not be implemented.

3.03 Modification to Proposal

Subject to the provisions of the BIA, after the Creditors' Meeting (and both prior to and subsequent to the issuance of the Approval Order) and subject to the consent of the Proposal Trustee and the Proposal Sponsor, the Company may at any time and from time to time vary, amend, modify or supplement the Proposal.

ARTICLE IV
PREFERRED CLAIMS AND MANDATORY PAYMENTS

4.01 Crown Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Crown Claims, if any, will be paid by the Proposal Trustee, in full with related interest and penalties as prescribed by the applicable laws, regulations and decrees.

4.02 Preferred Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Preferred Claims, if any, will be paid in full by the Proposal Trustee.

ARTICLE V FUNDING AND DISTRIBUTIONS

5.01 Proposal Sponsor to Fund

- (a) On the Proposal Implementation Date, the Proposal Sponsor shall deliver to the Proposal Trustee by way of wire transfer (in accordance with wire transfer instructions provided by the Proposal Trustee at least three (3) business days prior to the Proposal Implementation Date) the amount necessary to establish the Affected Creditor Cash Pool in accordance with the provisions of this Proposal, provided that any surplus amounts over and above the Affected Creditor Cash Pool amount of \$30,900,000 that are returned to the Company in connection with the transfer of the YSL Project to the Proposal Sponsor shall be promptly returned to the Proposal Sponsor, including, without limitation, the cash collateral to be released by TD Bank when the letters of credit held by the City of Toronto and the Toronto Transit Commission are replaced by letters of credit to be provided by the Proposal Sponsor; and
- (b) The Proposal Trustee shall hold the Affected Creditor Cash Pool in a segregated account and shall distribute such cash, net of any reserves established in respect of unresolved Claims, in accordance with Section 5.03 of the Proposal.
- (c) The Proposal Sponsor shall effect payments in respect of the Unaffected Claims to those parties entitled to such payments directly and shall provide the Proposal Trustee with proof of such payments, as applicable.

5.02 Distributions

As soon as possible after the Proposal Implementation Date and the payments contemplated by Sections 4.01 and 4.02, the Proposal Trustee shall make a Distribution to each Affected Creditor with a Proven Claim, in an amount equal to such Affected Creditor's Pro Rata Share of the Affected Creditor Cash Pool, net of the Superintendent's Levy, and net of any amounts held in reserve in respect of unresolved Claims, in accordance with Section 5.03.

Thereafter, the Proposal Trustee may make further Distributions to Affected Creditors from time to time from the reserves established pursuant to Section 5.03, as unresolved Claims are resolved in accordance with the terms of Section 3.02.

5.03 Reserves for Unresolved Claims

Prior to making any Distribution to Affected Creditors pursuant to Section 5.02, the Proposal Trustee shall set aside in the Affected Creditor Cash Pool sufficient funds to pay all Affected

Creditors with Disputed Claims or Conditional Claims the amounts such Affected Creditors would be entitled to receive in respect of that particular Distribution pursuant to this Proposal, in each case as if their Disputed Claim or Conditional Claim, as the case may be, had been a Proven Claim at the time of such Distribution. Upon the resolution of each Disputed Claim in accordance with the BIA, or upon final resolution of any Conditional Claim, any funds which have been reserved by the Proposal Trustee to deal with such Disputed Claim or such Conditional Claim, as applicable, but which are not required to be paid to the Affected Creditor shall remain in the Affected Creditor Cash Pool and become available for further Distributions to Affected Creditors in respect of their Proven Claims.

5.04 Method of Distributions

Unless otherwise agreed to by the Proposal Trustee and an Affected Creditor, all Distributions made by the Proposal Trustee pursuant to this Proposal shall be made by cheque mailed to the address shown on the proof of claim filed by such Affected Creditor or, where an Affected Creditor has provided the Trustee with written notice of a change of address, to such address set out in that notice. If any delivery or distribution to be made pursuant to Article V hereof in respect of an Affected Creditor Claim is returned as undeliverable, or in the case of a distribution made by cheque, the cheque remains uncashed (each an "**Undeliverable Distribution**"), no other crediting or delivery will be required unless and until the Proposal Trustee is notified of the Affected Creditor's then current address. The Proposal Trustee's obligations to the Affected Creditor relating to any Undeliverable Distribution will expire six months following the date of delivery or mailing of the cheque or other distribution, after which date the Proposal Trustee's obligations under this Proposal in respect of such Undeliverable Distribution will be forever discharged and extinguished, and the amount that the Affected Creditor was entitled to be paid under the Proposal shall be distributed to the Proposal Sponsor.

5.05 Residue After All Distributions Made

In the event that any residual amount remains in the Affected Creditor Cash Pool following the Proposal Trustee's final Distribution to Affected Creditors as provided herein, such residual funds shall be held by the Proposal Trustee pending receipt of a duly issued direction from all of the holders of Class A Preferred Units of YG LP, or otherwise by order of the Court.

ARTICLE VI IMPLEMENTATION

6.01 Proposal Implementation Date Transactions

Commencing at the Effective Time, the following events or transactions will occur, or be deemed to have occurred and be taken and effected, in the following order in five minute increments (unless otherwise indicated) and at the times and in the order set out in this Section 6.01 (or in such other manner or order or at such other time or times as the Company and the Proposal Sponsor may agree, each acting reasonably), without any further act or formality required on the part of any Person, except as may be expressly provided herein:

- (a) Either the Proposal Sponsor will, at its election, but subject to obtaining the consent of the applicable Secured Creditor, assume the Secured Claims, or on behalf of the Company, the Proposal Sponsor will make payment in full to Secured Creditors in respect of their Secured Claims, in accordance with Section 5.01(c) calculated as at the Closing Date;
- (b) the releases in respect of Secured Claims referenced in section 7.01 shall become effective, and any registrations on title to the Property in respect of such Secured Claims shall, unless otherwise agreed between the Secured Creditor and the Proposal Sponsor with the consent of the Proposal Trustee, be discharged from title to the Property;
- (c) the Proposal Sponsor shall provide to the Proposal Trustee the amount necessary to establish the Affected Creditor Cash Pool, in accordance with Section 5.01(a), in full and final settlement of all Affected Creditor Claims;
- (d) the Proposal Sponsor shall provide the Proposal Trustee with an amount necessary to satisfy the Administrative Fees and Expenses, including a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated to be incurred in connection with the administration of Distributions, resolution of any unresolved Claims pursuant to Section 5.03, and the Proposal Trustee's discharge;
- (e) title to the Property shall be registered in the name of the Proposal Sponsor, or its nominee, together with any charges applicable to security held by the lenders to the Proposal Sponsor in respect of the purchase of the Property and construction of the Project;
- (f) the assumption of the Assumed Contracts by the Proposal Sponsor, or its nominee, shall become effective;
- (g) all Affected Creditor Claims (including without limitation all Convenience Creditor Claims) shall, and shall be deemed to be, irrevocably and finally extinguished and the Affected Creditors shall have no further right, title or interest in and to their respective Affected Creditor Claims, except with respect to their right to receive a Distribution, if applicable, and in such case, only to the extent of such Distribution;
- (h) subject to Section 7.01, all Equity Claims shall, and shall be deemed to be, irrevocably and finally extinguished and all Existing Equityholders shall have no further right, title or interest in and to their respective Equity Claims as against the Property; and
- (i) the releases in respect of Affected Creditor Claims (other than Conditional Claims with Conditional Claim Conditions not satisfied as at the Effective Time) referred to in Section 7.01 shall become effective.

ARTICLE VII
RELEASES

7.01 Release of Released Parties

At the applicable time pursuant to Section 6.01(b), in the case of Secured Claims, and Section 6.01(i), in respect of Affected Creditor Claims, each of the Released Parties shall be released and discharged from all present and future actions, causes of action, damages, judgments, executions, obligations, liabilities and Claims of any kind or nature whatsoever arising on or prior to the Proposal Implementation Date in connection with this Proposal and the Project, and any proceedings commenced with respect to or in connection with this Proposal, the Project, the transactions contemplated hereunder, and any other actions or matters related directly or indirectly to the foregoing, provided that nothing in this paragraph shall release or discharge (i) any of the Released Parties from or in respect of their respective obligations under this Proposal or any order issue by the Court in connection with this Proposal or any document ancillary to any of the foregoing, (ii) any Released Party from liabilities or claims which cannot be released pursuant to s. 50(14) of the BIA, as determined by the final, non-appealable judgment of the Court, or (iii) any Released Party from any Secured Claim of Timbercreek. The foregoing release shall not be construed to prohibit a party in interest from seeking to enforce the terms of this Proposal, including with respect to Distributions, or any contract or agreement entered into pursuant to, in connection with or contemplated by this Proposal. Notwithstanding the foregoing, the directors and officers of the Company, its affiliates, the former directors and officers, and general partner of the Company shall not be released in respect of any (x) Equity Claim as defined in section 2 of the BIA or any analogous claim in respect of a partnership interest or (y) any claim by a former employee of the Company or its affiliates relating to unpaid wages or other employment remuneration.

7.02 Injunctions

All Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Proposal Implementation Date, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever of any Person against the Released Parties, as applicable; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, guarantee, decree or order against the Released Parties; (iii) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (iv) taking any actions to interfere with the implementation or consummation of this Proposal or the transactions contemplated hereunder; provided, however, that the foregoing shall not apply to the enforcement of any obligations under this Proposal or any document, instrument or agreement executed to implement this Proposal.

ARTICLE VIII
CONDITIONS PRECEDENT

8.01 Conditions Precedent

This Proposal will take effect on the Proposal Implementation Date. The Implementation of this Proposal on the Proposal Implementation Date is subject to the satisfaction or waiver (in the sole discretion of the Proposal Sponsor) of the following conditions precedent (collectively, the "**Conditions Precedent**"):

- (a) the Proposal is approved by the Required Majority;
- (b) the Approval Order, in form and substance satisfactory to the Proposal Sponsor, has been issued, has not been stayed and no appeal therefrom is outstanding;
- (c) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Authority, no application shall have been made to any Governmental Authority, and no action or investigation shall have been announced, threatened or commenced by any Governmental Authority, in consequence or in connection with the Proposal or the Project that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or inhibit), the Proposal or any part thereof or the Project or any part thereof or requires or purports to require a variation of the Proposal or the Project;
- (d) registrations in respect of all encumbrances, including without limitation any registrations in respect of Construction Lien Claims, but excluding the Permitted Encumbrances, shall have been deleted from title to the Property, provided that (a) should the Implementation of the Proposal not occur following the deletion of an Affected Creditor's encumbrance pursuant to this provision, such Affected Creditor shall have the right to renew such registration, and (b) the Company and/or the Proposal Sponsor shall be at liberty to pay security into Court (by way of a bond or similar instrument) in respect of any Construction Lien Claim;
- (e) the Proposal Sponsor, or its nominee, shall have entered into assignment and assumption agreements in respect of all Assumed Contracts, or an assignment order pursuant to section 84.1 of the BIA shall have been issued, in each case in form and substance satisfactory to the Proposal Sponsor, provided that it shall be a condition of the assumption of each Assumed Contract that the written agreements set out in the list of Assumed Contracts provided by the Proposal Sponsor (as amended from time to time) represent the totality of the contractual arrangements between the Company and each applicable counterparty, and no verbal or extra-contractual arrangements will be recognized by the Proposal Sponsor;
- (f) sufficient financing for the acquisition of the Property by the Proposal Sponsor, or its nominee, shall have been provided by Otera Capital Inc., on terms satisfactory to the Proposal Sponsor, and all material conditions precedent to such financing shall be capable of completion by the Proposal Sponsor prior to the Proposal Implementation Date;

- (g) the Proposal Implementation Date shall occur on the day that is three Business Days following the issuance of the Approval Order, or such other date prior to the Outside Date as may be agreed by the Proposal Sponsor;
- (h) any required resolutions authorizing the Company to file this Proposal and any amendments thereto will have been approved by the board of directors of the Company;
- (i) the Proposal Sponsor Agreement shall not have been terminated by the Proposal Sponsor; and
- (j) the Company and the Proposal Sponsor shall have delivered a certificate to the Proposal Trustee that all of the conditions precedent to the Implementation of the Proposal have been satisfied or waived (the "**Implementation Certificate**").

Upon the Proposal Trustee's receipt of the Implementation Certificate, the Affected Creditor Cash Pool and the funding required by Section 6.01(d), the Implementation of the Proposal shall have been deemed to have occurred and all actions deemed to occur upon Implementation of the Proposal shall occur without the delivery or execution of any further documentation, agreement or instrument.

ARTICLE IX

EFFECT OF PROPOSAL

9.01 Binding Effect of Proposal

After the issuance of the Approval Order by the Court, subject to satisfaction of the Conditions Precedent, the Proposal shall be implemented by the Company and shall be fully effective and binding on the Company and all Persons affected by the Proposal. Without limitation, the treatment of Affected Creditor Claims under the Proposal shall be final and binding on the Company, the Affected Creditors, and all Persons affected by the Proposal and their respective heirs, executors, administrators, legal representatives, successors, and assigns. For greater certainty, this Proposal shall have no effect upon Unaffected Creditors.

9.02 Amendments to Agreements and Paramountcy of Proposal

Notwithstanding the terms and conditions of all agreements or other arrangements with Affected Creditors entered into before the Filing Date, for so long as an event of default under this Proposal has not occurred, all such agreements or other arrangements will be deemed to be amended to the extent necessary to give effect to all the terms and conditions of this Proposal. In the event of any conflict or inconsistency between the terms of such agreements or arrangements and the terms of this Proposal, the terms of this Proposal will govern and be paramount.

9.03 Deemed Consents and Authorizations of Affected Creditors

At the Effective Time each Affected Creditor shall be deemed to have:

- (a) executed and delivered to the Company all consents, releases, assignments, and waivers, statutory or otherwise, required to implement and carry out this Proposal in its entirety;
- (b) waived any default by the Company in any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company that has occurred on or prior to the Proposal Implementation Date; and
- (c) agreed, in the event that there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company as at the date and time of Court approval of the Proposal (other than those entered into by the Company on, or with effect from, such date and time) and the provisions of this Proposal, that the provisions of this Proposal shall take precedence and priority and the provisions of such agreement or other arrangement shall be amended accordingly.

ARTICLE X
ADMINISTRATIVE FEES AND EXPENSES

10.01 Administrative Fees and Expenses

Administrative Fees and Expenses including a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated to be incurred in connection with the administration of Distributions, resolution of any unresolved Claims pursuant to Section 5.03, and the Proposal Trustee's discharge will be paid in cash by the Proposal Sponsor on the Proposal Implementation Date.

ARTICLE XI
INDEMNIFICATION

11.01 Indemnification of Proposal Trustee

The Proposal Trustee shall be indemnified in full by the Proposal Sponsor for: (a) all personal liability arising from fulfilling any duties or exercising any powers or duties conferred upon it by this Proposal or under the BIA, except for any willful misconduct or gross negligence; and (b) all Administrative Fees and Expenses reasonably incurred but not covered by the payment set out in Section 10.01.

ARTICLE XII
POST FILING GOODS AND SERVICES

12.01 Payment of Payroll Deductions and Post Filing Claims

The following shall continue to be paid in the ordinary course by the Company prior to and after the Court Approval Date and shall not constitute Distributions or payments under this Proposal:

- (a) all Persons, who may advance monies, or provide goods or services to the Company after the Filing Date shall be paid by the Company in the ordinary course of business;
- (b) current source deductions and other amounts payable pursuant to Section 60(1.2) of the BIA, if applicable, shall be paid to Her Majesty in Right of Canada in full by the Company as and when due; and
- (c) current goods and services tax (GST), and all amounts owing on account of provincial sales taxes, if applicable, shall be paid in full by the Company as and when due.

ARTICLE XIII
TRUSTEE, CERTIFICATE OF COMPLETION, AND DISCHARGE OF TRUSTEE

13.01 Proposal Trustee

KSV Restructuring Inc. shall be the Proposal Trustee pursuant to this Proposal and upon the making of the Distributions and the payment of any other amounts provided for in this Proposal, the Proposal Trustee will be entitled to be discharged from its obligations under the terms of this Proposal. The Proposal Trustee is acting in its capacity as Proposal Trustee under this Proposal, and not in its personal capacity and shall not incur any liabilities or obligations in connection with this Proposal or in respect of the business, liabilities or obligations of the Company, whether existing as at the Filing Date or incurred subsequent thereto.

The Proposal Trustee shall not incur, and is hereby released from, any liability as a result of carrying out any provisions of this Proposal and any actions related or incidental thereto, save and except for any gross negligence or willful misconduct on its part (as determined by a final, non-appealable judgment of the Court).

13.02 Certificate of Completion and Discharge of Proposal Trustee

Upon the Proposal Trustee having received the Implementation Certificate, and all Distributions to Affected Creditors having been administered in accordance with Article V, the terms of the Proposal shall be deemed to be fully performed and the Proposal Trustee shall provide a certificate to the Company, the Proposal Sponsor and to the Official Receiver pursuant to Section 65.3 of the BIA and the Proposal Trustee shall be entitled to be discharged.

ARTICLE XIV
GENERAL

14.01 Valuation

For purposes of voting and Distributions, all Claims shall be valued as at the Filing Date.

14.02 Preferences, Transfers at Undervalue

In conformity with Section 101.1 of the BIA, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal. As a result, all of the rights, remedies, recourses and Claims described therein:

- (a) all such rights, remedies and recourses and any Claims based thereon shall be completely unavailable to the Proposal Trustee or any Affected Creditors against the Company, the Property, or any other Person whatsoever; and
- (b) the Proposal Trustee and all of the Affected Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any Claims based thereon against the Company, the Property any other Person.


14.03 Governing Law

The Proposal shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. Any disputes as to the interpretation or application of the Proposal and all proceedings taken in connection with the Proposal shall be subject to the exclusive jurisdiction of the Court.

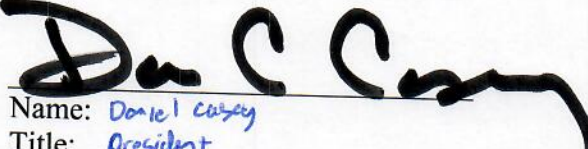
[remainder of page left intentionally blank]

Dated at Toronto, this 15th day of July, 2021.

YSL RESIDENCES INC.

Per: 
Name: Daniel Casey
Title: President
I have the authority to bind the Corporation.

**YG LIMITED PARTNERSHIP, by its
general partner 9615334 CANADA INC.**

Per: 
Name: Daniel Casey
Title: President
I have the authority to bind the Corporation.

SCHEDULE A

PERMITTED ENCUMBRANCES

<u>Instrument Number</u>	<u>Description</u>
EP138153	- Canopy Agreement with the City of Toronto
EP146970	- Encroachment Agreement with the City of Toronto
CT114131	- Encroachment Agreement with the City of Toronto
CT169812	- Canopy Agreement with the City of Toronto
CA11215	- Development Agreement with the City of Toronto
CA231470	- Encroachment Agreement with the City of Toronto
AT5142530	- Heritage Easement Agreement with the City of Toronto
AT5154721	- Heritage By-Law
AT5154722	- Heritage By-Law
AT5157423	- Heritage By-Law
AT5157424	- Heritage By-Law
AT5246455	- Section 37 Agreement
AT5473163	- Application to Register a Court Order (Equitable Mortgage)

Appendix “D”



February 10, 2022

DELIVERED BY EMAIL AND REGISTERED MAIL

Elie Laskin
Gowling WLG (Canada) LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON M5X 1G5

Dear Ms. Laskin:

Re: The Proposal of YSL Residences Inc. and YG Limited Partnership (together, the “Company”)

KSV Restructuring Inc., in its capacity as proposal trustee of the Company, acknowledges receipt of the proof of claim filed in your capacity as counsel to CBRE Limited in the amount of \$1,239,377.40.

We have disallowed the claim for the reasons outlined in the attached notice.

Should you have any questions regarding this matter, do not hesitate to contact the undersigned.

Yours very truly,

KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YSL RESIDENCES INC. AND YG LIMITED PARTNERSHIP
AND NOT IN ITS PERSONAL CAPACITY

Per: Mitch Vininsky

MV:rk
Encl.

**ksv advisory inc.**

150 King Street West, Suite 2308

Toronto, Ontario, M5H 1J9

T +1 416 932 6262

F +1 416 932 6266

ksvadvisory.com

Estate File No.: 31-2734090

**IN THE MATTER OF THE PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**NOTICE OF DISALLOWANCE OF CLAIM
(Subsection 135(3) of the *Bankruptcy and Insolvency Act* (“Act”))**

TAKE NOTICE THAT, as Proposal Trustee acting in the matter of the Proposal of YSL Residences Inc. (“Residences”) and YG Limited Partnership Inc. (the “Partnership” and together with Residences, the “Companies”), we have this day disallowed your claim. The reason for the disallowance is as follows:

- The claim is in respect of an invoice submitted by CBRE Limited (“CBRE”) to “Cresford” dated October 13, 2021 in the amount of \$1,096,794.16 plus HST (the “Invoice”). The Invoice refers to services rendered by CBRE in connection with serving as the exclusive listing brokerage for the land located at 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario, (the “Property”). The Property was to be developed by the Companies into a significant condominium project.
- A demand letter dated November 26, 2021 from CBRE to the Companies (the “CBRE Letter”) references that the Invoice was issued in respect of an Exclusive Sales Listing Agreement dated February 20, 2020 (the “Agreement”) between CBRE and the Companies, pursuant to which the Companies “agreed to pay commission equivalent to 0.65% of the Gross Sale Price of the Property” (the “Commission”). The CBRE Letter further states that “CBRE has complied with and performed its obligations under the Agreement.” The term of the Agreement is six months from February 20, 2020 to August 20, 2020 (the “Term”). The Agreement is appended to the CBRE Letter and it is unsigned.
- The Property was conveyed on or about July 22, 2021 (the “Conveyance”) to Concord Adex Inc., an entity related to Concord Properties Developments Corp., the eventual sponsor (“Sponsor”) of the Companies’ Proposal proceedings which were commenced on April 30, 2021.

- Dave Mann, CFO of the Cresford Group of Companies (“Cresford”) advised the Proposal Trustee that CBRE introduced Cresford to the Sponsor. The Sponsor advised the Proposal Trustee that “Cresford, through its representative Ted Dowbiggin, first approached Concord in early 2020 to discuss four of Cresford's distressed projects, however Concord did not have any interest in the YSL project at this time.” and that “In September/October 2020, Cresford re-engaged Concord to discuss the YSL project, after it had canvassed a number of other developers. After this outreach in fall 2020 until the time of the proposal proceedings, Cresford and Concord were consistently engaged to explore potential alternatives for the YSL project”.
- The Agreement states the following with regards to the Commission:
 - *“The Commission shall be earned by the Brokerage in the event that **during the Term:** (a) the Owner enters into a binding agreement of purchase and sale for the Property with a purchaser procured by the Brokerage, the Owner or from any other source whatsoever, and such sale closes; or (b) the Owner is a corporation, partnership or other business entity and an interest in such corporation, partnership or other business entity is transferred, whether by merger or outright purchase or otherwise in lieu of sale of the Property.”*
- Furthermore, the Agreement has a holdover clause which states that:
 - *“The Owner further agrees to pay the Brokerage the Commission **if, within 90 calendar days after the expiration of the Term,** the Property is sold to, or the Owner enters into an agreement of purchase and sale for the Property with, or negotiations continue, resume or commence and thereafter continue leading to the execution of a binding agreement of purchase and sale for the Property, provided the transaction subsequently closes, with any person or entity (including his/her/its successors, assigns or affiliates) with whom the Brokerage has negotiated (either directly or through another agent) or to whom the Property was introduced or submitted, from any source whatsoever, or to whom the Owner was introduced, from any source whatsoever, prior to the expiration of the Term; with or without the involvement of the Brokerage.”*
- The Proposal Trustee has disallowed the claim in full as:
 - The Agreement is not signed and therefore is not binding;
 - The Sponsor advised that at all times it dealt directly with the Companies and that it did not have any dealings with CBRE;
 - The Conveyance does not meet the definition of an event giving rise to a Commission; and
 - To the extent any Commission could apply, which is denied, the Commission was not earned during the Term, or within the 90 calendar days following the expiration of the Term.

AND FURTHER TAKE NOTICE, that if you are dissatisfied with our decision in disallowing your claim as set out above, you may appeal to the Ontario Superior Court of Justice ("Court") within the 30-day period after the day on which this notice is served, or within such other period as the Court may, on application made within the same 30-day period, allow.

DATED at Toronto, Ontario, this 10th day of February, 2022.

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “E”

August 18, 2022

VIA EMAIL

Robin Schwill
Davies Ward Phillips Vineberg LLP
155 Wellington Street West
Toronto, ON M5V 2J7

Dear Mr. Schwill,

**Re: In the Matter of the Notices of Intention to Make a Proposal of YG Limited Partnership and YSL Residences Inc.
Court File No.: CV-20-00650224-00CL**

We were surprised to receive your email of August 5, expressing KSV Restructuring Inc.'s (the "**Proposal Trustee**") intention to change its position and admit CBRE Limited's ("**CBRE**") claim as filed, despite previously having denied the claim. For the reasons expressed in this letter, CBRE's appeal is without merit and the Proposal Trustee's denial ought to be maintained.

The Holdover Clause

Even if CBRE is able to establish that a valid agreement exists as between it and YSL Residences Inc. ("**YSL**"), that agreement (the "**Alleged Agreement**") contains a holdover clause (the "**Holdover Clause**"):

4.1 [YSL] further agrees to pay [CBRE] the Commission if, within 90 calendar days after [August 20, 2020], the Property is sold to, or [YSL] enters into an agreement of purchase and sale for the Property with, or negotiations continue, resume or commence and thereafter continue leading to the execution of a binding agreement of purchase and sale for the Property, provided the transaction subsequently closes, with any person or entity (including his/her/its successors, assigns or affiliates) with whom [YSL] has negotiated (either directly or through another agent) or to whom the Owner was

introduced, from any source whatsoever, prior to [August 20, 2020]; with or without the involvement of [CBRE]. [CBRE] is authorized to continue negotiations with such persons or entities. [CBRE] agrees to submit a list of such persons or entities to the Owner within 10 business days following [August 20, 2020], provided, however, that if a written offer has been submitted, then it shall not be necessary to include the offeror's name on the list.

This clause requires that, for CBRE to earn its commission when a sale is agreed to or closes more than 90 days after August 20, 2020, negotiations must “continue, resume or commence” with a party introduced to YSL by CBRE in the 90 days after August 20, 2020. CBRE’s motion record does not demonstrate that such negotiations took place.

Mr. Dowbiggin’s evidence that “negotiations were ongoing from the point of Concord’s introduction until Cresford and Concord agreed that the property would be sold through a proposal...”, fails to establish that such negotiations occurred specifically in the 90 days following August 20, 2020, as the Alleged Agreement requires.

Mr. Gallagher’s hearsay evidence claims that he was told by Mr. Dowbiggin at a golf game “around” September of 2020 that negotiations with Concord were ongoing lacks specificity, and was not included in Mr. Dowbiggin’s affidavit, though it could have been. Mr. Gallagher’s evidence is insufficient to demonstrate that the Holdover Clause was satisfied.

The Standard of Review

Finally, we are concerned that the Proposal Trustee’s change in position appears to be based on the “evidence filed by CBRE” as part of its appeal. CBRE’s appeal is advanced under s. 135(4) of the *Bankruptcy and Insolvency Act* (the BIA”). Such an appeal is an appeal ‘on the record’, as opposed to an appeal *de novo*.¹ There is no basis to adduce fresh evidence in these circumstances.

The decision to “fully vet” CBRE’s claim by consenting to evidence being filed on appeal is not in keeping with the summary nature of BIA claims processes. It is no wonder that the Proposal Sponsor has reiterated its concern regarding the costs of the claims process in the context of this appeal.

Conclusion

We have instructions to challenge CBRE’s appeal of the Proposal Trustee’s initial decision. To do so, we will require a full copy of CBRE’s proof of claim and a copy of the notice of

¹ See *Re Galaxy Sports*, 2004 BCCA 284 at para. 40, cited with approval in *Casimir Capital*, 2015 ONSC 2819 at para. 31.



Thornton Grout Finnigan LLP

3.

disallowance, which we note is conspicuously absent from CBRE's motion record. We would be grateful if you could provide those documents at your earliest convenience.

Yours truly,

Thornton Grout Finnigan LLP

A handwritten signature in black ink, appearing to read 'Alexander Soutter', written over the printed name.

Alexander Soutter

/JH

IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.

Court File No.: BK-21-02734090-0031
Court of Appeal No. COA-22-CV-0451

COURT OF APPEAL FOR ONTARIO

EXHIBIT BOOK of the APPELLANTS

THORNTON GROUT FINNIGAN LLP

100 Wellington Street West
Suite 3200, TD West Tower
Toronto ON M5K 1K7

Deborah E. Palter (LSO# 37962K)

Tel: 416-304-0148
Email: dpalter@tgf.ca

Alexander Soutter (LSO# 72403T)

Tel: (416) 304-0595
Email: asoutter@tgf.ca

Lawyers for the Appellants