

COURT FILE NUMBER Q.B.G. 399 of 2020

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE SASKATOON

PLAINTIFF CANADIAN MORTGAGE SERVICING CORPORATION

DEFENDANT 101118672 SASKATCHEWAN LTD. (formerly Korf Properties Ltd.)

**IN THE MATTER OF THE RECEIVERSHIP OF 101118672 SASKATCHEWAN LTD.
(formerly Korf Properties Ltd.)**

NOTICE OF APPLICATION
(Sale Approval and Vesting Order)

NOTICE TO: Those Parties Identified on the Attached Service List

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Where	520 Spadina Crescent East, Saskatoon, Saskatchewan
Date	9:00 AM
Time	Wednesday, December 16, 2020

Remedy claimed or sought:

1. An Order:
 - (a) Approving and authorizing MNP Ltd. (the "**Receiver**") in its capacity as Receiver of 101118672 Saskatchewan Ltd. (formerly Korf Properties Ltd.) (the "**Debtor**") pursuant to the Receivership Order of the Honourable Mr. B.J. Justice Scherman issued March 17, 2020 (the "**Receivership Order**") accepting, and authorizing the Receiver to complete, the Agreements of Purchase and Sale (the "**Agreements**") made by 6313248 Manitoba Ltd. (the "**Proposed Purchaser**"), as outlined in Appendix III attached to the First Report of the Receiver dated December 7, 2020, (the "**Receiver's Report**");

- (b) Approving, authorizing and directing the Receiver to enter into a sale of all or substantially all of the real property, fixtures, chattels, good will, and other assets more particularly described in, and subject to the terms and conditions set forth in, the Agreements, between the Proposed Purchaser and the Receiver, for the purchase prices identified in such Agreements;
- (c) Vesting the Proposed Purchaser with all right, title, and interest in and to, the assets described in the Agreements, free and clear of all liens, charges, and encumbrances except as provided in the Agreements;
- (d) Approving, authorizing and directing the Receiver to initiate the “**Marketing Process**” and enter into the “**Auction Proposal**” as set out in Appendix IV of the Receiver’s Report;
- (e) Authorizing the Receiver to distribute the sale proceeds as outlined in the Receiver’s Report and the proposed Marketing Process, Distribution and Approval Order filed in these proceedings;
- (f) Approving the Receiver’s activities as described within the Receiver’s Report including but not limited to the sales process to date and the fees and disbursements of the Receiver;
- (g) Sealing Confidential Appendix II, filed in relation to this matter on the court file; and
- (h) Such further and other relief as counsel may request and this Honourable Court may allow.

Grounds for making this application:

1. The Receiver makes this application pursuant to section 3 of the Receivership Order, which permits the Receiver to, with approval of this Honourable Court, sell the assets of the Debtor and apply for any Order(s) necessary to do so.
2. This application concerns three distinct groups of assets of the Debtor.

Introduction

3. The first group of assets, called the “**Large Estevan Apartments**” are three apartment buildings in the City of Estevan, Saskatchewan which are made up of between 17 and 24

units in size. The Large Estevan Apartments are proposed to be sold to 6313248 Manitoba Ltd. by means of a regular real estate transaction.

4. The second and third groups of assets, called the “**Estevan Industrial Properties**” and the “**Small Estevan Apartments**” are also located in the City of Estevan, Saskatchewan. The Estevan Industrial Properties are comprised of four (4) vacant industrial properties and one undeveloped industrial property. The Small Estevan Apartments are comprised of two small apartment buildings one with six (6) units and one with eight (8) units. These properties are proposed to be listed and sold by means of auction as described below.

Listing Efforts

5. After the Receiver’s appointment, the properties of the Debtor were listed for sale with Colliers International (“**Colliers**”) on June 18, 2020 on an “Invitation for Offers” basis. Colliers engaged in extensive traditional (signage) and online marketing for the properties. With respect to the subject properties, as the result of that marketing process:

- (a) The offers currently before this court were received for the Large Estevan Apartments;
- (b) Seventeen (17) confidentiality agreements were signed, but no offers were received for the Estevan Industrial Properties; and
- (c) Twenty-two (22) confidentiality agreements were signed, two (2) parties expressed interest in, but no offers were received in the end for the Small Estevan Apartments.

6. Colliers and the Receiver also received some interest on two other properties—near Regina, Saskatchewan and in Vermillion, Alberta and continues negotiations in respect of those properties. However, such negotiations remain ongoing and as such, those properties are not included in the application currently before this Court at present.

The Large Estevan Apartments

7. The Receiver negotiated three (3) Agreements of Purchase and Sale for the Large Estevan Apartments with 6313248 Manitoba Ltd. (the “**Proposed Purchaser**”) dated effective

as of September 15, 2020. Following delays, the agreements were amended effective as of November 12, 2020 to *inter alia* extend the date for closing (the "**Purchase Agreements**").

8. The sale prices proposed for the Large Estevan Apartments is above the appraised values for such assets. The Receiver is of the view that entering into the Purchase Agreements with the Proposed Purchaser for the Large Estevan Apartments is commercially reasonable and that:

- (a) the Receiver made sufficient effort to get the best price and has not acted improvidently in its efforts;
- (b) the proposed sales are in the interests of all parties and stakeholders;
- (c) the sales process was marked by both efficacy and integrity; and
- (d) there has been unfairness in the working out of the process.

9. The Receiver asks this Court to approve each sale in respect of the Large Estevan Apartments separately should any of those sales fail to close. As of the date of this Notice of Application, the Proposed Purchaser has yet to complete its own appraisals for such properties. In addition, should any of those sales fail to close by December 31, 2020, the Receiver proposes that those assets should be included in the Auction Sale detailed below.

The Auction Sale

10. The Receiver proposes to list the Estevan Industrial Properties and the Small Estevan Apartments with Grasswood Auctions of Saskatoon ("**Grasswood**") to be marketed and for an action process to be conducted on or about March 15, 2021. The Receiver will have the ability to negotiate with the top bidders before seeking court approval of the sales.

11. In addition, should any sales contemplated for the Large Estevan Apartments fail to close, the Receiver proposes to include those in the Marketing Process and auction as well.

12. Grasswood Auctions is an experienced auctioneering firm with decades of relevant experience. The Marketing Process and Auction Proposal in respect of such auction is set out in Appendix IV to the Receiver's Report.

13. In the Receiver's view, the Marketing Process and Auction Proposal represent the best opportunity for realization for those subject assets in any reasonable time frame. Such processes will expose the subject properties to additional time on the market and hopefully generate additional interest amongst potential buyers, all while ensuring that the disposition of the Debtor's assets happens in a reasonably timely and expeditious manner.

The Proposed Distribution

14. The Receiver proposes to distribute the net sales proceeds from the sale of the Large Estevan Apartments as follows:

- (a) The Receiver, at its discretion, may retain up to \$100,000.00 from the sales proceeds as a reserve set aside for the ongoing administration of the estate; and
- (b) Any and all amounts above the amount so held back be paid to the secured creditor, Canadian Mortgage Servicing Corporation, within a reasonable time following the closing of the sales.

The Confidential Appendix

15. The particulars of the appraised values for the Debtor's assets are contained in the Confidential Appendix II to the First Report of the Receiver dated December 7, 2020 (the "**Confidential Appendix**").

16. As such, the Confidential Appendix contains information respecting the market value of the properties of the Debtor. Publicly disclosing this highly sensitive information would be prejudicial to the Marketing Process, the auction, and any other future sales process(es) within these proceedings, particularly in the event that the proposed transactions contemplated in this application does not close.

17. In accordance with the recognized principles governing sales in insolvency proceedings and in accordance with standard practice in Saskatchewan, an order sealing the Confidential Appendix II is necessary and appropriate in the circumstances.

Material or evidence to be relied on:

1. This Notice of Application with proof of service;
2. Three (3) draft Sale Approval and Vesting Orders in respect of the Large Estevan Apartments;
3. A draft Marketing Process, Distribution and Approval Order;
4. The First Report of the Receiver dated December 7, 2020 and the Confidential Appendix thereto;
5. The Affidavit of Heather Strendin sworn December 7, 2020;
6. The Affidavit of Jazmine Colliness sworn December 7, 2020;
7. A Brief of Law;
8. Proof of Compliance with General Application Practice Directive #3 (to be filed); and
9. Such further and other material as this Honourable Court may allow.

Applicable Acts, Regulations, and Jurisprudence:

1. *The Queen's Bench Act, 1998*, SS 1998, c Q-1.01, s. 12.
2. *The Bankruptcy and Insolvency Act*, RSC, 1985, c B-3, ss. 243, 247 and 249.
3. *The Personal Property Security Act*, 1993, SS 1993, c P-6.2, ss. 63-64.

DATED at Regina, Saskatchewan, this 7th day of December, 2020.

KANUKA THURINGER LLP

Per: 

Solicitors for MNP Ltd.

CONTACT INFORMATION AND ADDRESS FOR SERVICE

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