

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**PATRICK DEWAN, DOMICILE DEVELOPMENTS INC.
1436984 ONTARIO LTD., AMIRA GABRIEL, 1496055 ONTARIO INC.
117490 CANADA LTD., the ESTATE OF SHEILA EBERTS,
2201894 ONTARIO INC., BBG EQUITY MANAGEMENT CORPORATION,
and POWELL GRIFFITHS**

Plaintiffs/Defendants by Counterclaim

-and-

**CLAUDE ALAIN BURDET, IN TRUST,
CLAUDE-ALAIN BURDET, CARLETON CONDOMINIUM CORPORATION 396,
1443957 ONTARIO INC., and ENTREPRISES TED RUBAC ENTERPRISES INC.**

Defendants/Plaintiffs by Counterclaim

Notice of Motion

The Moving Party, MNP Ltd., in its capacity as Court Appointed receiver and manager, without security, of all the lands, premises, units and common elements municipally known as 112 Nelson Street, Ottawa, Ontario, including all of the assets, undertakings and properties of Carleton Condominium Corporation No. 396 and the individual units thereof (the “**Receiver**”) will make a motion to the Court on Wednesday, the 25th day of November, 2020 at 2:00 p.m. or as soon after that time as the motion can be virtually heard at the Courthouse, 161 Elgin Street, Ottawa, Ontario K2P 2K1.

PROPOSED METHOD OF HEARING: The motion is to be heard virtually.

THE MOTION IS FOR:

1. An Order to direct the Registrar of Land Titles to effect the termination of the Condominium Corporation No. 396 (“**CCC 396**”) previously Ordered by this Court by Order of Justice Kane dated February 2, 2017 on title, including by registering a termination Order on title and by making certain corrections, deletions and converting the PIN’s of CCC 396 as described in Schedule B to this Notice of Motion (the “**Real Property**”) into one PIN (the “**Converted Property**”);
2. An Order approving the sale transaction (the “**Transaction**”) contemplated by an offer to purchase between the Receiver and Forum/SLP GP Inc., as general partner for and on behalf of Forum/SLP Limited Partnership (the “**Purchaser**”), executed by the Purchaser and accepted by the Receiver on July 15, 2020, as amended by email agreement dated July 29, 2020 and amendment of purchase agreement made as of August 30, 2020 (collectively the “**Sale Agreement**”) and appended to the First Report of the Receiver dated October 6, 2020 (the “**Report**”) wherein the Purchaser is to purchase the Real Property from the Receiver;
3. An Order that, on the filing of the Receiver’s Certificate by the Receiver as set out in the Sale Agreement, all right, title and interest in and to the Real Property, as it is or will be converted to the Converted Property, will be vested in the Purchaser;
4. An Order to all persons to provide vacant possession of all units or premises forming part of the Real Property or Converted Property, free and clear or all waste or belongings;

5. An Order approving the Report and of the activities and conduct of the Receiver and its counsel as described therein;
6. An Order to seal certain confidential appendices to the Report;
7. Approval of the Receiver's Statement of Receipts and Disbursements, including the payment of any unpaid municipal taxes owing on the date of closing to the City of Ottawa in connection with the Real Property or Converted Property;
8. Approval for having this motion proceed by way of virtual hearing;
9. An Order, if required, dispensing with compliance with the Rules of Civil procedure as to the time and manner in which service of this Notice of Motion must be given and regularizing service of this Notice of Motion;
10. Costs of this motion on a full indemnity basis against any person opposing the relief sought by the Receiver, and
11. Such other and further relief as counsel may advise and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

12. Section 100 of the *Courts of Justice Act*;
13. Rules 1.04, 2.01, 2.03, 3.02, 37 and 41 of the Rules of Civil Procedure;
14. In the context of lengthy litigation between the parties, by Order dated February 2, 2017, Justice Kane (the "**2017 Order**") ordered, among other things, that CCC 396 be terminated under section 128 of the *Condominium Act* and that Surgeson

Carson Associates Inc. (“**SC**”) be appointed as receiver and manager of CCC 396 to carry out the termination, including, inter alia, the marketing and selling of the Real Property, with SC’s powers to come into effect on the expiration of time for, or determination of, any appeal;

15. By Order of Justice Kane dated May 29, 2019, MNP Ltd. replaced SC as receiver and manager of CCC 396, with leave to apply for an Order setting out the authority and powers of the receiver more fully. Those powers and the rights, remedies and responsibility of MNP Ltd. as receiver and manager are set out in an Order of Justice Kane entered on May 31, 2019 (the “**Receivership Order**”);
16. The powers of the Receiver include the right to market and sell the property and undertaking of CCC 396, including by applying for a vesting order;
17. The responsibilities of the Receiver include completing the formal termination of CCC 396 as a condominium corporation, inter alia, by registering a copy of the Receivership Order on title to the Real Property and distributing the net proceeds of sale to the unit owners as previously set out in the 2017 Order;
18. The Receiver and the Purchaser entered into the Sale Agreement for the sale of the Real Property, the terms of which include that the transaction be approved by the Court and that a vesting order be granted to vest title of the Real Property to the Purchaser;
19. The marketing of the Real Property was conducted by a public and competitive. That marketing process, as well as other actions of the Receiver are set out more fully in the Report;

20. Some of the appendices to the Report contain sensitive and confidential information, including the appraisals obtained by the Receiver, the purchase price and other terms of sale, which the Receiver seeks to protect through a sealing Order until such time as the sale has closed and title has vested in the Purchaser;
21. The Receivership Order authorizes the Receiver to seek directions and approvals from the Court from time to time;
22. It is a condition in favour of the Purchaser in the Sale Agreement that the Receiver, forthwith after waiver of the Purchaser's conditions, bring and diligently pursue a motion to the Court for approval of the Sale Agreement and an Order vesting title to the in the Purchaser. There is a time deadline in the Sale Agreement for the Receiver to obtain the required Court Order;
23. The Purchaser waived its conditions on August 31, 2020;
24. Due to the current COVID pandemic, the Receiver is seeking to have this motion heard virtually;
25. Given the large number of persons to whom notice of this motion must be given and the ongoing COVID situation, an Order dispensing with compliance with the Rules of Civil Procedure or regularizing service or amending the time or manner in which service must be given may be required; and
26. Such further and other grounds as may this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING
OF THE MOTION:**

27. The Report, and the exhibits and appendices thereto; and
28. Such further and other material and evidence as counsel may advise and this Honourable Court may permit.

November 4, 2020

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**TO: Those persons listed on a
Schedule A to be filed with the Court**

**IN THE MATTER OF THE COURT APPOINTED RECEIVERSHIP
OF CARLETON CONDOMINIUM CORPORATION NO. 396
OF THE CITY OF OTTAWA, PROVINCE OF ONTARIO**

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at Ottawa

NOTICE OF MOTION

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as receiver of CCC 396,
The Moving Party