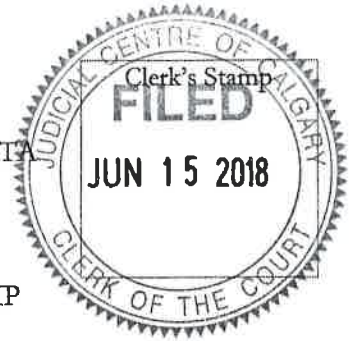


COURT FILE NO. 1701-04209
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE RECEIVERSHIP
OF DMD III MORTGAGE INVESTMENT
CORPORATION

PLAINTIFF AXCESS CAPITAL ADVISORS INC.
DEFENDANT'S DMD MORTGAGE INVESTMENT
CORPORATION, DMD II MORTGAGE
INVESTMENT CORPORATION and DMD III
MORTGAGE INVESTMENT CORPORATION
APPLICANT MNP LTD. in its capacity as Court-appointed
Receiver and Manager of DMD III MORTGAGE
INVESTMENT CORPORATION

DOCUMENT **APPROVAL AND VESTING ORDER**
(Fonda Way Property)

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT
Torys LLP
4600 Eighth Avenue Place East
525 - Eighth Ave SW
Calgary, AB T2P 1G1

Attention: Kyle Kashuba
Telephone: +1 403.776.3744
Fax: +1 403.776.3800
Email: kkashuba@torys.com
File No. 34004-2004

I hereby certify this to be a true copy of
the original order
dated this 15 day of June 2018
for Clerk of the Court

DATE UPON WHICH ORDER WAS PRONOUNCED: Friday, June 15, 2018
NAME OF JUSTICE WHO MADE THIS ORDER: Madam Justice K.M. Eidsvik
LOCATION OF HEARING: Calgary, Alberta

UPON THE APPLICATION by MNP Ltd., in its capacity as Court-appointed receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of DMD III Mortgage Investment Corporation (“**DMD III**” or the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**PSA**”) between the Receiver on behalf of DMD III, Crossroads-DMD Mortgage Investment Corporation (“**Crossroads**”), and Susan Schwitz, of #26, 3745 Fonda Way SE, Calgary, AB (the “**Purchaser**”), which is included and described in the Confidential Supplement to the Receiver’s Third Report dated June 1, 2018 (the “**Third Confidential Report**”) in respect of the property located at #26, 3745 Fonda Way SE, Calgary, Calgary, AB (the “**Fonda Way Property**”), and vesting in the Purchaser (or its nominee) the right, title and interest in and to the real property described in the PSA (the “**Lands**”) of DMD III and Crossroads (together, the “**Owners**”); **AND UPON HAVING READ** the Application and the Third Report of the Receiver, both filed June 1, 2018, and any other material and evidence filed to date in the within proceedings, and the Third Confidential Report, to be filed; **AND UPON HEARING** the submissions of counsel for the Receiver, and from any other interested parties who may be present, with no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service; **AND UPON IT APPEARING** that all interested and affected parties have been served with notice of this Application;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this Application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this Application, and the time for service of this Application is abridged to that actually given.

APPROVAL OF FONDA WAY PROPERTY TRANSACTION

2. The Transaction relating to the Fonda Way Property, which is legally described as:

Plan 7811206
Lot 26

is hereby approved, and the execution of the PSA by the Receiver is hereby authorized and approved, and is deemed to be commercially reasonable and in the best interests of the receivership estate and the stakeholders affected thereby, with such minor amendments as the Receiver may deem necessary and as may be agreed upon by the Receiver, Crossroads and the Purchaser. The Receiver is hereby authorized and directed, subject to the terms and conditions of this Order and the PSA, to take such additional steps and execute such

additional documents as may be necessary or desirable for the completion of the Transaction or for the conveyance of the Lands to the Purchaser (or its nominee).

VESTING OF FONDA WAY PROPERTY

3. Upon the delivery by the Receiver of a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Certificate**") confirming the closing of the Transaction contemplated by the PSA, all of the Debtor's right, title and interest in and to the Lands described in the PSA attached as Appendix "C" to the Confidential Third Report hereto shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, caveats, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**", which term shall explicitly not include the Permitted Encumbrances (as defined below)) including, without limiting the generality of the foregoing:

- (a) all charges, security interests or claims evidenced by registration, filing, or publication pursuant to any or all of the following: (i) the *Personal Property Security Act* (Alberta); or (ii) any other personal property, mineral, or real property registry system (collectively, the "**Registries**"),

for greater certainty, this Court orders that all of the Claims, other than the permitted encumbrances described in the PSA and listed on **Schedule "B"** hereto (the "**Permitted Encumbrances**"), affecting or relating to the Lands are hereby expunged and discharged as against the Lands.

4. Upon the delivery of the Receiver's Certificate, and upon the filing of a certified copy of this Order, together with any applicable registration fees, the Registrar under the *Land Titles Act* (Alberta), and all other applicable government ministries and authorities in Alberta, exercising jurisdiction with respect to or over the Lands (collectively, the "**Governmental Authorities**"), as applicable, are hereby authorized, requested and directed to (in each case as applicable):

- (a) enter the Purchaser as the owner, lessee, and/or licensee of the Lands:
- (b) cancel the existing Certificates of Title to the Lands and issue new Certificates of Title for the Lands, in the name of the Purchaser (or its nominee);

- (c) cancel, delete or expunge from the existing title documents concerning the Lands all applicable Claims, including all Claims and any related encumbrances other than the Permitted Encumbrances; and
 - (d) register such transfers, discharge statements, or conveyances, as may be required to convey clear title to the Lands to the Purchaser, subject only to the Permitted Encumbrances.
5. This Order shall be registered and the steps set out in paragraph 4 shall be carried out by the applicable Registrar and/or Governmental Authorities notwithstanding the requirements of section 191(1) of the *Land Titles Act* (Alberta) and notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period is expressly waived.

CLOSING OF THE SALE TRANSACTION

6. The closing of the Transaction shall be effected in accordance with the terms of the PSA and such amendments to the PSA as may be agreed to in writing between the Purchaser, the Receiver and Crossroads.
7. For the purposes of determining the nature and priority of Claims against DMD III, the net proceeds from the sale of the Lands shall stand in the place and stead of the Lands, and from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Lands, with the same priority as they had with respect to the Lands immediately prior to the sale, as if the Lands had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
8. The Purchaser (and its nominee, if any) shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against the Debtor.
9. The Debtor and all persons who claim by, through or under the Debtor in respect of the Lands, save and except for the persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Lands and, to the extent that any such persons remains in possession or control of any of the Lands, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
10. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Lands for its own use and benefit without any interference of or by the Debtor, or any person claiming by or through or against the Debtor.

11. Immediately after the closing of the Transaction, the holders of the Permitted Encumbrances shall have no claim whatsoever against the Receiver or the Debtor.
12. The Receiver is to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof to the Purchaser (or its nominee).
13. Notwithstanding:
 - (a) The pendency of these proceedings;
 - (b) Any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
 - (c) Any assignment in bankruptcy made in respect of the Debtor,

the vesting of the Lands in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

Handling of Sale Proceeds

15. The Receiver is hereby authorized and directed to make the following distributions following the closing of the Transaction contemplated by the PSA:
 - (a) first, by the Receiver for unpaid property taxes in respect of the Lands;
 - (b) second, by the Receiver and Crossroads for the closing costs for the sale including but not limited to real estate commissions with respect to the Lands;
 - (c) third, by the Receiver for unpaid condominium fees with respect to the Lands; and

- (d) fourth, the payment, in equal shares of the remaining net proceeds, to the Owners of the Lands, DMD III and Crossroads, with those proceeds which are to be paid to the DMD III estate to be held by the Receiver and distributed at their discretion. The payment proposed in this subparagraph (d) shall be subject to any potential trust claim that may be proven in respect of operational or other expenditures paid by Crossroads in relation to the Lands. The amount of the trust claim as made by Crossroads shall be held back from DMD III's 50% share of the remaining net proceeds, and shall be released following final determination by the Receiver or further Order of this Court. Crossroads shall provide to the Receiver all details of its trust claim respecting the Lands on or before June 30, 2018. Within 30 days of receiving the details of Crossroads' trust claim, the Receiver shall advise Crossroads whether its trust claim shall be allowed. If the trust claim is disallowed, either the Receiver or Crossroads shall bring an application before the Court to determine its validity and quantum as soon as reasonably possible.

Miscellaneous Matters

16. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals regulatory and administrative bodies are hereby respectfully requested to make such orders as to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
17. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
18. Service of this Order on any party not attending this Application is hereby dispensed with.

"K.M. Eidsvik"

Justice of the Alberta Court of Queen's Bench

Consented to:
Bishop & McKenzie LLP

Per 
Ksena J Court
Solicitors for Crossroads-DMD
Mortgage Investment Corporation

Schedule "A"
Form of Receiver's Certificate

COURT/ESTATE FILE NUMBER	1701-04209	Clerk's Stamp
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
	IN THE MATTER OF THE RECEIVERSHIP OF DMD III MORTGAGE INVESTMENT CORPORATION	
PLAINTIFF	ACCESS CAPITAL ADVISORS INC.	
DEFENDANTS	DMD MORTGAGE INVESTMENT CORPORATION, DMD II MORTGAGE INVESTMENT CORPORATION and DMD III MORTGAGE INVESTMENT CORPORATION	
APPLICANT	MNP LTD. in its capacity as Court-appointed Receiver and Manager of the assets, undertakings and properties of DMD III MORTGAGE INVESTMENT CORPORATION	
DOCUMENT	RECEIVER'S CERTIFICATE	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Torys LLP 4600 Eighth Avenue Place East 525 - Eighth Ave SW Calgary, AB T2P 1G1	

Attention: Kyle Kashuba
Telephone: + 1 403.776.3744
Fax: +1 403.776.3800
Email: kkashuba@torys.com
File No. 34004-2004

RECITALS

- A. On April 4, 2017, on Application by Access Capital Advisors Inc., the Court of Queen's Bench of Alberta appointed MNP Ltd. as receiver and manager (the "**Receiver**") over the assets, undertakings and properties of DMD III Mortgage Investment Corporation ("**DMD III**" or the "**Debtor**"), and the Receiver was tasked with amongst other things, identifying, securing, arranging for sale and monetizing the assets, undertakings and properties of DMD III.

- B. Pursuant to an Order of the Court dated June 15, 2018, the Court approved the agreement of purchase and sale made (the "PSA") between the Receiver, and Susan Schwitz ("Purchaser"), of #26, 3475 Fonda Way SE, Calgary, AB, and provided, *inter alia*, for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Lands, which vesting is to be effective with respect to the Lands upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Lands; (ii) that the conditions to Closing as set out in Article 8 of the PSA have been satisfied or waived by the Receiver and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the PSA.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Lands payable on the Closing Date pursuant to the PSA;
2. The conditions to Closing as set out in Article 8 of the PSA have been satisfied or waived by the Receiver and the Purchaser (or its nominee), as applicable; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at [Time] on [Date].

MNP Ltd., in its capacity as Court-appointed Receiver and Manager of the assets, undertakings and properties of DMD III Mortgage Investment Corporation, and not in its personal capacity

Per: _____
Name:
Title:

Schedule "B"
Permitted Encumbrances

<u>Registration Number</u>	<u>Date</u>	<u>Particulars</u>
771 147 064	20/10/1977	ZONING REGULATIONS SUBJECT TO CALGARY INTERNATIONAL AIRPORT ZONING REGULATIONS
771 184 601	30/12/1977	RESTRICTIVE COVENANT
771 184 604	30/12/1977	UTILITY RIGHT OF WAY GRANTEE - THE CITY OF CALGARY AS TO PORTION OR PLAN: 7711813