

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

THE HONOURABLE) MONDAY, THE 28TH
)
JUSTICE CAVANAGH) DAY OF MARCH, 2022
)

B E T W E E N :

THE MANUFACTURERS LIFE INSURANCE COMPANY

Applicant

- and -

RIVERSIDE PROFESSIONAL CENTRE INC.

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

APPROVAL AND VESTING ORDER

THIS MOTION made by MNP Ltd. in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Riverside Professional Centre Inc. (the “**Debtor**”) acquired for, or used in relation to, a business carried on by the Debtor, including all proceeds thereof, for, among other things, an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Sale Agreement**”) between the Receiver and The Ottawa Hospital/L’Hopital D’Ottawa (the “**Purchaser**”) dated as of December 7, 2021 and appended to

the second report of the Receiver dated March 17, 2022 (the “**Second Report**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement, including, without limitation, the real property listed in Schedule “B” hereto (collectively, the “**Purchased Assets**”), was heard this day by Zoom videoconference due to the Covid-19 pandemic.

ON READING the Notice of Motion and the Second Report and the appendices thereto, and on hearing the submissions of counsel for the Receiver, the Applicant, the Purchaser and such other counsel who were present, no one else appearing for any other person on the service list, although duly served, as appears from the affidavit of service of Daniel Richer sworn March 18, 2022 and the affidavit of service of Danny David sworn March 18, 2022 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.

CAPTIALIZED TERMS

2. THIS COURT ORDERS that capitalized terms not defined herein shall have the meanings ascribed thereto in the Sale Agreement.

SALE APPROVAL

3. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver be and is hereby authorized,

ratified and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

4. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely and exclusively in and with the Purchaser in accordance with the terms of the Sale Agreement, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Koehnen dated October 29, 2021; (ii) any encumbrances or charges created by the Order of the Honourable Justice Pattillo dated December 14, 2021; (iii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iv) those Claims listed on Schedule "C" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "D") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. THIS COURT ORDERS that upon the registration in Land Registry Office 4 for the Ottawa-Carleton Region of an Application To Amend Based on Court Order in the form prescribed by the *Land Titles Act* (Ontario), the Land Registrar is hereby directed to delete and expunge from title to the parcel registers being:

- (a) PIN 04201-0147 (LT) and legally described as PT LT 16, CON JG , PTS 1 & 2, 5R12853 ; OTTAWA ; SUBJECT TO AN EASEMENT IN FAVOUR OF ROGERS OTTAWA LIMITED/LIMITEE AS IN OC166375;
- (b) PIN 04201-0191 (LT) and legally described as PART OF LOTS 15 & 16 CON J.G., GLOUCESTER, AND PART OF THE ROAD ALLOWANCE BETWEEN LOTS 15 & 16 CON J.G., GLOUCESTER, (AS CLOSED BY OT48999 AND N451929) BEING PARTS 1 TO 9, 11, 12, 17, 20 TO 22, 27 TO 31, 37, 38, 41 TO 47, 51 & 52 ON 4R19213. SUBJECT TO AN EASEMENT IN FAVOUR OF THE HYDRO ELECTRIC COMMISSION OF THE CITY OF OTTAWA OVER PARTS 27 & 28 ON 4R19213 AS IN N468782. SUBJECT TO AN EASEMENT IN FAVOUR OF THE CONSUMERS GAS COMPANY LIMITED OVER PART 21 ON 4R19213 AS IN N581099. SUBJECT TO AN EASEMENT IN FAVOUR OF ROGERS OTTAWA LIMITED/LIMITEE AS IN OC166375. S/T EASEMENT IN GROSS OVER PARTS 2 TO 9, 11 & 29 ON 4R19213 AS IN OC547904. S/T EASEMENT IN GROSS OVER PARTS 3, 6, 8, 29 TO 31, 37, 38, 42, 45 & 46 ON 4R19213 AS IN OC547905. S/T EASEMENT IN GROSS OVER PARTS 5, 6, 44 & 45 ON 4R19213 AND PARTS 24, 25 & 26 ON 4R13382 AS IN OC547906. S/T EASEMENT IN GROSS OVER PART 20 ON 4R19213 AS IN OC547907; CITY OF OTTAWA;

- (c) PIN 04201-0192 (LT) and legally described as PART OF LOT 16 CON JG; GLOUCESTER BEING PARTS 10, 13, 39, 40, 48, 49, 50, 53 TO 58 PLAN 4R19213; OTTAWA SUBJECT TO AN EASEMENT IN FAVOUR OF ROGERS OTTAWA LIMITED/LIMITEE AS IN OC166375; and

- (d) PIN 04201-0193 (LT) and legally described as PART OF THE ROAD ALLOWANCE BETWEEN LOTS 15 AND 16 CON JG AS CLOSED BY OT48999 GLOUCESTER BEING PARTS 23, 24, 25 & 26 ON 4R19213; OTTAWA SUBJECT TO AN EASEMENT IN FAVOUR OF ROGERS OTTAWA LIMITED/LIMITEE AS IN OC166375;

all of the corresponding Claims listed in Schedule “C” hereto.

6. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate to the Purchaser, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver’s Certificate, forthwith after delivery thereof.

8. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), the Receiver is authorized and

permitted to disclose and transfer to the Purchaser all information relating to the parties to the Purchased Assets. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it.

9. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) 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 Purchased Assets in the Purchaser 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 fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA 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.

AID AND RECOGNITION

10. 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 and 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.

Schedule “A” – Form of Receiver’s Certificate

Court File No. CV-21-00668726-00CL

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APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Koehnen of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated October 29, 2021, MNP Ltd. was appointed as the receiver (the “**Receiver**”), without security, of all of the assets, undertakings and properties of Riverside Professional Centre Inc. (the “**Debtor**”) acquired for, or used in relation to, a business carried on by the Debtor, including all proceeds thereof.

B. Pursuant to an Order of the Court dated March 28, 2022, the Court approved the asset purchase agreement dated as of December 7, 2021 (the “**Sale Agreement**”) between the Receiver and The Ottawa Hospital/L’Hopital D’Ottawa (the “**Purchaser**”) and provided for the vesting in

the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets 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 Purchased Assets; (ii) that the conditions to Closing as set out in sections 6.1, 6.2 and 6.3 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the sale transaction contemplated by the Sale Agreement (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 Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 6.1, 6.2 and 6.3 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ on _____, 20__.

MNP Ltd., in its capacity as Receiver of all of the assets, undertakings and properties of Riverside Professional Centre Inc., and not in its personal capacity

Per: _____

Name:

Title:

Schedule “B” – Purchased Assets

1. The Real Property being RPCI’s leasehold interest in the Ground Lease
2. RPCI’s interest, as landlord, under the Leases
3. The Accounts Receivable
4. The Building
5. All Books and Records which are not Excluded Assets
6. Assumed Obligations
7. The Litigation

Schedule “C” – Claims to be deleted and expunged from title

PIN 04201-0147(LT)

1. The Notice of Lease registered as instrument no. N530327 on April 12, 1990;
2. The Notice registered as instrument no. N550799 on September 24, 1990;
3. The Application to Change Name Instrument registered as instrument no. LT1349206 on December 18, 2000;
4. The Notice of Assignment of Lessor Interest registered as instrument no. OC547909 on December 21, 2005;
5. The Notice registered as instrument no. OC547910 on December 21, 2005;
6. The Notice of Charge of Lease registered as instrument no. OC1334365 on February 16, 2012;
7. The Notice of Assignment of Rents-General registered as instrument no. OC1334392 on February 16, 2012;
8. The Land Registrar’s Order registered as instrument no. OC1701990 on July 17, 2015;
9. The Application to register a Court Order registered as instrument no. OC2418522 on November 1, 2021.

PIN 04201-0191(LT)

1. The Notice of Lease registered as instrument no. LT1349154 on December 18, 2000;
2. The Application to Change Name Instrument registered as instrument no. LT1349206 on December 18, 2000;
3. The Notice of Assignment of Lessee Interest registered as instrument no. LT1349207 on December 18, 2000;
4. The Notice of Assignment of Lessor Interest registered as instrument no. OC547908 on December 21, 2005;
5. The Notice registered as instrument no. OC547910 on December 21, 2005;
6. The Notice of Charge of Lease registered as instrument no. OC1334366 on February 16, 2012;
7. The Notice of Assignment of Rents-General registered as instrument no. OC1334393 on February 16, 2012.

PIN 04201-0192 (LT)

1. The Notice of Lease registered as instrument no. LT1349154 on December 18, 2000;
2. The Application to Change Name Instrument registered as instrument no. LT1349206 on December 18, 2000;
3. The Notice of Assignment of Lessee Interest registered as instrument no. LT1349207 on December 18, 2000;
4. The Notice registered as instrument no. OC547910 on December 21, 2005;
5. The Notice of Charge of Lease registered as instrument no. OC1334366 on February 16, 2012;
6. The Notice of Assignment of Rents-General registered as instrument no. OC1334393 on February 16, 2012.

PIN 04201-0193 (LT)

1. The Notice of Lease registered as instrument no. LT1349154 on December 18, 2000;
2. The Application to Change Name Instrument registered as instrument no. LT1349206 on December 18, 2000;
3. The Notice of Assignment of Lessee Interest registered as instrument no. LT1349207 on December 18, 2000;
4. The Notice of Assignment of Lessor Interest registered as instrument no. OC547908 on December 21, 2005;
5. The Notice registered as instrument no. OC547910 on December 21, 2005;
6. The Notice of Charge of Lease registered as instrument no. OC1334366 on February 16, 2012;
7. The Notice of Assignment of Rents-General registered as instrument no. OC1334393 on February 16, 2012.

Schedule “D” – Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property (unaffected by the Vesting Order)

1. All encumbrances registered against the Real Property (this and all other capitalized terms set out in this Schedule “D” shall be defined in accordance with the definitions therefor set out in the Approval and Vesting Order to which this Schedule “D” is attached (hereinafter, the “Vesting Order”)) as of the date of the Sale Agreement, save and except those encumbrances listed in Schedule “C” attached to the Vesting Order.
2. The reservations, limitations, exceptions, provisos and conditions, if any, expressed in the original grant(s) of the Real Property from the Crown.
3. All applicable municipal by-laws and regulations provided, in each case, the same do not materially adversely affect the use and/or value of the Purchased Assets.
4. All unregistered or inchoate statutory liens, charges and encumbrances affecting title to the Real Property for taxes, assessments, governmental charges and levies not yet due and all other unregistered statutory liens.
5. All defects and deficiencies which an up-to-date building location survey of the Real Property might reveal.
6. All easements, rights-of-way and licenses registered and unregistered for the supply and installation of utility services, drainage, telephone services, electricity, gas, storm and/or sanitary sewers, water, cable television and/or any other service(s) to or for the benefit of the Real Property (collectively, the "Utility Easements"), together with any easement and cost-sharing agreement(s) or reciprocal agreement(s) confirming (or pertaining to) any easement or right-of-way for access, egress, support and/or servicing purposes, and/or pertaining to the sharing of any services, facilities and/or amenities with adjacent or neighboring property owners or any crane access agreements or tieback or shoring agreements provided, in each case the same do not materially adversely affect the use or value of the Purchased Assets.
7. All registered municipal agreements and all registered agreements with publicly regulated utilities including, without limitation, all development, site plan, subdivision, engineering, heritage easement agreements and other municipal agreements (or similar agreements entered into with any governmental authorities), (with all of such agreements being hereinafter collectively referred to as the "Development Agreements") provided, in each case, the terms and conditions of each such Development Agreement have been complied with in all material respects and do not materially adversely affect the use of the Purchased Assets.
8. All shared facilities agreements, reciprocal and/or cost sharing agreements, all other agreements, easements and rights-of-way provided, in each case, the terms and

conditions of each such agreement have been complied with in all material respects and do not materially adversely affect the use of the Purchased Assets.

9. Encumbrances respecting minor encroachments by the Property and Real Property over neighbouring lands or by improvements on neighbouring lands onto the Property and Real Property and/or permitted under agreements with the owners of such neighbouring lands.
10. The exceptions and qualifications contained in Section 44(1) of the *Land Titles Act* (Ontario), except paragraphs 1, 2, 3, 5, 6, 8, 9, 11 and 14, provincial succession duties and escheats and forfeiture to the Crown.
11. Any rights of expropriation, access or use or any other similar rights conferred or reserved by or in any statutes of Canada or the Province of Ontario.

THE MANUFACTURERS LIFE INSURANCE COMPANY - and -
Applicant

RIVERSIDE PROFESSIONAL CENTRE INC.

Respondent

Court File No.: CV-21-00668726-00CL

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COMMERCIAL LIST
Proceeding commenced at
Toronto

APPROVAL AND VESTING ORDER

FASKEN MARTINEAU DuMOULIN LLP

Barristers and Solicitors
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto, ON M5H 2T6

Dylan Chochla LSO #: 62137I

Tel: 416.868.3425
dchochla@fasken.com

Daniel Richer LSO #: 75225G

Tel: 416.865.4445
dricher@fasken.com

Counsel for the Receiver