

COURT FILE NUMBER 0155 of 2014

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKATOON

PLAINTIFF SASKATCHEWAN IMMIGRANT
INVESTOR FUND INC.

DEFENDANT WINDERMERE PROPERTIES LTD.

IN THE MATTER OF THE RECEIVERSHIP OF WINDERMERE PROPERTIES LTD.

**NOTICE OF APPLICATION
BY MNP LTD. (THE "RECEIVER") IN ITS CAPACITY AS COURT-APPOINTED RECEIVER
OF WINDERMERE PROPERTIES LTD. ("WINDERMERE")**

NOTICE TO RESPONDENTS: All parties listed on the 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	Court House 520 Spadina Crescent East Saskatoon, Saskatchewan
Date	Friday, April 26, 2019
Time	3:00 p.m. or such other time as the Court may direct

(Read the Notice at the end of this document to see what else you can do and when you must do it.)

1. Remedy claimed or sought:

- (a) Deeming of service of this Notice of Application and materials in support thereof (the "Application Materials") to be valid, timely and sufficient;
- (b) Providing that the Confidential Report be sealed until further Order of the Court or the filing of written notice by the Receiver that the sale transaction that is the subject of this application has closed to the satisfaction of the Receiver;
- (c) Approving the sales of Condo Units previously completed by the Receiver;
- (d) Subject to the Purchaser's conditions being removed, approving and authorizing the completion of the proposed purchase and sale transaction (the "Transaction")

respecting the property of Windermere Properties Ltd. (the "Sold Assets") more particularly described in the Amended Sale Agreement between the Receiver and Sandeep Ahuja (the "Purchaser"), a copy of which is attached to the Confidential Addendum to the Seventh Report of the Receiver (the "Confidential Report");

- (e) Vesting in the Purchaser all of Windermere's right, title and interest to the Sold Assets, free and clear of all liens, charges, security interests and other encumbrances other than permitted encumbrances, including the Receiver's interest in the Option to Purchase described in the Seventh Report of the Receiver (the "Seventh Report");
- (f) By way of a separate Order, vesting in Willowview Condominium Corporation the visitor Parking Units required by the City of Prince Albert to be maintained as visitor parking for the Project;
- (g) Approving the Seventh Report and the conduct and activities of the Receiver described therein, including the Receiver's Interim Statement of Receipts and Disbursements appended to the Seventh Report;
- (h) Approving the payment of invoices of the Receiver and the Receiver's legal counsel;
- (i) Providing for certain holdbacks as described in the Seventh Report (the "Holdbacks");
- (j) Providing for a process to address potential priority claims on the part of certain creditors;
- (k) Authorizing and directing the Receiver to make distribution of the net proceeds of the Transaction (the "Proceeds) as recommended in the Seventh Report, subject to the establishment of the Holdbacks; and
- (l) Such further and other relief as counsel may advise and this Honourable Court may permit.

2. Grounds for making this application:

- (a) Capitalized terms not otherwise defined herein shall have the meanings given to them in Orders of this Honourable Court, and in reports of the Receiver filed in these proceedings, including the Seventh Report.
- (b) On February 4, 2014, this Court granted the Receivership Order appointing MNP Ltd. as Receiver of Windermere Properties Ltd.
- (c) The Receiver has complied with the Receivership Order and its activities to date have assisted the Court in the administration of the receivership of the Debtor.
- (d) Notwithstanding extensive marketing efforts, sales of individual Condo Units have been extremely slow and only 10 of the available Condo Units have been sold to purchasers. Accordingly the Receiver attempted the alternative approach of listing the unsold Condo Units for sale in bulk to a single purchaser as an investor.
- (e) After significant negotiation, the Receiver entered into an agreement to sell the unsold Condo Units and other assets comprising the Sold Assets (consisting of available surplus parking stalls and the Receiver's interest in a Purchase Option concerning certain Surplus Lands). While the Purchaser was to remove conditions by April 15, 2019, the Purchaser sought an extension to April 26, 2019, to which the Receiver has agreed along with certain other amendments. As a result, the Transaction remains conditional.
- (f) As described in the Application Materials, the Receiver submits that the Transaction is in the best interests of Windermere, its creditors and any stakeholders. The primary secured creditor of Windermere, SIIF, was consulted and supports the approval of the Transaction. Further, in light of the amounts owing to SIIF under the Receiver's Certificates, there is a high likelihood that there will be no sale proceeds available for any purpose other than the Holdbacks and repayment of amounts owing under such Certificates.
- (g) The process for selling the Sold Assets was fair and the Receiver made a sufficient effort to obtain the best price.
- (h) Sealing of the Confidential Report is necessary, as it contains sensitive commercial information, the disclosure of which would be likely to prejudice

future attempts to sell the Sold Assets if the Court does not approve the Transaction or the Transaction does not close.

- (i) The prior sales of Condo Units by the Receiver were conducted in accordance with the previous Orders of the Court in these proceedings.

3. Material or evidence to be relied on:

- (a) This Notice of Application, filed;
- (b) First Report of the Receiver, filed;
- (c) Second Report of the Receiver, filed;
- (d) Confidential Report of the Receiver dated September 8, 2015 (in conjunction with the Second Report), filed;
- (e) Third Report of the Receiver, filed;
- (f) Fourth Report of the Receiver, filed;
- (g) Fifth Report of the Receiver, filed;
- (h) Sixth Report of the Receiver, filed;
- (i) Confidential Addendum to the Sixth Report of the Receiver, filed;
- (j) Seventh Report of the Receiver, filed;
- (k) Confidential Addendum to the Seventh Report of the Receiver, filed;
- (l) Draft Order re Approval of Sales to Date, Proposed Sale, Activities of Receiver and Distribution, filed;
- (m) Draft Order re Vesting of Parking Units in Willow View Condominium Corporation, filed;
- (n) Service List as of April 17, 2019;
- (o) Media Ban Notification;
- (p) Brief of Law, to be filed; and
- (q) Such further and other material as counsel may advise and this Honourable Court may allow.

4. Applicable rules:

- (a) General Application Practice Directive #3 (re discretionary orders restricting media reporting or public access); and
- (b) Rules 12-1(1) and 13-7(2).


5. Applicable Acts and regulations:

- (a) Section 249 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3.

DATED at Saskatoon, Saskatchewan this 18th day of April, 2019.

MILLER THOMSON LLP

Per:


Counsel for the Applicant, MNP
Ltd. in its capacity as Receiver of
Windermere Properties Ltd.

TO: All parties named on the Service List in the within matter as of April 17, 2019;

AND TO: Local Registrar, Court of Queen's Bench, J.C. of Saskatoon

NOTICE

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

If prepared by a lawyer for the party:

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Name of lawyer in charge of file:	David G. Gerecke/ Fraiba Jalal
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