



Court File No: CV-21-0066512800CL

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

THE HONOURABLE) TUESDAY, THE 1ST
MR. JUSTICE PENNY) DAY OF AUGUST, 2023
)

DUCA FINANCIAL SERVICES CREDIT UNION LTD.

Applicant

- and -

**BAYVIEW CREEK (CIM) LP, CIM INVESTS DEVELOPMENT INC., and
CIM BAYVIEW CREEK INC.**

Respondents

**ORDER
(Administration and Interim Distribution)**

THIS MOTION, made by msi Spergel Inc (“**Spergel**”), in its capacity as court-appointed receiver (the “**Receiver**”) of all of the assets, undertakings and properties of Bayview Creek (CIM) LP, CIM Invests Development Inc., and CIM Bayview Creek Inc. (collectively, the “**Debtors**”), for an order, among other things, approving the second report of the Receiver dated July 14, 2023 (the “**Second Report**”), approving the fees and disbursements of the Receiver and counsel to the Receiver, Borden Ladner Gervais LLP (“**BLG**”), for the fee periods referred to in the Second Report and authorizing an interim distribution to Fengate Redevelopment Fund GP Inc., as general partner of and on behalf of LPF Conversion Fund, or such other party, as directed by Fengate and for certain other ancillary relief, was heard this day by Zoom videoconference.

ON READING the Receiver's Motion Record, the Second Report of the Receiver and the appendices thereto, the Affidavit of Trevor Pringle sworn July 12, 2023 (the "**Pringle Affidavit**"), the Affidavit of Christine Mason sworn July 7, 2023 (the "**Mason Affidavit**"), the Affidavit of Vasilios Panagiotakopoulos sworn July 31, 2023 (the "**Panagiotakopoulos Affidavit**") and on hearing the submissions of counsel for the Receiver and such other parties in attendance at the hearing and upon reading the Affidavit of Service of Mariela Adriana Gasparini sworn July 14, 2023, 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.

ACTIVITIES OF THE RECEIVER

2. **THIS COURT ORDERS** that the Second Report and the activities of the Receiver, as set out in the Second Report, be and are hereby approved; provided, however, that only the Receiver, in its personal capacity only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

3. **THIS COURT ORDERS** that the Receiver's Statement of Receipts and Disbursements as at July 12, 2023 be and is hereby approved.

DISTRIBUTIONS

4. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to make an interim distribution to Fengate Redevelopment Fund GP Inc., as general partner of and on behalf of LPF Conversion Fund (“**Fengate**”), or such other party, as directed by Fengate, in the amount of \$45,000,000, upon the closing of the transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale dated June 2, 2023 (the “**Sale Agreement**”) between Sunny Communities (Bayview Creek) Inc. and the Receiver.

5. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to make a distribution to The Corporation of the Town of Richmond Hill (“**Richmond Hill**”) in the amount of \$459,148.71, plus any other amounts accrued at the closing of the Transaction, as agreed to by the Receiver, for the outstanding realty taxes upon the closing of the Transaction.

6. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to make a distribution to Rory McGovern PC, In Trust, for the benefit of Cardinal Advisory Limited (“**Cardinal**”) in the amount of \$200,000, (the “**DIP Lender Distribution**”), in full and final satisfaction of all amounts secured by the DIP lender’s charge (the “**DIP Lender’s Charge**”) established and created pursuant to the Order of Mr. Justice Cavanagh dated November 27, 2020, upon the closing of the Transaction.

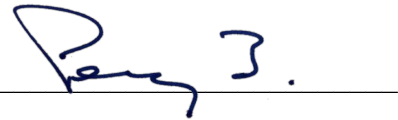
7. **THIS COURT ORDERS** that upon completion of the DIP Lender Distribution, the DIP Lender’s Charge, be and is hereby terminated and extinguished.

8. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to pay Colliers Macaulay Nicolls Inc. the amount of \$400,000, plus HST, on account of the commission payable pursuant to the Listing Agreement dated July 28, 2022, upon the closing of the Transaction.

APPROVAL OF FEES

9. **THIS COURT ORDERS** that the fees and disbursements of the Receiver, as described in the Second Report and as set out in the Pringle Affidavit, be and are hereby approved.

10. **THIS COURT ORDERS** that the fees and disbursements of the Receiver's legal counsel, BLG, as described in the Second Report and as set out in the Mason Affidavit, be and are hereby approved.



A handwritten signature in blue ink, appearing to read "Paul J. Pringle", is written above a horizontal line.

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PROCEEDING COMMENCED AT TORONTO

ORDER
(Administration and Interim Distribution)

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