

Philip Gennis

From: Cavanagh, Justice Peter (SCJ) <Peter.Cavanagh@scj-csj.ca>
Sent: January 11, 2021 2:34 PM
To: Christine Doyle; Tim Hogan; zafir@rutmanlaw.com; djwyjad@wylaw.ca; Sanj Mitra; Philip Gennis; Mukul Manchanda; Damian Lu; jnemers@airdberlis.com; bracebridge@wylaw.ca
Cc: JUS-G-MAG-CSD-Toronto-SCJ Commercial List
Subject: CV-20-00635946-00CL Pace Savings & Credit Union Limited and Noble House Development Corporation et al.
Attachments: Counsel Slip - Noble House.DOCX; CV-20-00635946-00CL Pace Savings v. Noble House_Ancillary Order_11-JAN-2021.pdf; Pace Savings & Credit Union Limited and Noble House Development Corporation and others_Approval and Vesting Order.pdf

Counsel:

See attached counsel slip.

Endorsement:

The Receiver seeks an order for, among other things, approval of the agreement of purchase and sale between the Receiver, as vendor, and Shaffiq Dar in trust for the Purchaser, as purchaser, dated November 10, 2020 and authorizing the Receiver to complete the transaction contemplated thereby. On this motion, counsel for John Jarvis appeared and opposed this order on the ground that the appraisal obtained by the Receiver provided an estimate of value which was too low and, as a result, the listing price was too low which resulted in a sale price which was less than the value of the Property in the marketplace. I do not accept the submissions made on behalf of Mr. Jarvis.

The First Report of the Receiver summarizes the marketing and sale process which the Receiver conducted at paras. 37-45. I am satisfied that the Property was broadly marketed and that the transaction contemplated by the sale agreement is at a price that was a highest price received for an unconditional deal and represents a sale price equal to or greater than the appraised value of the Property to be sold in a single asset sale. I am not satisfied that the earlier appraisals, upon which Mr. Jarvis relies, can be relied upon given the passage of time and the current market conditions, and given the most current information with respect to the condition of the Property. The Property was listed for sale at a price considerably higher than the upper end of the range of appraised values, and a number of offers were received. In my view, nothing will be gained by not proceeding with the sale, and, in fact, there will be additional carrying costs and no reasonable likelihood that a sale at a higher price will be achieved. I am satisfied, having regard to the principles in *Royal Bank of Canada v. Soundair Corp.*, (1991), 4 O.R. (3d) 1 (C.A.), that the proposed sale of the Property should be approved.

I am also satisfied that the relief requested as part of the requested Ancillary Order should be granted.

Orders to issue an forms of attached orders signed by me.