

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

**C & K MORTGAGE SERVICES INC., BAMBURGH HOLDINGS INC.,
YERUSHA INVESTMENTS INC., 1008118 ONTARIO LIMITED,
CANADIAN WESTERN TRUST COMPANY, E. MANSON INVESTMENTS LTD.,
CORY NOORLANDER, B & M HANDELMAN INVESTMENTS LTD.,
CAROL HANDELMAN, BEATRYCE SPIEGEL, RANDY SPIEGEL,
STACEY SPIEGEL AND COMFORT CAPITAL INC**

Applicants

- and -

**VILLAGE DEVELOPMENTS INC., PAUL DEBATTISTA,
2865595 ONTARIO INC. AND 2865594 ONTARIO INC.**

Respondent

**SUPPLEMENT TO THE FIRST REPORT TO COURT
OF ALVAREZ & MARSAL CANADA INC. IN ITS CAPACITY AS COURT-
APPOINTED RECEIVER OF 7686 APPLEBY LINE, MILTON, ONTARIO**

March 24, 2024

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1.0 INTRODUCTION

- 1.1 This report (the “**Supplemental Report**”) is filed by Alvarez & Marsal Canada Inc. (“**A&M**”) in its capacity as Court-appointed receiver (the “**Receiver**”) of the lands and premises municipally known as 7686 Appleby Line, Milton, Ontario (collectively the “**Property**”).
- 1.2 Pursuant to an order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (the “**Court**”) made on August 15, 2023 with an effective date of August 17, 2023, upon application by C&K Mortgage Services Inc. (“**C&K**”), Bamburgh Holdings Inc., Yerusha Investments Inc., 1008118 Ontario Limited, Canadian Western Trust Company, E. Manson Investments Ltd., Cory Noorlander, B & M Handelman Investments Ltd., Carol Handelman, Beatryce Spiegel, Randy Spiegel, Stacey Spiegel and Comfort Capital Inc. (collectively, the “**Applicants**”), A&M was appointed Receiver of the Property.
- 1.3 The purpose of this Supplemental Report is to provide this Court and relevant stakeholders in these receivership proceedings (the “**Receivership Proceedings**”) with an update to the Marketing Process (as defined in the First Report) and additional information in respect of Paul DeBattista’s second motion to discharge the Receiver (the “**Second Discharge Motion**”).
- 1.4 This Supplemental Report should be read in conjunction with the First Report and is subject to the restrictions and limitations described therein. Capitalized terms used and not defined in this Supplemental Report have meanings given to them in the First Report or the Appointment Order, as applicable.

- 1.5 Further information about the Property, its background and copies of materials filed in the Proceedings are available on the Receiver's website at: <https://www.alvarezandmarsal.com/7686appleby>.

2.0 INITIAL DISCHARGE MOTION

- 2.1 The Property is a 45.58-acre residential property with a bungalow dwelling comprised of approximately 8,000 square feet of living space. The Property is the principal residence of Mr. DeBattista, the owner of the Property.
- 2.2 As described in the First Report, the Receiver had previously, in consultation with the Applicants, 992 Canada and the Estate of Laurent Carrier (the “**Carrier Estate**”), confirmed that it would not oppose a motion to discharge the Receiver (the “**Discharge Motion**”) provided that (i) all creditors who are party to the Charges are served with motion materials on a timely basis and such creditors do not oppose the Discharge Motion; and (ii) \$3.7 million (the “**Payment Amount**”) will be provided to the Receiver in satisfaction of the Charges. The Payment Amount was to be received in the following manner:
- (a) \$3.35 million (the “**Closing Payment**”) to be wired to the Receiver upon issuance of the Discharge Order; and
 - (b) application of the \$350,000 non-refundable deposit held by the Receiver¹ (the “**Deposit**”).

¹ The Deposit was paid to the Receiver on December 15, 2023.

2.3 The Discharge Motion was initially brought by Mr. DeBattista in February 2024. A brief timeline of the Discharge Motion is set out below:

- (a) On February 14, 2024, Mr. DeBattista first appeared before the Court. At the time, the Discharge Motion was adjourned to February 23, 2024 as a result of, among other things, concerns around the sufficiency of commitments proposed by Mr. DeBattista to satisfy the Closing Payment;
- (b) On February 23, 2024, Mr. DeBattista put forth a proposal to fund the Closing Payment, including a first mortgage in the amount of \$2.86 million from BIP Management Corporation (“**BIP**”) and a second mortgage of \$500,000 from 1806634 Ontario Ltd. (“**180**”), however the Discharge Motion was again adjourned as Mr. DeBattista, among other things, was unable to provide (i) clarity in respect of the closing matters related to the transactions with BIP and 180; and (ii) evidence of discharge or willingness to discharge by all persons with registrations on title to the Property. The Discharge Motion was adjourned to February 27, 2024;
- (c) On February 27, 2024, Mr. DeBattista requested more time to prepare evidence, and the Discharge Motion was further adjourned to March 4, 2024;
- (d) On March 4, 2024, the Discharge Motion was adjourned to March 7, 2024;
- (e) On March 7, 2024, Mr. DeBattista advised the Court that 180 had withdrawn its commitment, however he had secured replacement financing from an undisclosed lender. The Discharge Motion was adjourned to March 13, 2024;
- (f) On March 13, 2024, the Discharge Motion was dismissed as (i) Mr. DeBattista, after being provided with multiple opportunities, failed to provide the necessary evidence

to the Receiver and the Court that showed, among other things, that there is financing in place to satisfy the Closing Payment; (ii) the Receiver had received multiple offers on the Property through the Marketing Process; and (iii) the Receiver and the Applicants opposed further adjournments.

3.0 UPDATES TO THE MARKETING PROCESS

- 3.1 The Receiver engaged Right at Home Realty (“**RAR**”) for the development and implementation of the Marketing Process.
- 3.2 The Property was posted on the MLS system on September 28, 2023.
- 3.3 The Receiver received multiple offers and amended offers from two bidders (the “**Bidders**”) during the Marketing Process however, as described in the First Report, the Receiver had suspended engagement with the Bidders in light of the Discharge Motion.
- 3.4 Upon receipt of the Endorsement of Justice Steele dated March 13, 2024 dismissing the Discharge Motion, the Receiver and RAR proceeded to engage in negotiations with the Bidders.
- 3.5 Ultimately, on March 19, 2024, the Receiver received an amended offer from a Bidder with terms that are satisfactory to the Receiver (the “**Purchase Offer**”) which, among other things, contemplates a transaction (the “**Purchase Transaction**”) with a purchase price of \$3.8 million (the “**Purchase Price**”) and an expected closing date of June 30, 2024.
- 3.6 While the Receiver has negotiated terms of the Purchase Offer to a point at which the Purchaser Offer is satisfactory to the Receiver, in light of the Second Discharge Motion (as

described further below), the Receiver has not executed the agreement of purchase and sale in respect of the Purchase Offer.

4.0 SECOND DISCHARGE MOTION

4.1 On March 20, 2024, Mr. DeBattista served a Notice of Motion for the Second Discharge Motion in respect of an order (the “**Second Discharge Order**”), among other things:

- (a) directing the Receiver to refrain from accepting any offers to purchase the Property until after 5pm on March 26, 2024;
- (b) approving the arrangement proposed for discharge of the Receiver (the “**Discharge Arrangement**”) and, if necessary, vesting out those mortgages who have not delivered discharges of mortgage to the Receiver prior to the completion of same;
- (c) directing the Receiver to make the Distributions as described in the First Report;
- (d) discharging the Receiver effective upon: (i) the completion of the Discharge Arrangement; (ii) the Receiver’s distribution of funds to the Property’s mortgagees; and (iii) the Receiver filing a certificate with the Court confirming the remaining tasks required to complete the administration of these Receivership Proceedings have been completed by the Receiver.

Expected Recoveries

4.2 The expected recoveries to creditors under the Discharge Arrangement is described in detail in the First Report.

4.3 The Discharge Arrangement could potentially result in higher net recoveries to creditors despite the Payment Amount being \$100,000 lower than the Purchase Price due to the following factors:

- (a) RAR has agreed to a break fee of \$40,000 plus HST in the event the Court grants a Discharge Order whereas RAR is entitled to a 4% commission in connection with the Purchase Transaction (\$172,000 including HST); and
- (b) the Discharge Arrangement could potentially be completed on an expedited basis whereas interest will continue to accrue on the debt owed to C&K and 992 Canada until approximately June 30, 2024 (the proposed closing of the Purchase Transaction), which is estimated to reduce recoveries to the Carrier Estate by approximately \$110,000.

4.4 Notwithstanding the above, as described in Section 2.0, the Receiver received a non-refundable Deposit from Mr. DeBattista. Whether the Discharge Arrangement ultimately yields a higher net recovery to creditors would be dependent on whether the Deposit, or a portion thereof, would be available for distribution in connection with the Purchase Transaction.

Remaining Charges

4.5 According to a title search as of March 6, 2024, the only charges and related registrations remaining on the Property are in favour of C&K, 992 Canada and the Carrier Estate. Attached as **Appendix “A”** is a copy of the title search results.

4.6 Amounts owing in respect to the C&K Charge and the 992 Charges are expected to be repaid in full through either the Discharge Arrangement or the Purchase Transaction.

4.7 The Receiver understands through discussions with Blackburn Lawyers (“**Blackburn**”), counsel to the Carrier Estate, that it does not intend to oppose the Second Discharge Motion however, Blackburn raised certain concerns over the Affidavit of Paul DeBattista sworn March 21, 2024 and asked the Receiver to convey them to the Court. Attached as **Appendix “B”** is a copy of the correspondence with Blackburn.

5.0 CONCLUSIONS

5.1 The Receiver will be guided by the Court with respect to the Second Discharge Motion.

All of which is respectfully submitted this 24th day of March 2024.

**Alvarez & Marsal Canada Inc.,
in its capacity as Court-appointed Receiver of
7686 Appleby Line, Milton, Ontario
and not in its personal capacity**



Per: Stephen Ferguson
Senior Vice-President

Appendix A

PROPERTY DESCRIPTION: PT LT 15, CON 5 NNS , AS IN 546162 ; MILTON/NELSON

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:

FIRST CONVERSION FROM BOOK

PIN CREATION DATE:

1996/07/22

OWNERS' NAMES

DEBATTISTA, PAUL

CAPACITY SHARE

ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
<div><div>**EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1996/07/22 ON THIS PIN**</div><div>**WAS REPLACED WITH THE "PIN CREATION DATE" OF 1996/07/22**</div><div>** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **</div><div>**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:</div><div>** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *</div><div>** AND ESCHEATS OR FORFEITURE TO THE CROWN.</div><div>** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF</div><div>** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY</div><div>** CONVENTION.</div><div>** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.</div><div>**DATE OF CONVERSION TO LAND TITLES: 1996/07/22 **</div></div>						
119980	1961/01/25	BYLAW				C
392130	1974/06/12	AGREEMENT			THE CORPORATION OF THE TOWN OF MILTON	C
HR582351	2007/07/09	TRANSFER	\$990,000	LOUGH, THOMAS	DEBATTISTA, PAUL	C
REMARKS: PLANNING ACT STATEMENTS						
HR1267536	2015/05/22	CHARGE	\$1,408,853	DEBATTISTA, PAUL	CARRIER, LAURENT	C
HR1357040	2016/05/13	CHARGE	\$2,200,000	DEBATTISTA, PAUL	VALOUR MORTGAGE SERVICES INC.	C
HR1357041	2016/05/13	CHARGE	\$400,000	DEBATTISTA, PAUL	VALOUR MORTGAGE SERVICES INC.	C
HR1357042	2016/05/13	CHARGE	\$150,000	DEBATTISTA, PAUL	VALOUR MORTGAGE SERVICES INC.	C
HR1357247	2016/05/16	NOTICE	\$1	DEBATTISTA, PAUL	CARRIER, LAURENT	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
HR1357254	2016/05/16	POSTPONEMENT		CARRIER, LAURENT	VALOUR MORTGAGE SERVICES INC.	C
HR1357255	2016/05/16	POSTPONEMENT		CARRIER, LAURENT	VALOUR MORTGAGE SERVICES INC.	C
HR1357256	2016/05/16	POSTPONEMENT		CARRIER, LAURENT	VALOUR MORTGAGE SERVICES INC.	C
HR1359555	2016/05/26	NO ASSGN RENT GEN		DEBATTISTA, PAUL	VALOUR MORTGAGE SERVICES INC.	C
HR1481274	2017/08/16	TRANSFER OF CHARGE		VALOUR MORTGAGE SERVICES INC.	COMMUNITY TRUST COMPANY	C
HR1689440	2020/03/11	TRANSFER OF CHARGE		VALOUR MORTGAGE SERVICES INC.	C & K MORTGAGE SERVICES INC.	C
HR1689469	2020/03/12	NO ASSGN RENT GEN		VALOUR MORTGAGE SERVICES INC.	C & K MORTGAGE SERVICES INC.	C
HR1881023	2022/04/05	TRANSFER OF CHARGE		VALOUR MORTGAGE SERVICES INC.	9929916 CANADA INC.	C
HR1882026	2022/04/08	TRANSFER OF CHARGE		COMMUNITY TRUST COMPANY	OLYMPIA TRUST COMPANY	C
HR1882027	2022/04/08	TRANSFER OF CHARGE		OLYMPIA TRUST COMPANY	9929916 CANADA INC.	C
HR1983874	2023/08/21	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	ALVAREZ & MARSAL (CANADA) INC.	C

Appendix B

From: [Louis Laskovski](#)
To: [George Benchetrit](#); [Mann, Esther](#)
Subject: RE: URGENT- C & K MORTGAGE SERVICES INC. ET AL v VILLAGE DEVELOPMENTS INC. ET AL - CV-23-00700497-00CL
Date: Thursday, March 21, 2024 4:41:20 PM

[EXTERNAL EMAIL]: Use Caution

Notwithstanding, I trust you will make the court aware of our comments below.

From: George Benchetrit <George@chaitons.com>
Sent: Thursday, March 21, 2024 4:37 PM
To: Louis Laskovski <laskovski@blackburnlawyers.ca>; Mann, Esther <esther.mann@alvarezandmarsal.com>
Subject: Re: URGENT- C & K MORTGAGE SERVICES INC. ET AL v VILLAGE DEVELOPMENTS INC. ET AL - CV-23-00700497-00CL

Thanks Louis. If the judge asks us on Monday, we will indicate that you confirmed to us that you would not be filing material or attending the hearing.

George Benchetrit | Partner*
*Denotes Professional Corporation
Chaitons LLP | T: 416.218.1141

From: Louis Laskovski <laskovski@blackburnlawyers.ca>
Sent: Thursday, March 21, 2024 2:11 PM
To: Mann, Esther <esther.mann@alvarezandmarsal.com>
Cc: George Benchetrit <George@chaitons.com>
Subject: FW: URGENT- C & K MORTGAGE SERVICES INC. ET AL v VILLAGE DEVELOPMENTS INC. ET AL - CV-23-00700497-00CL

CAUTION: [External]

Esther,

While we do not intend to file any supporting material or attend in court, we wish to make you aware of certain statements in the affidavit of Paul De Battista which are false, misleading and/or inaccurate, as follows:

1. Paragraph 12 – we were never asked by the Receiver to deliver a discharge in respect the Carrier Mortgage. Paul De Battista's lawyer requested we deliver one to him, which we would not agree to do. It had never been suggest to us that this would be delivered to the Receiver in escrow and that it would not be released without receipt of any funds.
2. Paragraph 13 - we never stated in any correspondence that we were not prepared to deliver a discharge of the Carrier Mortgage. To the contrary, we would agree to do so on payment of the proceeds of all sale proceeds to the Receiver.
3. Paragraph 14 – nonsense! Why would a court order that the Carrier mortgage be discharged prior the Receiver being in receipt of sale proceeds.

Let me know if you wish to discuss.

Regards,
Louis

From: Dino G. Mazzorato <dgmazzorato@bellnet.ca>

Sent: Thursday, March 21, 2024 12:22 PM

To: 'don harris' <ddharris47@hotmail.com>; 'George Benchetrit' <George@chaitons.com>; Louis Laskovski <laskovski@blackburnlawyers.ca>; mike@pettlelaw.com

Subject: FW: URGENT- C & K MORTGAGE SERVICES INC. ET AL v VILLAGE DEVELOPMENTS INC. ET AL
- CV-23-00700497-00CL

Affidavit of Paul DeBattista sworn March 21, 2024 is being served per the Rules.

Dino Mazzorato

☎: (905) 878-4149

Fax: (905) 878-4984

✉: dgmazzorato@bellnet.ca

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C & K MORTGAGE SERVICES INC. ET AL.

– AND –

VILLAGE DEVELOPMENTS INC. ET AL.

Applicants

Respondents

Court File No. CV-23-00700497-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at TORONTO

**SUPPLEMENT TO THE FIRST REPORT OF
THE RECEIVER**

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**Lawyers for Alvarez & Marsal Canada Inc.,
Court-appointed Receiver**