

Streamlining Receiver Sale Transactions for Condo Units

Earlier this year, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an Order (the “**Omnibus Order**”) that streamlines the sale of certain condominium units under receivership. This streamlined process enables the court-appointed receiver to complete a sale transaction with the benefit of an Approval and Vesting Order (“**AVO**”) without the need to bring a motion in each case, thereby reducing legal expenses and maximizing net proceeds for creditors.

Traditionally, pursuant to a receivership appointment order, a receiver can avoid the need to bring a motion for court approval only if a transaction is below a specified monetary threshold, such as \$250,000 (which is too low to be relevant in the sale of condominium dwelling units). See Model Receivership Order [here](#). However, this case utilized a novel approach by establishing a minimum sale price for each condominium dwelling unit, rather than a maximum monetary cap, to allow sale transactions to be completed more efficiently.

Background

On February 6, 2024, the Court granted an Order (the “**Appointment Order**”) appointing RSM Canada Limited, now TDB Restructuring Limited (“**TDB**”), as the receiver and manager (the “**Receiver**”), without security, of specific unsold units in a condominium building located at 25 Neighbourhood Lane, Toronto (the “**Unsold Units**”), owned by Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited. The Unsold Units are comprised of dwelling units, parking units and storage lockers, and the proceeds thereof.

During 2024, TDB initially obtained individual AVOs from the Court to enable the sale of various Unsold Units, while discussions with the first mortgagee, lien claimants and other stakeholders took place. On January 13, 2025, TDB proposed the Omnibus Order to, among other things, amend the original Appointment Order and approve a form of template AVO. The amendment to the Appointment Order aimed to simplify the sale process, allowing TDB to sell an Unsold Unit without the need to bring a motion, subject to certain conditions (the “**Permitted Transaction**”).

The template AVO would be completed by the Receiver for each Permitted Transaction. The AVO would then be submitted to the Court Registrar for signature and issuance, to permit the Receiver to convey the Unsold Unit(s) to a purchaser free and clear of any mortgages, charges, liens or other encumbrances, in the absence of a separate court attendance. The signed AVO would then be served on the Service List, to notify stakeholders of the Permitted Transaction.

The Permitted Transaction

A Permitted Transaction includes the sale of any individual unsold parking unit or locker unit (not as part of the sale of a dwelling unit), so long as the purchase price for each such Unsold Unit does not exceed \$250,000. For larger transactions, which are in relation to an unsold dwelling unit

(together with a parking and locker unit), a Permitted Transaction must meet a minimum sale price requirement of 85% of that Unsold Unit's listed sale price. Evidence was filed by the Receiver as to the listed sale prices of the Unsold Units and the market basis in support of same.

For any sale transaction where the sale price that the Receiver recommends accepting is below 85% of the current listed price of that Unsold Unit, the Receiver would seek Court approval for such sale in the ordinary course with a motion brought seeking an AVO.

Conclusion

The approval of the Omnibus Order and Permitted Transaction serves to satisfy stakeholders that appropriate value will be obtained in the sale of units. It provides transparency, while also reducing the time and expense required for motions seeking AVOs. The Receiver provided the Court and stakeholders with detailed information in relation to each of the unsold dwelling units, including unit sizes and list prices confirming an informed and transparent process.

By setting a minimum sale price condition on the unsold dwelling units, the Court balanced the need for efficient asset liquidation while safeguarding stakeholder interests. The Omnibus Order obtained in this case can be found [here](#).