Court File No. CV-25-00741044-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

CHIEF EXECUTIVE OFFICER OF THE FINANCIAL SERVICES REGULATORY AUTHORITY OF ONTARIO

Applicant

and

SUSSMAN MORTGAGE FUNDING INC., 2486976 ONTARIO INC. and 1981361 ONTARIO INC.

Respondents

APPLICATION UNDER Section 37 of the *Mortgage Brokerages, Lenders and Administrators Act*, 2006, S.O. 2006, c. 29, as amended, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

AIDE MEMOIRE OF ALLIANCE HOMES LTD. ("ALLIANCE"), ALEX TROOP ("TROOP"), 2114568 ONTARIO INC. ("211 ONTARIO") AND WATERWAYS OF MUSKOKA LTD. ("WATERWAYS")

(Case Conference – June 26, 2025 at 10:00 a.m.)

1. This Aide Memoire concerns the Waterways and Uptergrove projects. The intent is to provide an overview of the potential monetary recovery available from these developments, and to assist the Court, the Receiver and counsel (and their clients) regarding possible next steps. With respect to these projects, the following have

expressed interest in financing their future development: Firm Capital Corporation, KingSett Capital and MarshallZehr.

The Waterways Project

2. Waterways is a company holding title to the lands comprising the Waterways development which is located in Bracebridge, Ontario.

3. There is a Co-Ownership and Management Agreement governing this development which was entered into on January 30, 2020. The parties to this Agreement are 1981361 Ontario Inc., Alliance Compro Inc., Waterways of Muskoka Ltd. and Alliance Homes Ltd.

4. The co-owners of Waterways are Alliance Compro Inc. ("Alliance Compro") and 1981361 Ontario Inc. ("198 Ontario"), each as to a 50% interest in the project. Sandford Sussman is the sole shareholder of 198 Ontario. Alex Troop is the sole shareholder of Alliance Compro.

5. Alliance Homes Ltd. ("Alliance Homes") is the Manager/Builder of the homes in the Waterways development. Troop is the President of Alliance Homes.

6. Alliance Homes has been building homes throughout Ontario for the past 25 years in communities such as Bancroft, Jackson's Point, Creemore, Barrie, Orillia and Lake of

Bays in Muskoka. It has an excellent reputation for design and craftmanship. It is registered with the Home Construction Regulatory Authority (which licenses and regulates new home builders and vendors) and with Tarion (which administers the new home warranty program). Alliance Homes has received national awards for housing excellence.

7. There are no allegations of any wrongdoing in the First Report of the Receiver as against Alliance Homes, Alliance Compro or Troop (the “Alliance Parties”)

8. Furthermore, The Alliance Parties have co-operated fully with the Receiver in providing information, including financial information, as requested by the Receiver.

9. Waterways is an 83 residential building lot development.

10. All but 8 units are occupied. Five of these 8 have entered into agreements of purchase and sale and are scheduled to close in the next three months. The remaining 3 units are expected to sell within the next 6 months.

11. The Alliance Parties have provided an accounting of the Waterways development to the Receiver. This record keeping discloses that there have been no distributions of profit to the co-owners.

12. With respect to projected revenues from the sale of the 8 remaining units and projected costs to complete the sales, the Receiver estimates that realizations from the Waterways mortgages and 198's interest in the project to be between $1-$1.2million (Report at para. 132).

13. In its First Report, the Receiver notes that it has reviewed the accounting prepared by Alliance and is in the process of reconciling it with information in SMFI's (Sussman Mortgage Funding Inc.) records. Given the discrepancy in the record-keeping, the Receiver recommends that further work be done to establish estimated realizable values (1st Report at para. 130).

The Alliance Project (also known as the Uptergrove Development)

14. This is a housing development located in Ramara, Ontario, located approximately 120 km north of Toronto and lies along the northeastern shores of Lake Simcoe.

15. This project is subject to a co-tenancy agreement which governs the development of the project and the rights and obligations of 198 Ontario and the Alliance Parties. Each member holds a 50% interest in the project. Realizations from the project would first be applied to repayment of the mortgages, and then an equal distribution to the members.

16. Uptergrove was created by:

a. A site plan agreement (a contract between the developer and the municipality that outlines the conditions under which the development will be built and maintained on a specific piece of land and ensures that the development adheres to approved plans and municipal standards), and is coupled with:

b. a Responsibility Agreement approved by the municipality which allows for the construction of 300 units, and details of the dwelling units. A Responsibility Agreement is a contract between a municipality and a developer that outlines the obligations and responsibilities related to the development and maintenance of certain site elements and facilities. It is registered on title to the property to ensure compliance by current and future owners. The Agreement specifies the owner's responsibilities for costs, and maintenance, repair and replacement of the works or facilities installed as part of the development. It is binding and enforceable by the municipality ensuring that the development adheres to approved plans and municipal standards. In summary, the Responsibility Agreement ensures that the developer is accountable for fulfilling the conditions of site plan approval, maintaining the approved site elements, and protecting municipal interests and ensuring orderly development.

17. Uptergrove is a land-lease community where purchasers purchase the homes but lease the land. This generates an additional rental income stream for the owner of the development.

18. The annual net rental income, when completed, is estimated to be approximately $1.782 million. Based on a 5% capitalization rate, this should achieve a value of approximately $35.6 million.

19. Once fully developed, Uptergrove will consist of 300 residential lots in 3 Phases of 100 homes each. The homes in Phase 1, and 11 homes in Phase 2 are fully serviced.

20. Uptergrove is a subdivision style rental project that looks like a freehold subdivision. The dwelling unit is sold as a chattel to the tenant, but the developer retains ownership of the land portion of the house.

21. The rent is a net rent. The operating costs and realty taxes are paid by the tenant (the owner of the house). The lease is registered on title and does not postpone to any financing registered by the purchaser.

22. Sewage and water treatment plants are private and were designed and constructed by Uptergrove and have been approved by the Township and the Province. The plants are sized for 300 units. There will be some improvements to the plants as each Phase proceeds, but these costs are nominal compared to the total cost of the plants.

23. 87 of the 100 units in Phase 1 have been built and sold, and are occupied and paying rent. Houses in Phases 2 and 3 have yet to be constructed (1st Report at para. 123).

24. The major marketing attraction of Uptergrove is “price”. The owner of the house and the rental of the lot is substantially lower than the purchase price of a freehold house, and thus the cash required by a purchaser is substantially lower than in the purchase scenario.

25. It is anticipated that the development costs for the 200 units in Phases 2 and 3 will be approximately $12.6m. The servicing cost per lot is therefore $12.6m/200 lots = $63k. This amount includes internal servicing, external servicing (sewage and water treatment), utilities, Town professional fees, consultant fees, interest and financing fees.

26. If we consider the development of the next 29 lots (11 fully serviced and 18 to be serviced), the cash *surplus* from the sale of residential units is projected to be $7.8m or $7.8m/29 lots = $269k/lot.

27. There is therefore $269k (per lot) available to pay down both the servicing loan and the land loan (historical debt). After deducting the servicing loan of $63k per lot, this leaves approximately $206k per lot to pay for historical land debt.

28. If we take a very conservative approach and assume the development is able to repay the historical land debt at a rate of $175k (instead of $206k) for 200 lots, this comes to $35 million.

29. Furthermore, owners of the homes currently pay $495/mo in rent. For 300 units, this works out to $148,400 of monthly rental income, or annual rental income of $1.782 million.

30. Financing based on this land lease revenue can generate $20 million @4.5% (35yr. am) with a monthly mortgage payment of approximately $95k. This leaves $53k of monthly cash flow after payment of the mortgage.

31. Furthermore, $1.782 million of annual revenue translates to a value of $35.6 million using a 5% cap rate.

32. Note that the lease revenue is net of taxes and maintenance and sewer and water fees. Therefore, it is true net operating income for the purpose of calculating the value of the property using a cap rate.

33. If we combine revenue from the sale of the lots ($35 million) with sale of the development once completed, there is a potential recovery of over $70 million.

34. In terms of a timeline for this development, annual sales of 40-50 units are estimated, giving an overall timeline for completion of the development of 4-5 years. This will also result in an ongoing paydown of the existing (historical) land debt throughout the 4–5-year duration of the project.

35. As noted earlier, Firm Capital Corporation, KingSett Capital and MarshallZehr have all expressed interest in financing future development.

36. A Letter of Intent with Firm Capital has revolved around a $12 million mortgage loan which would consist of 2 facilities to finance the completion of the Phase 1 lots (13 lots). These facilities would consist of a payout of $4 million to payout existing debt, and a construction facility. The payout to existing debt would be paid at the start of the project, while the payout to the lender (Firm Capital) would take place as sales close. Accordingly, this provides for an immediate payout of existing debt. Future financing of the remaining lots would proceed in the same manner.

Date: June 24, 2025

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TO: **SERVICE LIST**

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Proceeding commenced at TORONTO

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