

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)	WEDNESDAY, THE 21 st
)	
MADAME JUSTICE STEELE)	DAY OF MAY, 2025
)	

B E T W E E N :

COSMAN MORTGAGE HOLDING CORP.

Applicant

- and -

**CACOELI WHITBY LP also known as CACOELI WHITBY LIMITED
PARTNERSHIP, 11275127 CANADA INC. and 11250396 CANADA INC.**

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by Pollard & Associates Inc. in its capacity as receiver and manager (the “**Receiver**”), without security, of (i) the real property municipally known as 132 Brock Street North, Whitby, Ontario, and 146 – 152 Brock Street North, Whitby, Ontario (the “**Real Property**”); (ii) all rents, issues and profits, due now or in the future, by virtue of any lease or agreement in respect of the Real Property; and (iii) all chattels, erections and improvements, fixed or otherwise, now or hereafter put upon the Real Property and owned by 11250396 Canada Inc. in its capacity as general partner of Cacoeli Whitby LP and 11275127 Canada Inc. (collectively, the “**Debtors**” or the “**Companies**”), including all of the proceeds therefrom, for an order, *inter alia*, approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver, as vendor, and The Corporation of the Town of Whitby, as purchaser (the “**Purchaser**”) dated March 18, 2025 (the “**Sale Agreement**”), and appended to the First Report of the Receiver dated May 5, 2025 (the “**First Report**”), and vesting in the Purchaser the Respondents’ right, title and interest in

and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report and the appendices thereto, the factum of the Receiver, and on hearing the submissions of counsel for the Receiver, and such other counsel as were present and appearing on the Counsel Slip, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of Sylvia Sauro dated May 13, 2025, filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Receiver's Certificate**"), all of the Respondents' right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on **Schedule "B"** hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Penny dated August 30, 2024; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the City of Toronto of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in **Schedule “B”** hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule “C”** hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Respondents and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Respondents;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Respondents and shall not be void or voidable by creditors of the Respondents, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-24-00723457-00CL

Estate File No.: 31-459983

**ONTARIO
SUPERIOR COURT OF JUSTICE
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COSMAN MORTGAGE HOLDING CORP.

Applicant

- and -

**CACOELI WHITBY LP also known as CACOELI WHITBY LIMITED
PARTNERSHIP, 11275127 CANADA INC. and 11250396 CANADA INC.**

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Penny of the Ontario Superior Court of Justice (the "**Court**") dated August 30, 2024, Pollard & Associates Inc. was appointed as the receiver and manager (the "**Receiver**"), without security, of (i) the real property municipally known as 132 Brock Street North Whitby, Ontario, and 146 – 152 Brock Street North, Whitby, Ontario (the "**Real Property**"); (ii) all rents, issues and profits, due now or in the future, by virtue of any lease or agreement in respect of the Real Property; and (iii) all chattels, erections and improvements, fixed or otherwise, now or hereafter put upon the Real Property and owned by 11250396 Canada Inc. in its capacity as general partner of Cacoeli Whitby LP and 11275127 Canada Inc. (collectively, the "**Debtors**" or the "**Companies**"), including all of the proceeds therefrom (collectively, the "**Property**").

B. Pursuant to an Order of the Court dated May 21, 2025, the Court approved the agreement of purchase and sale made as of March 18, 2025 between the Receiver, as vendor, and The Corporation of the Town of Whitby as purchaser (the "**Purchaser**") (the "**Sale**

Agreement") for the Real Property and provided for the vesting in the Purchaser of the Respondents' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the purchase price for the Purchased Assets payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____[TIME] on _____[DATE].

POLLARD & ASSOCIATES INC., in its capacity as Receiver of the Property of the Respondents, and not in its personal capacity

Per: _____
Name:
Title:

Schedule B – Purchased Assets

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Registered Owners	Municipal Address	PIN	Legal Description
11250396 Canada Inc. and Cacoeli Whitby LP	146 Brock Street North, Whitby, Ontario	26535-0187 LT	LT 4PL H50030 Whitby; LT 5 PL H50030 Whitby; PT LT 2 PL H50030 Whitby; PT LT 3 PL H50030 Whitby; PTS 2 & 3 40R12737, S/T D490776 (PT 3); T/W D544453 Subject to an easement as in CO231663; Town of Whitby
11250396 Canada Inc. and Cacoeli Whitby LP	132 Brock Street North, Whitby, Ontario	26535-0209 LT	PT LT 36 PL H50030 Whitby PT 6 40R12737, S/T D490776; Town of Whitby
11250396 Canada Inc, 11275127 Canada Inc and Cacoeli Whitby LP		26535-0186 LT	PT LT 2-3 PL H50030 Whitby as in D552683 T/W D552683; Town of Whitby

Schedule C – Claims to be deleted and expunged from title to Real Property

PIN: 26535-0187 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
DR1984468	2021/03/22	Charge	\$2,800,000	1125036 Canada Inc. Cacoeli Whitby LP 11275127 Canada Inc.	Cosman Mortgage Holding Corp.
DR1984469	2021/03/22	Notice Assgn Rent Gen		11250396 Canada Inc. Cacoeli Whitby LP	Cosman Mortgage Holding Corp.
DR2120831	2022/04/12	Restriction-Land		11250396 Canada Inc. 11275127 Canada Inc. Cacoeli Whitby LP	
DR2122589	2022/04/19	Notice Charge amend	\$3,200,000	11250396 Canada Inc. Cacoeli Whitby LP 11275127 Canada Inc.	Cosman Mortgage Holding Corp.
DR2240778	2023/06/23	Charge	\$250,000	11250396 Canada Inc. Cacoeli Whitby LP	Perez-Youssoufian Medicine Professional Corporation
DR2240780	2023/06/23	Notice Assgn Rent Gen		11250396 Canada Inc.; Cacoeli Whitby LP	Perez-Youssoufian Medicine Professional Corporation
DR2279361	2023/11/16	Construction Lien	\$135,215	Terra Bona Developments Ltd.	
DR2327707	2024/06.26	Certificate		Terra Bona Developments Ltd.	
DR2347603	2024/09/16	Apl Court Order		Ontario Superior Court Of Justice (Commercial List)	Pollard & Associates Inc.

PIN: 26535-209 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
DR1984468	2021/03/22	Charge	\$2,800,000	1125036 Canada Inc. Cacoeli Whitby LP 11275127 Canada Inc.	Cosman Mortgage Holding Corp.
DR1984469	2021/03/22	Notice Assgn Rent Gen		11250396 Canada Inc. Cacoeli Whitby LP	Cosman Mortgage Holding Corp.
DR2122589	2022/04/19	Notice Charge amend	\$3,200,000	11250396 Canada Inc. Cacoeli Whitby LP	Cosman Mortgage Holding Corp.

				11275127 Canada Inc.	
DR2240778	2023/06/23	Charge	\$250,000	11250396 Canada Inc. Cacoeli Whitby LP	Perez-Youssoufian Medicine Professional Corporation
DR2240780	2023/06/23	Notice Assgn Rent Gen		11250396 Canada Inc.; Cacoeli Whitby LP	Perez-Youssoufian Medicine Professional Corporation
DR2279361	2023/11/16	Construction Lien	\$135,215	Terra Bona Developments Ltd.	
DR2327707	2024/06.26	Certificate		Terra Bona Developments Ltd.	
DR2347603	2024/09/16	Apl Court Order		Ontario Superior Court Of Justice (Commercial List)	Pollard & Associates Inc.

PIN: 26535-0186 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
DR1984468	2021/03/22	Charge	\$2,800,000	1125036 Canada Inc. Cacoeli Whitby LP 11275127 Canada Inc.	Cosman Mortgage Holding Corp.
DR1984469	2021/03/22	Notice Assgn Rent Gen		11250396 Canada Inc. Cacoeli Whitby LP	Cosman Mortgage Holding Corp.
DR2120831	2022/04/12	Restriction-Land		11250396 Canada Inc. 11275127 Canada Inc. Cacoeli Whitby LP	
DR2122589	2022/04/19	Notice Charge amend	\$3,200,000	11250396 Canada Inc. Cacoeli Whitby LP	Cosman Mortgage Holding Corp.
		11275127 Canada Inc.			
DR2240778	2023/06/23	Charge	\$250,000	11250396 Canada Inc. Cacoeli Whitby LP	Perez-Youssoufian Medicine Professional Corporation
DR2240780	2023/06/23	Notice Assgn Rent Gen		11250396 Canada Inc.; Cacoeli Whitby LP	Perez-Youssoufian Medicine Professional Corporation
DR2279361	2023/11/16	Construction Lien	\$135,215	Terra Bona Developments Ltd.	
DR2327707	2024/06.26	Certificate		Terra Bona Developments Ltd.	
DR2347603	2024/09/16	Apl Court Order		Ontario Superior Court Of Justice (Commercial List)	Pollard & Associates Inc.

COSMAN MORTGAGE HOLDING
CORP.

and

CACOELI WHITBY LP aka CACOELI
WHITBY LIMITED PARTNERSHIP, 11275127
CANADA INC., and 11250396 CANADA INC.

Court File No. CV-24-00723457-00CL
Estate File No.: 31-459983

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST

Proceeding commenced at **Toronto**

APPROVAL AND VESTING ORDER

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