

Court of Appeal No. COA-24-CV-0468
Court File No. BK-21-02734090-0031

COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY*
ACT, R.S.C. 1985, c. B-3, as amended

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE
A PROPOSAL OF YG LIMITED PARTNERSHIP AND YSL
RESIDENCES INC.

RESPONDING COMPENDIUM OF MARIA ATHANASOULIS

October 16, 2024

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CBRE VALUATION & ADVISORY SERVICES

APPRAISAL REPORT

363 - 385 YONGE STREET
TORONTO, ONTARIO
FILE NO. 19-APPRTOR-0425
EFFECTIVE DATE: JULY 30, 2019



CBRE Limited
Valuation & Advisory Services
145 King St. W., Suite 1100
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CBRE File No. :: 19-APPRTOR-0425

August 8, 2019

Sean Fleming
Vice President, Finance and Acquisitions
Cresford Developments
59 Hayden Street, 2nd Floor
Toronto, Ontario, M4Y 0E7

RE: 363 - 385 Yonge Street, Toronto, Ontario ("Subject Property")

Dear Mr. Fleming:

At your request and authorization, CBRE Limited has completed an investigation and analysis of the above referenced property and is pleased to submit this current narrative appraisal report.

This appraisal report is prepared for the purpose of providing an estimate of market value of the 100% fee simple interest of 363 - 385 Yonge Street on and "As is" and "As if Complete" basis as of an effective date of July 30, 2019. We understand this report will be used by the intended user and any other intended users noted herein to assist in financing.

The market value reported herein is subject to the Extraordinary Assumptions and Limiting Conditions noted within this report on page 9 which are an integral part of this report and are inseparable from this letter. The analyses, opinions and conclusions utilized in this report were developed based on our interpretation of the standards set forth in the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP).

Based on the analysis contained in this report, the "As is" market value of the subject property as at July 30, 2019 is:

Three Hundred Seventy Five Million Five Hundred Thousand Dollars

\$375,500,000

Based on the analysis contained in this report, the "As if Complete" market value of the subject property as at July 30, 2019 is:

One Billion Two Hundred Twenty Five Million One Hundred Thousand Dollars

\$1,225,100,000



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CBRE File No. :: 19-APPRTOR-0425

It has been a pleasure to assist you in this assignment. If you have any questions concerning the analysis, or if CBRE Limited can be of further service, please contact us.

Respectfully submitted,

CBRE LIMITED

A handwritten signature in black ink that reads 'Vid Stambolovic'.

Vid Stambolovic, MBA, AACI
Director
Valuation & Advisory Services
Phone: 416 847 3266

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EXECUTIVE SUMMARY

EXECUTIVE SUMMARY



Property Description

Property Address	363 - 385 Yonge Street, Toronto, Ontario
Interest Appraised	Fee Simple
Effective Date	July 30, 2019
Product Type	Vacant property slated for mixed use development
Land Area	0.92 acres

Valuation Summary

As if Complete Value	
Residential	\$1,079,049,405
Retail	\$97,000,000
Office	\$49,098,672
Total	\$1,225,148,077
As if Complete Value	\$1,225,100,000

As is Value	
Land Residual Value	\$359,514,327
Costs Incurred to Date Beneficial to a Potential Purchaser	\$15,980,689
Total	\$375,495,016
As if Complete Value	\$375,500,000

Gross Floor Area (SF)	1,017,189 (estim)
Value PSF Buildable	\$353

INVESTMENT CHARACTERISTICS

Location

Strengths

- Corner lot with a Yonge Street address.
- Located mid-way between College and Dundas subway stations.
- Close proximity to the Financial Core and Ryerson University.
- Ample and wide range of amenities available in immediate vicinity. Opportunity to create brand new retail in this location enhances the value of the site.
- The location has excellent residential rental appeal which in turn is attractive to investors and which further benefits absorption and development timelines.
- Very successful completion of the Aura condominium development located on the northwest corner of Yonge Street and Gerrard Street East.
- Launch of YC, Teahouse 501 Yonge Condominiums, Clover on Yonge and Halo Residences on Yonge located north of the subject property along Yonge Street and Panda located south of the subject speak to the attractiveness of the location.
- The area will continue to undergo substantial improvement and intensification with additional developments along Yonge Street in the planning stages.

Weaknesses

- Although rapidly gentrifying, Yonge Street retail in this area is still predominately lower end. However, the proposed development will significantly improve the retail mix on this stretch of Yonge Street.

Physical

Strengths

- Significant frontage along Yonge Street.
- Corner location with great visibility.
- Access to the property via O'Keefe Lane.

Weaknesses

- Heritage listed buildings at 363-367 Yonge Street, 381 Yonge Street and 385-391 Yonge Street need to be incorporated into the development thus increasing the overall construction costs.

Development Status

Strengths

- The final built form of the proposed development has been settled between the property owner and municipal council with final approvals being granted by the Local Planning Appeal Tribunal (LPAT, formerly the Ontario Municipal Board) at an August 2018 meeting. The approved development would be 85-storays in height with a total gross floor area of 1,009,429 square feet, including 103,689 and 96,832 square feet of retail and office space respectively.
- More recent architectural drawings, dated February 28, 2019, outline a slightly different development with a total gross floor area of 1,017,189 square feet, including 816,668 square feet allocated for residential use and 200,520 square feet for non-residential uses.
- Successfully launched a project being marketed as YSL with 781 of 1,106 units sold to date representing 71% of all units and 89% of units released for sale.

Weaknesses

- None noted.

Investment Market

Strengths

- Toronto is one of Canada's strongest investment markets.
- As a result of expected central bank policy easing, global bond yields have fallen substantially and support healthy commercial real estate spreads and more accommodative financing opportunities.
- A recent run of strengthening economic data is likely to keep the Bank of Canada on hold, leaving interest rates steady for the near term.
- Job growth remains strong in Canada with the unemployment rate hovering near its record low.
- Led by 1.1 million sq. ft. of positive net absorption in downtown centres, the national overall office vacancy rate decreased 20 bps quarter-over-quarter to 11.3% in Q2 2019. Vancouver and Toronto also boast the lowest downtown office vacancy rates in North America at 2.6%.
- With a dwindling amount of new and existing supply, continued demand for high-quality industrial space has led the national average net asking rental rate to increase 15.7% year-over-year to \$8.34 per sq. ft.
- Canadian commercial real estate capitalization rates held steady in Q2 2019 as investment activity rebounded from a conservative Q1. Despite the record high pricing seen in a variety of real estate asset classes, the recent pullback in benchmark bond yields has ensured that spreads to real estate capitalization rates remain healthy. The primary investment targets continue to be industrial, multifamily and downtown office assets.

- Uncertainty in the economy and volatility in the financial markets has increased the attractiveness of the commercial real estate sector. Coupled with strong property market performances, the Canadian real estate investment landscape is expected to remain strong going forward.
- Both office and industrial vacancy rates continue to decrease, fueling rental growth.
- Demand for well located, urban sites remains incredibly strong.

Weaknesses

- Global trade tensions remain unresolved and present downside risks to the global economic outlook.
- As the Bank of Canada is expected to diverge from its global central bank peers, the Canadian dollar is projected to remain elevated over the short term.
- The yield curve remains inverted and reinforces recession fears in the financial markets.
- Federal government regulations and various provincial measures to cool the housing market have significantly slowed residential housing sales activity across Canada, particularly in Vancouver which saw sales fall to a 33-year low.

EXTRAORDINARY ASSUMPTIONS AND LIMITING CONDITIONS

The Assumptions and Limiting Conditions for this reported have been included in Appendix A.

As if Complete Value

The As if Complete value of the subject property is contingent upon the proposed development being completed as per the information provided by the client (Cresford Developments). In arriving at the As if Complete value conclusion, we have utilized the following:

- 724,283 SF of residential sellable area
- 73,378 SF of retail leasable/sellable area
- 96,832 SF of office leasable/sellable area
- 236 parking spaces and 494 lockers

Should any of the above materially change so would our value conclusions.

Retail Component

The client indicated that they are in the final stages of having a signed Agreement of Purchase and sale for the retail component at the subject property. The client also indicated that a selling price of \$97,000,000 has been agreed upon and that other areas of the agreement are currently being negotiated. We have relied upon this pending transaction when valuing the subject property on the As if Complete and As is basis. Should the closing price for the retail component change, we would have to revisit our value conclusions.

PROPERTY OVERVIEW

TENURE

The tenure being appraised is as follows:

- 100% fee simple interest

LOCATION DESCRIPTION

The subject property is located in Downtown Toronto. Specifically, the subject is located on the southeast corner of Yonge Street and Gerrard Street East and has the following frontage: approximately 305 feet along Yonge Street and approximately 135 feet along Gerrard Street East.

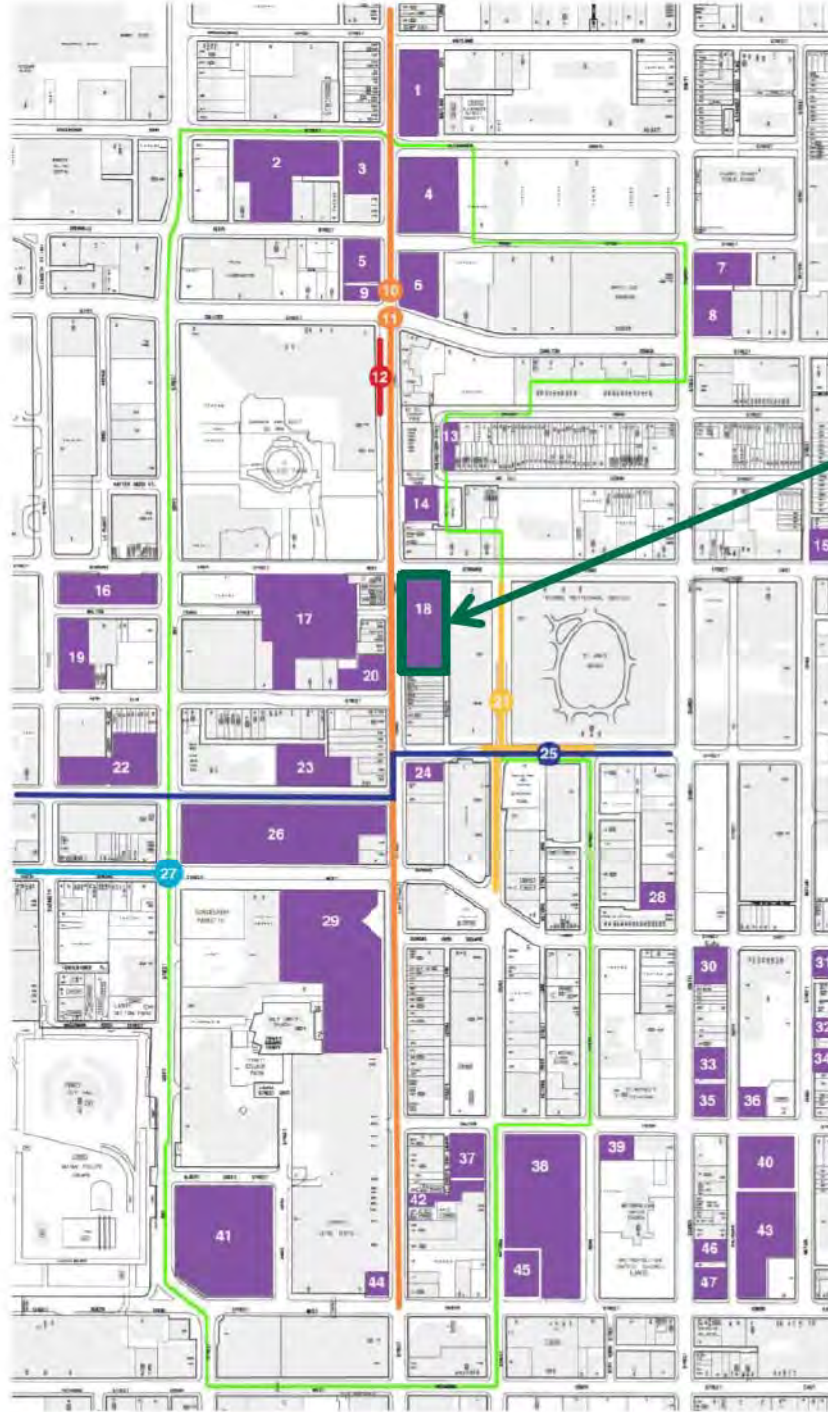


Area Overview

Yonge Street has long been one of the major shopping destinations in the City of Toronto. The opening of the Eaton Centre in 1977 shifted much of the retail focus away from the street and into the new mall. Various efforts have been made over the years in order to revive the street life though few met with much success until the late 1990s. In 1998, the Yonge Street Regeneration Project was launched by Toronto City Council in an attempt to revitalize the area. One of the major components of the Project was municipal acquisition, through market or expropriation means, of the properties on the northeast and southeast corner of the intersection of Yonge Street and Dundas Street. Those on the southeast corner became Yonge-Dundas Square, completed in 2002 while the northeast corner ultimately became 10 Dundas Street East, a multi-use theatre/retail/office complex.

In addition to the Regeneration Project, the Downtown Yonge Business Improvement Association (DYBIA) was formed in 2001 and brought local business and property owners together in an organized structure. Along with the ongoing expansion of Ryerson University, these two initiatives have been quite successful in returning people to the street and have helped spur numerous development projects in the area, as illustrated by the following map on the following page provided by the DYBIA:

- 1 **Lanterra**
601 Yonge Street
- 2 **Greenwin**
26 Grenville Street
- 3 **Cresford**
464-494 Yonge Street
- 4 **KingSett**
475 Yonge Street
- 5 **Candarel**
1 Grenville Street
- 6 **Northam Realty**
2 Carlton Street
- 7 **CentreCourt**
411 Church Street
- 8 **Tribute**
70 Carlton Street
- 9 **Oddfellows Hall**
80 Carlton Street
- 10 **Yonge Street EA Phase 2**
2020-2022
- 11 **Yonge Street EA Phase 1**
2017-2020
- 12 **College Station Upgrades**
Q2 2020
- 13 **Joseph Sheard Parkette**
2019
- 14 **Artis REIT**
415 Yonge Street
- 15 **Antorisa Investments**
260 Jarvis Street
- 16 **KingSett**
700 Bay Street
- 17 **Great Eagle Holding**
33 Gerrard Street W
- 18 **Cresford**
385 Yonge Street
- 19 **SickKids**
175 Elizabeth Street
- 20 **Pemberton**
8 Elm Street
- 21 **Ryerson Public Realm**
Q2 2019
- 22 **Conservatory Group**
100 Edward Street
- 23 **Lifetime**
20 Edward Street
- 24 **Lalani Site Redevelopment**
365 Yonge Street
- 25 **Hydro One EA**
2016-2020
- 26 **H&R Atrium**
605 Bay Street
- 27 **Watermain Replacement**
Q3 2018 - Q3 2019
- 28 **Ryerson**
270 Church Street
- 29 **BMO Urban Campus**
260 Yonge Street
- 30 **Sentinel (Church) Holdings Inc**
215 Church Street
- 31 **Great Gulf Homes**
165 Dundas Street E
- 32 **Tribute**
76 Mutual Street
- 33 **CentreCourt**
193 Church Street
- 34 **The Sher Corporation & DREAM**
69 Mutual Street
- 35 **Monkes**
60 Shuter Street
- 36 **CentreCourt**
64 Shuter Street
- 37 **Massey Hall**
178 Victoria Street



Subject Property

- 38 **Shuter Wing Replacement**
30 Bond Street
- 39 **Metropolitan United Church**
51 Bond Street
- 40 **St Thomas**
33 Mutual Street
- 41 **Old City Hall Museum**
Q2 2023
- 42 **MOD**
201 Yonge Street
- 43 **St Thomas**
88 Queen Street E
- 44 **Cadillac Fairview**
2 Queen Street W
- 45 **St. Mike's Hospital Expansion**
101 Victoria Street
- 46 **Pemberton**
136 Church Street
- 47 **Bazis**
60 Queen Street E

Legend:

- Boundary
- ● Roads
- Buildings



Comparable Developments

There are several recent large scale residential and mixed-use developments comparable to the subject some of which are outlined in the table below.

Development Name	The United BLDG	55C	Yonge & Soudan	The Winslow	King Toronto	Encore at Theatre District	Woodsworth
Developer	Daypart Inc.	MOD Developments Inc	Tribute Communities/ TenBlock Developments	Devron Developments	Allied Properties REIT/Westbank Project Corporation	Plaza	Lamb Development Corporation
Address	88 Centre Avenue	55 Charles Street East	21 61 Yonge Street	2781 Yonge Street	539 King Street West	28 Widmer Street	452 Richmond Street West
Status	Pre-Construction	Pre-Construction	Pre-Construction	Pre-Construction	Pre-Construction	Pre-Construction	Pre-Construction
Number of Units	459	551	275	65	436	216	126
Number of Storeys	52	48	36	9	16	49	17
Opening Date	June 2019	June 2019	January 2019	October 2018	October 2018	August 2018	April 2018
Occupancy Date	December 2025	September 2023	March 2023	September 2021	July 2023	January 2022	September 2021
Sold Price (psf)	\$1,734	\$1,423	\$1,077	\$1,466	\$1,666	\$1,201	\$1,174
Unsold Price (psf)	\$1,715	\$1,398	\$1,166	\$1,677	\$1,868	\$1,341	\$1,222
Price Range (psf)*	\$1,383 - \$2,245	\$1,190 - \$1,797	\$946 - \$1,210	\$983 - \$2,220	\$1,325 - \$2,788	\$1,120 - \$1,656	\$1,156 - \$1,500
% Sold	60%	39%	55%	68%	54%	29%	73%
At 70% Sold	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Parking Price	\$125,000	\$125,000	\$89,000	Included	\$100,000	\$69,000	N/A
Locker Price	N/A	\$12,000	N/A	\$5,000	\$5,000	\$10,000	\$5,000

Information provided in the table above was sourced from Urbanation and reflects Q1 2019 data

* Price Range reflects both unsold and sold units since the opening date of the project

Area Development Applications

Interest in the immediate area is further substantiated by a submitted rezoning application for the redevelopment of the Chelsea Hotel lands located west of the subject property at 33 Gerrard Street West. The proposal called for construction of three towers (88, 88 and 49 storeys) and one two-storey structure with a total gross floor area of 1,680,892 SF. Subsequent to a settlement at the Local Planning Appeal Tribunal (LPAT) in October 2018, revised plans were resubmitted, proposing three towers at 31, 48 and 84 storeys. The development would have residential, hotel, commercial, office and retail components with a total gross floor area of 1,700,192 SF.

Another large scale area development has come closer to getting full approvals. A planning report recommending approval for a 67 storey tower at the LPAT hearing was issued for 8 Elm Street located across the street from the subject property on the northwest corner of Elm Street and Yonge Street.

Land Use

Current uses in the immediate vicinity of the subject include:

North

- Gerrard Street East
- Mix of retail, residential and office uses along Yonge Street
- Aura, Karma, YC, Teahouse 501 Yonge Condominiums and Halo Residences on Yonge residential condominium developments

South

- Mix of retail, residential and office uses along Yonge Street
- Ryerson Student Learning Centre
- 8 Elm Street – Future high density residential development
- Yonge-Dundas Square

East

- O'Keefe Lane
- Ryerson University

West

- Yonge Street
- Chelsea Hotel (approved for a major mixed-use re-development)

Access

Regional

- Access to Gardiner Expressway via Yonge Street and Lakeshore Boulevard.
- Access to Don Valley Parkway and 400-series Highways via Yonge Street and Bloor Street.

Local

- Vehicular access is provided by Yonge Street and Gerrard Street East and O'Keefe Lane.

Public Transit

- Close proximity to Dundas and College subway stations.
- Close proximity to streetcars running along College/Carlton Street and Dundas Street.

Amenities

Full range amenities available along Yonge Street.

Conclusion

Overall, the location is considered to be suitable for mixed-use development.

SITE DESCRIPTION

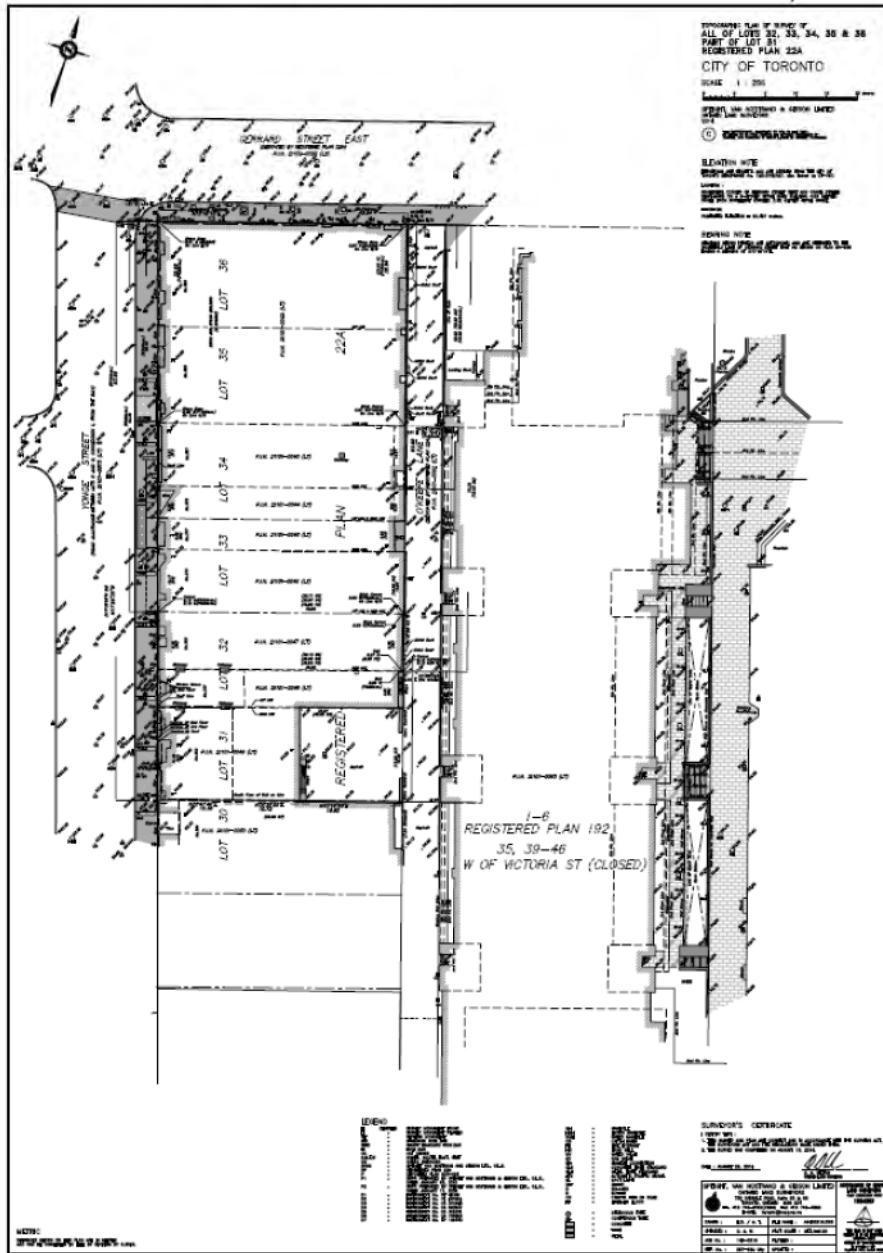
Position	Corner
Site Area	0.92 acres as per Geowarehouse
Configuration	Regular
Topography	Level
Access	Ingress and egress from Yonge Street and Gerrard Street East and O'Keefe Lane
Services	The subject lot is fully serviced.

Conclusion

The site appears to support mixed-use development.

SITE SURVEY

The following site survey was provided by the client:



Conclusion

Overall, the subject site is appropriate for mixed-use development.

CURRENT IMPROVEMENTS

Site preparation is currently underway at the subject property with heritage listed buildings being preserved and the balance of the improvements being demolished.

PROPOSED DEVELOPMENT

The initial proposal for redevelopment of the subject property was submitted to the City of Toronto in April 2015. The proposal called for two towers of 73 and 62 stories extending from a podium containing total gross floor area of 1,175,793 square feet including retail and office components. Subsequently, a revised proposal was submitted to the City of Toronto in February 2017 and eventually approved at the LPAT in August 2018.

The most recent architectural drawings outline an 85 storey building, comprised of 1,106 residential units a retail component located on the lower level, ground, second and third floors and an office component located on floors four to seven. The residential units at the proposed development are broken down as follows:

- 219 studio units
- 480 one bedroom units
- 368 two bedroom units
- 39 three bedroom units

There will be a total of 236 parking stalls and 494 storage lockers made available to the residential component at the subject property. The amenities in the proposed development include 24 hour concierge service, two storey amenity area including billiard room, multiple party rooms, multiple lounges, multi media theatre, indoor pool, yoga room, gym and guest suites.



ZONING AND PLANNING

Official Plan

- The subject has been classified as Mixed Use Areas under the City of Toronto's Official Plan. Mixed Use Areas are composed of a broad range of commercial, residential and institutional uses including single use or mixed use buildings, as well as parks and open spaces. The primary goal of a Mixed Use Area is to enable citizens to live, work, and shop in the same area allowing for an animated and attractive neighbourhood.
- Development within Mixed Use Areas will create a balance of high quality uses that will meet the needs of the local community; provide for new jobs and homes; new buildings will provide a transition between areas of smaller scale and intensity; limit shadow impacts; provide an attractive and safe pedestrian environment; take advantage of nearby transit services; and provide indoor and outdoor recreational space.
- Mixed Use Areas are expected to absorb most of the anticipated increase in new housing, retail, office and service employment.

Site and Area Specific Policy 174 – Yonge Street Between Queen Street and North of Gerrard Street

- The subject property is subject to Site and Area Specific Policy 174, Yonge Street Between Queen Street and North of Gerrard Street.
- The general planning objective of SASP 174 is to provide an overall framework for continued revitalization in the area.
- The key principles of the Policy are for changes to be consistent with and enhance the character of the area, retention of heritage buildings, streetscape improvements, locating business along Yonge Street, to ensure site and massing achieve adequate light, achieving a harmonious relationship to the built form context, to minimize wind and shadow impacts etc.

Zoning

- The site is zoned as CR 4.0 (c4.0; r1.5) SS1 (x2553) – Commercial Residential designation under the City of Toronto Zoning By-law 569-2013.
- An Official Plan amendment and rezoning application were submitted to the City of Toronto for a redevelopment of the subject on April 24, 2015 with a mixed-use building comprised of retail, office and residential components. The proposal included two towers of 73 and 62 stories extending from a nine storey podium. The application called for a total of approximately 1,175,793 square feet of gross floor area for the redevelopment project, equivalent to a density of 29.2 times the site size.

- On February 24, 2017 a revised application for the subject property was submitted to the City of Toronto. The revised proposal was also for a mixed-use development comprised of retail, office and residential components. The two towers have been replaced with a single 98 storey building extending from a nine storey podium. The total gross floor area had been revised to 1,068,855 square feet resulting in a lower density of 26.6 times the site size.
- A Community Consultation meeting pertaining to the revised proposal was held on April 19, 2017 and the comments were generally positive.
- With the impending changes to the OMB, the application was appealed and a hearing was set for August 2018. However, the owner had continued to work with the City on a settlement that was expected to be brought forward to Council in June 2018 for approval.
- In June 2018 a settlement had been agreed upon and the property owner received Council approval to move forward with the settlement to the LPAT hearing set for August 2018. Subsequently at the August 2018 meeting, the LPAT approved the built form, massing and gross floor area of the development. The approved development would measure at 85-storeys in height with a total gross floor area of 1,009,429 square feet, including a 103,689 square foot retail and 96,832 square foot office component.
- Architectural drawings dated February 28, 2019, outline a slightly higher gross floor area of 1,017,189 square feet, including 816,668 square feet allocated for residential use and 200,520 square feet for non-residential uses.
- We have utilized the most recent gross floor area figures for the purpose of estimating the value of the subject property.

ONTARIO'S HOUSING SUPPLY ACTION PLAN

The Ontario Municipal Board (OMB) was an independent adjudicative tribunal that handled hearings and produced decisions on matters that had been appealed to it under provincial legislation. Most appeals emerged under the Planning Act for planning tools such as official plans, zoning by-laws, subdivision plans, consents and minor variances. Over the years, the OMB had received a large amount of criticism with regards to the role the Province and the OMB had in local municipal decision-making with respect to land use planning.

The Province of Ontario responded by making fundamental changes to the planning appeal system through the introduction of Bill 139 "*Building Better Communities and Conserving Watersheds Act, 2017*". In force as of April 3, 2018, this new legislation replaced the former OMB role with a new body known as Local Planning Appeal Tribunal (LPAT) which was meant to give more weight to decisions made by communities and, by extension, locally elected officials. This restructuring was meant to address the concerns of citizens by providing improved access to a faster and fair hearing process, while taking into account how development and growth can contribute to Ontario in a positive way.

With the new conservative government in power as of June 2018, the Minister of Municipal Affairs and Housing outlined the following five-point plan to address housing challenges Ontarians are facing:

1. **Speed:** Red tape and paperwork can add years to a construction project. We will maintain Ontario's strong environmental protections, while making the development approvals process faster.
2. **Cost:** Layers of permits, government approvals and charges by municipalities add to the cost of building new homes. We will make costs more predictable, to encourage developers to build more housing.
3. **Mix:** We'll make it easier to build different types of housing – from detached houses and townhomes to mid-rise rental apartments, second units and family-sized condos. We need a variety.
4. **Rent:** There are more people looking for homes than there are places to rent. We will protect tenants and make it easier to build rental housing.
5. **Innovation:** This means everything from new housing designs and materials to creative approaches to home-ownership and more. We'll encourage more innovation and creativity in Ontario's housing sector and make sure government isn't standing in the way.

On May 2, 2019 Ontario's Minister of Municipal Affairs and Housing announced a comprehensive new piece of legislation, Bill 108, More Homes, More Choice Act, 2019. This Bill will have a significant impact on both legislation and regulations governing real estate development in the province. The primary goal of the new bill is to increase the supply of housing. However, there are several relevant amendments for the development sector. The new legislation will result in reverting to the old OMB rules under the new LPAT system, a move viewed as beneficial to the development community. The following outlines the most impactful changes to the development process through proposed changes:

- LPAT will be able to make decisions based on the best planning outcome by making a final determination on appeals of major land use planning matters.
- The existing restriction on a party's ability to introduce new evidence and call and examine witnesses at hearings will be removed.
- The proposed changes would limit third party appeals.

- The proposed planning decision timelines will be reduced to 120 days for official plans, approximately 90 days for zoning by-laws and 120 days for plans of subdivision.
- A new authority that would allow municipalities to charge for community benefits would be created. This authority would make upfront development costs more predictable by replacing the existing density bonusing provisions, development charges for discounted services and in some cases, parkland dedication.
- Development charge rates will be frozen at a point in time during the development process (i.e. when an application is made for the later of site plan or zoning approvals).
- Developers will be able to appeal municipal decisions on designation and alterations to heritage properties to LPAT, whose decisions will be binding.
- More adjudicators will be hired to help address the backlog of legacy cases.

The proposed changes to the land use policies are considered to be advantageous for development and are expected to result in developers being able to bring new homes to the market faster and cheaper. The proposed changes to the legislation will remove some uncertainty as it relates to the development timelines and built form that could ultimately be approved at any given redevelopment site and will once again provide for an authority where the developers can make a case against decisions made by the municipal governments.

MARKET OVERVIEW

CANADA ECONOMIC MARKET OVERVIEW

Economic Indicators - Canada								
	2016	2017	2018	2019F	2020F	2021F	2022F	2023F
Real GDP at Market Prices (\$2012 millions)	\$1,958,124	\$2,016,448	\$2,053,423	\$2,081,834	\$2,122,605	\$2,162,209	\$2,195,762	\$2,233,512
Annual Growth (%)	1.1%	3.0%	1.8%	1.4%	2.0%	1.9%	1.6%	1.7%
Total Employment (000s)	18,083	18,419	18,658	18,985	19,170	19,349	19,524	19,699
Annual Growth (%)	0.7%	1.9%	1.3%	1.8%	1.0%	0.9%	0.9%	0.9%
Unemployment Rate (%)	7.0%	6.3%	5.8%	5.6%	5.6%	5.5%	5.5%	5.4%
Household Income per Capita (\$)	\$46,242	\$47,559	\$48,548	\$49,384	\$50,617	\$52,009	\$53,502	\$54,982
Population (000s)	36,052	36,489	36,994	37,468	37,878	38,290	38,701	39,111
Annual Growth (%)	1.0%	1.2%	1.4%	1.3%	1.1%	1.1%	1.1%	1.1%
Single-family Housing Starts (000s)	74.1	76.8	65.9	63.7	63.1	61.9	59.0	55.8
Multi-family Housing Starts (000s)	123.8	142.9	146.9	128.7	135.2	140.5	142.0	141.9
Retail Sales (\$ millions)	\$549,711	\$588,828	\$604,675	\$616,991	\$638,347	\$661,244	\$685,115	\$709,899
Annual Growth (%)	5.2%	7.1%	2.7%	2.0%	3.5%	3.6%	3.6%	3.6%
CPI Annual Growth (%)	1.4%	1.6%	2.2%	1.6%	1.9%	2.0%	2.0%	2.0%

F = Forecast data.
Source: The Conference Board of Canada, Metropolitan Outlook I, Spring 2019.

Notable highlights regarding Canada's economic environment are provided below and have been sourced from The Conference Board of Canada's Spring 2019 Metropolitan Outlook I report:

- The broad-based economic slowdown recorded at the end of last year is expected to persist into the first half of 2019 before the economy returns to strength. Real GDP growth for 2019 is forecast at 1.4% followed by an expected rise in investment spending to lift growth to 2.0% in 2020.
- Employment growth is projected to remain robust with job gains of 327,000 net new jobs in 2019 before moderating to 185,000 jobs in 2020. Strong job growth is forecast to keep the national unemployment rate at 5.6% in 2019 and 2020 before compressing further to 5.4% by 2023.
- Consumer spending tapered off in the second half of 2018 as households dealt with their high debt loads and rising interest payments. Looking forward, with a robust job market and signs of stronger wage growth, real consumer spending is forecast to rise 1.7% in 2019 and then 2.0% in 2020.
- The housing market is expected to continue to cool as slower economic growth, previous interest rate hikes, high levels of household debt and various government policies ease residential demand. As a result, housing starts are forecast to fall 9.8% to 192,400 units in 2019. However, housing starts are expected to rise in the subsequent two years to 202,400 units in 2021.
- Alberta oil producers continue to face transportation bottlenecks as Enbridge's Line 3 project has also become delayed in addition to the Trans Mountain and Keystone XL pipelines. Combined with the provincially-mandated production cuts, energy exports are expected to slow and investment in the energy sector is forecast to drop by 8.4% in 2019, the fifth consecutive year of decline. However, several energy projects on the horizon including LNG Canada, the Aspen oil sands and the Bay du Nord offshore oil project are expected to lift investment in the oil and gas sector by 17.7% in 2020.

- After a lackluster few years, business investment is projected to rise again in the near term as consumer demand picks up and the federal fiscal tax measure to allow certain businesses to fully write off capital expenditures immediately boosts future spending. As a result, non-resource business investment is forecast to rise by 0.7% in 2019 before accelerating to average 2.8% per year from 2020 to 2023.
- Despite a competitive Canadian dollar, export volumes are forecast to grow by 2.0% and 2.2% in 2019 and 2020 as the energy sector remains a drag on performance and as slower consumer spending is expected from the U.S.

ONTARIO ECONOMIC MARKET OVERVIEW

	Economic Indicators - Ontario							
	2016	2017	2018	2019F	2020F	2021F	2022F	2023F
Real GDP at Basic Prices (\$2012 millions)	\$692,800	\$711,994	\$727,824	\$743,375	\$785,523	\$774,070	\$789,208	\$804,359
Annual Growth (%)	2.4%	2.8%	2.2%	2.1%	2.0%	2.0%	2.0%	1.9%
Total Employment (000s)	7,000	7,127	7,239	7,341	7,442	7,535	7,620	7,703
Annual Growth (%)	1.1%	1.8%	1.6%	1.4%	1.4%	1.3%	1.1%	1.1%
Unemployment Rate (%)	6.6%	6.0%	5.6%	5.3%	5.2%	5.1%	5.2%	5.2%
Household Income per Capita (\$)	\$45,792	\$47,252	\$48,473	\$49,397	\$50,550	\$51,822	\$53,193	\$54,611
Population (000s)	13,853	14,051	14,293	14,496	14,703	14,908	15,110	15,311
Annual Growth (%)	1.1%	1.4%	1.7%	1.4%	1.4%	1.4%	1.4%	1.3%
Single-family Housing Starts (000s)	30.1	29.7	23.8	25.8	25.6	24.7	23.9	22.7
Multi-family Housing Starts (000s)	44.9	49.3	55.0	46.9	51.0	53.5	55.3	55.6
Retail Sales (\$ millions)	\$200,886	\$216,318	\$225,513	\$236,113	\$244,018	\$252,266	\$260,709	\$269,435
Annual Growth (%)	6.9%	7.7%	4.3%	4.7%	3.3%	3.4%	3.3%	3.3%
CPI Annual Growth (%)	1.8%	1.7%	2.4%	1.6%	2.0%	2.1%	2.0%	2.0%

F = Forecast data.
Source: The Conference Board of Canada, Metropolitan Outlook I, Spring 2019.

Notable highlights regarding Ontario's economic environment are provided below and have been sourced from The Conference Board of Canada's Spring 2019 Metropolitan Outlook I report:

- Real GDP growth in Ontario is expected to see weaker growth in 2019 at a projected 2.1%, further worsening to 2.0% in 2020. This weakening can be partially attributed to higher interest rates, increasing household indebtedness and policy changes which have weakened drivers such as household spending and residential construction that previously fueled positive year-to-year Real GDP growth from 2014-2017. Additionally, there may be a risk of Real GDP growth dropping lower than expected due to significant provincial budget cuts and job creation.
- Provincial population growth is expected to grow at a steady rate of 1.4% from 2019 to 2022.
- Rising interest rates and high consumer indebtedness persist into Spring 2019 which will continue to restrain consumer spending growth. Consumer spending growth is expected to fall from 2018 rate of 2.9% to 2.4% in 2019 before stabilizing in 2023 at 2.0%.
- Although job growth is forecasted to slow, Ontario will not be as heavily affected, as the province is expected to experience the strongest employment gains in 2019 and 2020. Employment is forecasted to remain steady from 2019 to 2020 at a healthy 1.4%. Ontario's forecasted employment rate is expected to outperform the national rate from 2019 to 2023.
- The provinces unemployment rate is expected to fall further from the 2018 rate of 5.6% to 5.3% in 2019 and 5.2% in 2020. The rate will continue to fall steadily to 5.1% in 2021 where it will then begin to rise to 5.2% in 2022 and 2023.

- The federal government's move to tighten lending requirements coupled with higher interest rates and provincial housing policy changes have allowed Ontario's housing market to show signs of stabilization. Housing starts are expected to fall by 7.6% in 2019 due to high interest increases and rising household debt. However, housing starts are forecasted to strengthen by 2023 achieving 78,000 units due to new government policies.
- Real Investment will be heavily affected by falling forecasted residential construction due to federal and provincial housing measures which will decrease demand for new homes, cutting into sales. Investments in non-residential construction in Downtown Toronto paired with Toyota's multi-billion-dollar investment in the retooling of its Cambridge plant will cause investment growth to rise from 2.3% in 2019 to 3.2% in 2020.

TORONTO ECONOMIC MARKET OVERVIEW

	Economic Indicators - Toronto							
	2016	2017	2018	2019F	2020F	2021F	2022F	2023F
Real GDP at Market Prices (\$2012 millions)	\$356,765	\$367,932	\$376,588	\$385,732	\$395,168	\$405,307	\$415,558	\$425,875
Annual Growth (%)	3.0%	3.1%	2.4%	2.4%	2.4%	2.6%	2.5%	2.5%
Total Employment (000s)	3,215	3,290	3,353	3,398	3,464	3,529	3,591	3,651
Annual Growth (%)	1.2%	2.3%	1.9%	1.4%	1.9%	1.9%	1.8%	1.7%
Unemployment Rate (%)	7.0%	6.5%	6.1%	5.9%	5.6%	5.5%	5.6%	5.6%
Household Income per Capita (\$)	\$46,534	\$48,160	\$49,513	\$50,284	\$51,536	\$52,952	\$54,488	\$56,053
Population (000s)	6,125	6,217	6,342	6,477	6,606	6,735	6,864	6,992
Annual Growth (%)	1.3%	1.5%	2.0%	2.1%	2.0%	1.9%	1.9%	1.9%
Total Housing Starts	39,027	38,738	41,107	36,850	38,420	39,560	40,300	40,740
Retail Sales (\$ millions)	\$82,700	\$90,222	\$92,131	\$96,730	\$100,364	\$104,273	\$108,362	\$112,599
Annual Growth (%)	7.2%	9.1%	2.1%	5.0%	3.8%	3.9%	3.9%	3.9%
CPI Annual Growth (%)	2.0%	2.1%	2.5%	1.8%	2.0%	2.1%	2.0%	2.0%

F = Forecast data.
Source: The Conference Board of Canada, Metropolitan Outlook I, Spring 2019.

Notable highlights regarding Toronto's economic environment are provided below and have been sourced from The Conference Board of Canada's Spring 2019 Metropolitan Outlook I report:

- Continuing the trend of moderating economic growth, real GDP in Toronto is forecast to expand by 2.4% in 2019 and 2020. The city's growth will surpass its 10-year average annual rate of 2.3% as well as outperform the province's projection for 2.1% and 2.0% growth during the same period.
- Following two consecutive years of robust job growth, Toronto's employment market is expected to increase by another 45,500 and 65,500 net new jobs in both 2019 and 2020. With job gains outpacing labour force growth, the unemployment rate is forecast to decrease to 5.6% by 2020.
- After a series of government measures successfully cooled the housing market, it is expected to recover and accelerate FIRE industry growth to 3.2% in 2019 and 3.3% in 2020.
- Elevated consumer debt, higher interest rates and tighter mortgage rules are expected to moderate retail trade industry growth to 3.2% in 2019 and 2.7% in 2020. The industry is supported by continued investment activity including Cadillac Fairview and TD Greystone Asset Management's \$80.0 million revitalization of Fairview Mall, Mountain Equipment Co-op's new and larger flagship store and Canada Goose's plans to open three new stores across Canada.
- Over the past five years, transportation and warehousing industry growth has been robust and averaged 6.7% per year. Growth is forecast to moderate to 3.4% and 2.6% in 2019 and 2020, with support from the Ontario government's \$28.5 billion commitment for GTA-based transit projects.
- The professional, scientific and technical services industry is poised to grow by 2.9% in 2019 and 2.3% in 2020, led by an active tech sector. Notable developments in the industry include MaRS and the University of Toronto's partnership to open a new tech hub

on the waterfront, Shopify's expansion into The Well development, Amazon's expansion plans and Uber's \$200.0 million investment for expansion and a new engineering facility.

- Housing starts are forecast to moderate to 36,850 units in 2019, the city's lowest levels since 2014. However, strong population growth is expected to keep residential demand strong and lift housing starts to 40,700 units by 2023.
- Non-residential construction is forecast to remain active with multiple projects including the 2.7 million sq. ft. CIBC Square, the \$500.0 million Bay Adelaide North office tower, the 7.8 acre Well mixed-use development, the 46-storey office building on 160 Front Street West, the \$479.0 million office tower at 16 York Street, the proposed 52-storey Union Centre, West Park Healthcare Centre's \$1.2 billion hospital, Collège Boréal's 100,000 sq. ft. campus in the Distillery District and the Eglinton Crosstown LRT.
- Despite an accommodative Canadian dollar and healthy U.S. economy, investment in Toronto's manufacturing industry remains low and as a result, growth in the sector is forecast at 1.8% in 2019 and 1.7% in 2020.

CANADA INVESTMENT, Q1 2019

Investment activity moderates briefly following late 2018 financial market volatility

Investment Volume
\$7.7 billion

Transactions
1,570

National Avg Cap Rate
5.64%

GoC 10-yr Bond Yield
1.62% (as of Mar 31, 2019)

Figure 1: Quarterly National Investment Volumes (\$B)

*Arrows indicate change from previous year.



Source: CBRE Research, RealNet Canada Inc., RealTrack, Collette Plante, JLR Land Titles Solutions, Q1 2019.

- National investment volumes totalled \$7.7 billion over 1,570 transactions in Q1 2019. This represented a year-over-year decrease of -22.5% from Q1 2018. While the market had a slow start to the year, investor sentiment rebounded as the quarter progressed and, based on the current sales pipeline, volumes are expected to be in line with those seen in previous years in Q2 2019.
- The three most active asset classes by total volume in Q1 2019 were the industrial, office and multifamily sectors which saw acquisitions total \$1.9, \$1.8 and \$1.4 billion, respectively.
- The two largest transactions in Q1 2019 were the sale of Dynamic Funds Tower in Toronto to GWL, Investors Group and OPTrust for \$473.0 million and the sale of 1075 West Georgia Street in Vancouver to Crestpoint, KingSett and Reliance Properties for \$274.0 million.
- Private Canadian Investors, Institutional and Private Equity groups were the primary purchasers in Q1 2019 accounting for 36%, 22% and 16% of acquisitions, respectively.

Brought on by the financial and economic market volatility seen in late 2018, commercial real estate investment volumes totalled \$7.7 billion in Q1 2019, representing a -22.5% decrease in volumes compared to the same period in 2018. Investors adopted a wait-and-see approach coming into the new year and, while pricing has remained strong, the cautious mindset led to a decrease in transaction velocity across the country. This pause was most apparent in the trophy asset segment of the market, as only four properties sold for over \$100.0 million in Q1 2019. This was below the average of almost 10 per quarter in 2018.

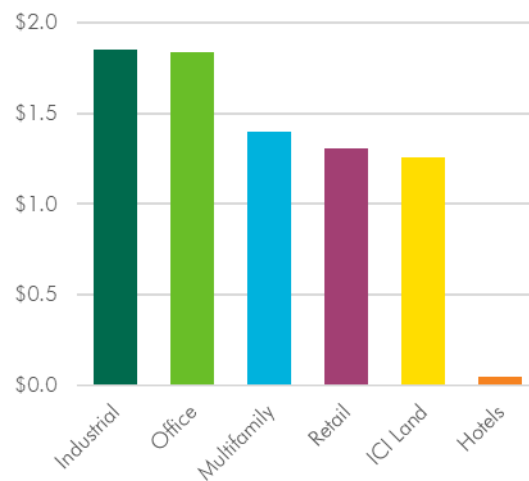
Despite the slow start to the year, investor sentiment rebounded significantly as the financial markets stabilized over the course of the first quarter. Based on the current pipeline of asset on offer, and the continued strength of property fundamentals in most asset classes, strong investment volumes are expected in Q2 2019.

INVESTMENT BREAKDOWN

Asset class

The most active asset classes in Q1 2019 were the industrial, office and multifamily sectors where volumes totaled \$1.9, \$1.8 and \$1.4 billion, respectively. Industrial and multifamily assets continue to be the most sought after property types due to solid real estate fundamentals and favourable underlying demographic and economic conditions.

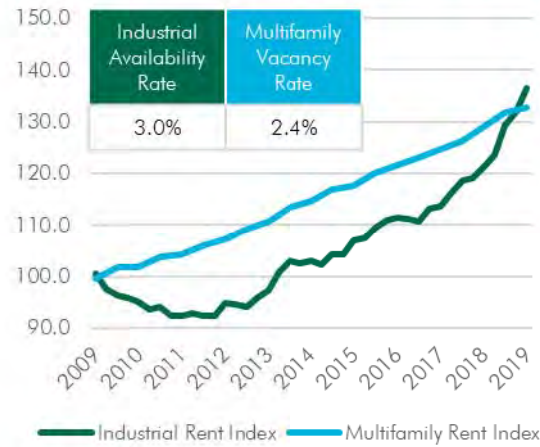
Figure 2: Investment Volume by Asset Class (\$B) | Q1 2019



Source: CBRE Research, RealNet Canada Inc., RealTrack, Collette Plante, JLR Land Titles Solutions, Q1 2019.

The continued growth of ecommerce has spurred tenant demand for additional logistics, transportation and warehousing space, compressing industrial availability rates to record lows and pushing rents up substantially. For the multifamily sector, continued population growth and rising costs of home ownership in major markets have driven a greater share of the population towards rental housing. Much like in the industrial sector, these market conditions have resulted in exceedingly tight vacancies and inflated rents. Despite the increased demand from investors, supply of quality assets has remained limited. This lack of supply restricted investment volumes in the first quarter to totals similar to those seen over the same period in 2018.

Figure 3: Key Sector Rent Growth | Indexed to a value of 100 @ 2018



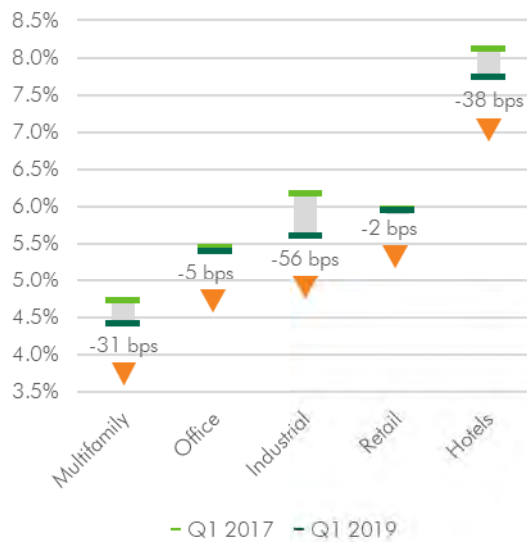
Source: CBRE Research, CMHC, Q1 2019.

The retail, ICI land and hotels asset classes all experienced more muted quarters with investment volumes totaling \$1.3 billion, \$1.3 billion and \$51.6 million, respectively. These totals were -36%, -19% and -65% lower than those recorded in Q1 2018.

Despite the slower than normal quarter in terms of investment volumes, pricing remained strong across practically every sector in Q1 2019. Each asset class has seen its average cap rate figure compress since the start of 2017, with the industrial and multifamily sectors seeing the largest boosts due to their aforementioned strong fundamentals.

It's expected that transaction velocity and investment volumes will rebound as worries around market volatility dissipate going forward.

Figure 4: Cap Rate Compression | 2-year Comparison



Source: CBRE Research, Q1 2019.

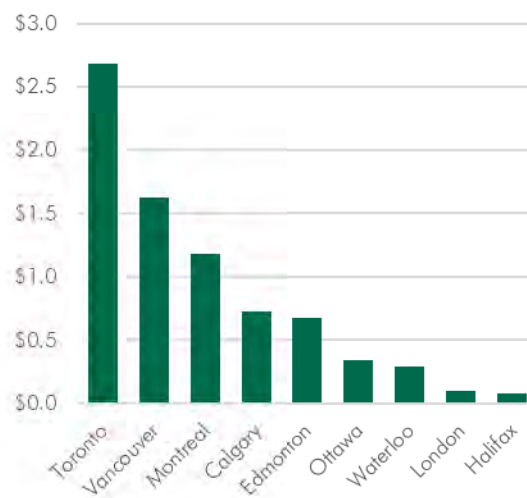
Market

Toronto was the most active investment market in Q1 2019 where volumes totaled \$2.7 billion. This included the largest transaction in the country which was the sale of Dynamic Funds Tower to GWL, Investors Group and OPTrust for \$473.0 million. While Toronto led the nation in terms of investment volume, the Q1 2019 total was -31% below the total recorded in Q1 2018.

The following most active markets in Q1 2019 were Vancouver and Montreal where investment volumes totaled \$1.6 and \$1.2 billion. The largest transactions to close in these markets in the quarter were 1075 West Georgia St in Vancouver which was acquired by Reliance Properties, KingSett Capital and Crestpoint for \$274.0 million and 7095 Gouin Blvd E in Montreal which was acquired by Desjardins and Cogir for \$135.0 million. Much like Toronto, the first quarter volumes for these markets were lower than the totals from Q1 2018, by -20% and -27%, respectively.

While volumes in the three largest markets fell short of their totals from Q1 2018, two markets which outperformed results from last year were Calgary and Edmonton. Acquisition volumes in these markets totaled \$726.8 million and \$673.9 million in Q1 2019, representing a year-over-year increase of +36% and +17%, respectively.

Figure 5: Investment Volume by Market (\$B) | Q1 2019



Source: CBRE Research; RealNet Canada Inc., RealTrack, Collette Plante, JLR Land Titles Solutions, Q1 2019.

Finally, investment volumes in Ottawa, Waterloo, London and Halifax all had slower than normal quarters, with volumes totaling less than \$350.0 million in each of these markets.

Despite the fact that volumes were down across major markets in Q1 2019, investor confidence improved dramatically over the first few months of the year. Improved confidence, coupled with the impending sale of several high profile assets in Toronto, Vancouver and Montreal in the second quarter, should ensure that volumes for Q2 2019 will be more robust than those seen in the first quarter.

Figure 6: Notable Transactions | Q1 2019

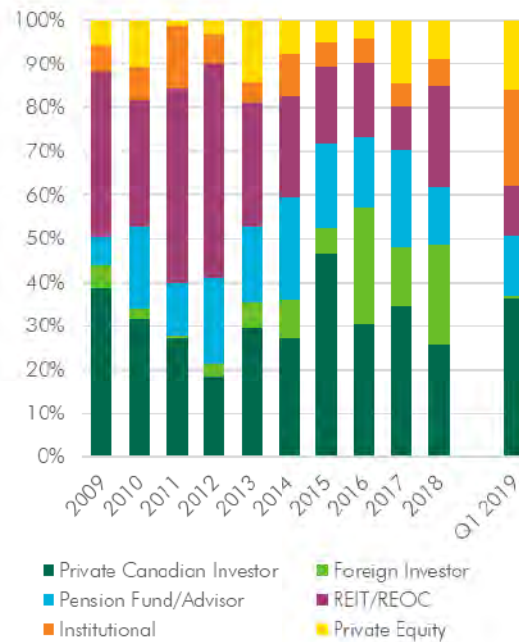
Sector	Market	Price (\$ Millions)	Property/Address	Size (sf / units / acres / rooms)	Purchaser
Office	Toronto	473.0	Dynamic Funds Tower	650,000	GWL, Investors Group, OPTrust
Office	Vancouver	274.0	1075 West Georgia St	349,000	KingSett, Crestpoint, Reliance
Office	Vancouver	208.0	Airport Executive Park	708,000	Fiera
Multifamily	Montreal	135.0	7095 Gouin Blvd E	853	Cogir, Desjardins
Office	Toronto	98.0	56 Wellesley St W	216,000	GWL, Canada Life, London Life
Multifamily	Ottawa	92.0	400 Friel St & 261-281 Laurier Ave E	159	Alignvest Student Housing REIT
Industrial	Calgary	79.6	6075 86 th Ave SE, 6060 90 th Ave SE & 8801 60 th St SE	850,000	Summit Industrial Income REIT
Industrial	Calgary	77.2	7403 48 th St SE, 7505 48 th St SE & 4639 72 nd Ave SE	623,000	Triovest

Source: CBRE Research, RealNet Canada Inc., RealTrack, Collette Plante, JLR Land Titles Solutions, Q1 2019.

Purchaser Profile

The most active buyers in Q1 2019 were Private Canadian Investors who accounted for 36% of acquisitions above \$10.0 million. The next largest groups over the first quarter were Institutional and Private Equity firms who accounted for 22% and 16% of the market, respectively. These groups were very active over the first part of 2019 and accounted for a significantly larger portion of the market than in recent years. Following the three largest groups were Pension Fund/Advisors and REIT/REOCs who accounted for 14% and 11% of the market, respectively.

Figure 7: Purchaser Profile



Source: CBRE Research, Q1 2019.

Notably absent from the purchaser landscape in Q1 2019 were Foreign Investors, who accounted for only 1% of all deals in the first quarter. While interest from foreign firms has remained robust, it will be interesting to see whether they continue being selective going forward after several years of fairly aggressive acquisition campaigns.

Figure 8: Investment Volume Summary (\$ Millions) | Q1 2019

Sector	Vancouver	Calgary	Edmonton	London	Waterloo	Toronto	Ottawa	Montreal	Halifax	Q1 2019	Q1 2018
Office	754.4	71.7	26.6	1.7	5.1	764.4	91.7	118.0	3.6	1,837.2	2,859.3
Industrial	253.7	301.3	181.3	8.2	53.7	772.9	54.2	223.5	1.0	1,849.9	1,885.2
Retail	224.8	127.0	116.7	44.7	57.4	475.6	19.9	225.7	18.0	1,309.8	2,051.9
Multifamily	68.5	123.6	186.9	7.2	107.0	233.5	108.5	532.8	33.0	1,401.2	1,447.5
ICI Land	322.4	97.5	157.6	40.0	63.6	416.7	67.6	78.1	17.1	1,260.7	1,554.2
Hotels	-	5.8	4.8	-	7.7	21.5	-	5.0	6.9	51.6	149.6
Q1 2019	1,623.8	726.8	673.9	101.8	294.5	2,684.8	342.0	1,183.1	79.6	7,710.3	
Q1 2018	2,024.0	533.9	574.2	243.0	436.7	3,940.2	378.7	1,611.9	205.0		9,947.6

RESIDENTIAL MARKET OVERVIEW

The following are excerpts from the CMHC Fall 2018 Housing Market Outlook Canada Edition, the Fall 2018 Ontario Region Highlights, the Fall 2018 Greater Toronto Area outlook and Altus Data Solutions' Downtown Core New Homes High Rise Submarket Report for June 2019.

Canadian Housing Market

- National housing starts are expected to slow down gradually for the balance of 2018 through to 2020. Total housing starts are projected at 193,700 to 204,500 units for 2019, somewhat lower than the record breaking 219,763 units in 2017 and the projected levels of 204,500 to 213,100 units for 2018. GDP and household income growth are expected to stabilize, mortgage rates are forecast to continue gradually increasing resulting in a moderated demand for housing despite the continued population growth.
- Single-detached housing starts are anticipated to decrease from 76,843 units recorded in 2017 and remain in line with 2018 levels (66,800 to 68,000 units) partially limited by residential lot availability as well as elevated prices and borrowing costs in some major CMAs. Single-detached starts are expected to range from 66,700 to 69,400 in 2019.
- Multi-unit starts are expected to slow down from 142,920 units recorded 2017 and 2018 levels forecast at 124,800 to 137,400 units despite inventories of completed and unsold units being at their lowest level over the last 10 years. Smaller growth in population aged 25-34 is expected to temper the demand for this housing type although this is partially offset by the aging population looking for smaller dwellings. Starts in 2019 are estimated at 124,800 to 137,400 units.
- Resale transactions set records in 2016 and have declined since. Sales are expected to rise slightly in 2019 and level off in 2020 due to slower employment and GDP growth as well as gradually increasing mortgage rates.

Ontario Housing Market

- Residential starts in Ontario are expected to remain elevated in the latter part of 2018 and the first half of 2019. Fewer choices in the resale market, good job growth and stronger than expected growth in the new households formed in recent years are expected to support housing starts. By 2020, slower job growth, rising interest rates and more choice in the resale market are expected to dampen the housing starts. Total housing starts in Ontario are projected at 70,800 to 74,400 units for 2019, somewhat lower than the record breaking 79,123 units in 2017 and the projected levels of 74,500 to 76,300 units for 2018.
- Multi-family housing starts are expected to continue outpacing the single-family starts for the foreseeable future given that this is a more affordable housing option coupled with there being fewer choices in the apartment resale and rental markets. Starts of multi family units are forecasted between 49,100 and 52,000 for 2018 and between 45,700 and 49,300 units in 2019.

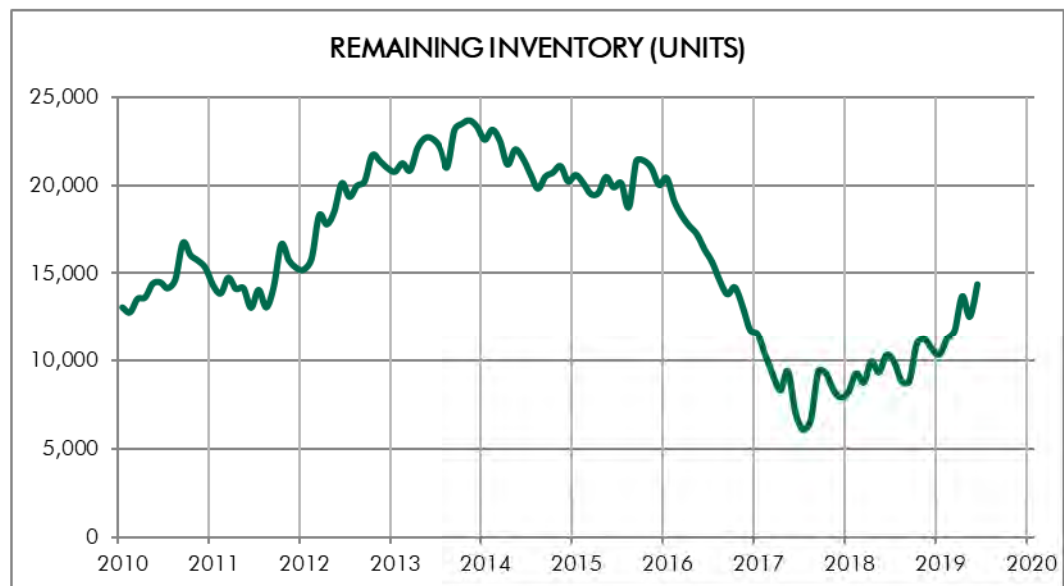
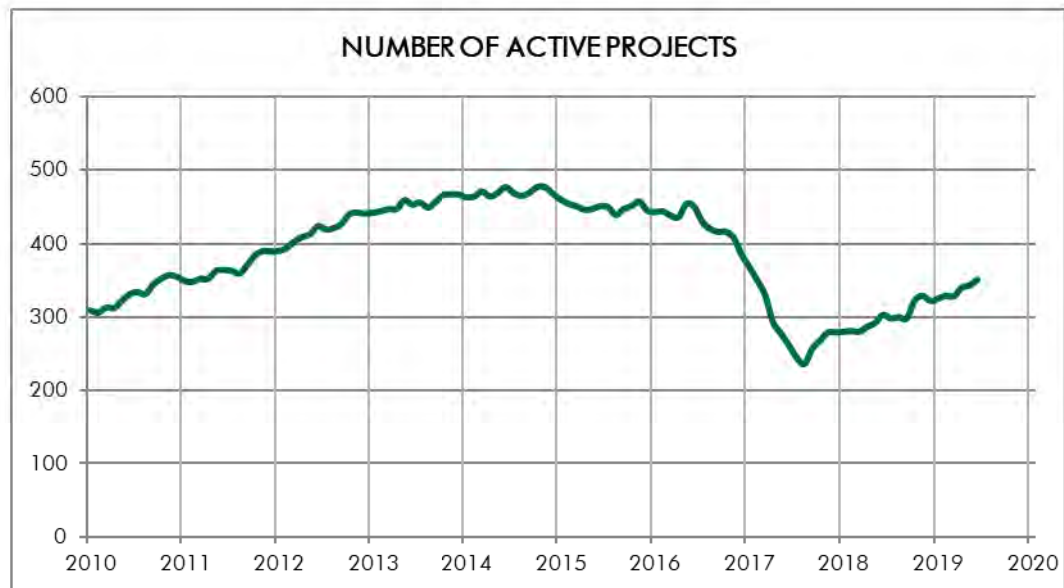
- After a record breaking existing homes sales volume of 245,845 units in 2016, resales have declined in 2017 (221,396 units) and first half of 2018. Resale volumes are expected to continue trending higher before easing in 2020. Total resales are forecast at 189,800 to 193,200 in 2018, and 205,000 to 214,600 units in 2019.
- Average resale prices are forecast to decrease to \$563,600 - \$576,400 in 2018 from their recorded \$585,188 in 2017. Average prices are then expected to bounce back to \$595,900 - \$614,100 in 2019 and with further increases projected for 2020.

GTA Housing Market

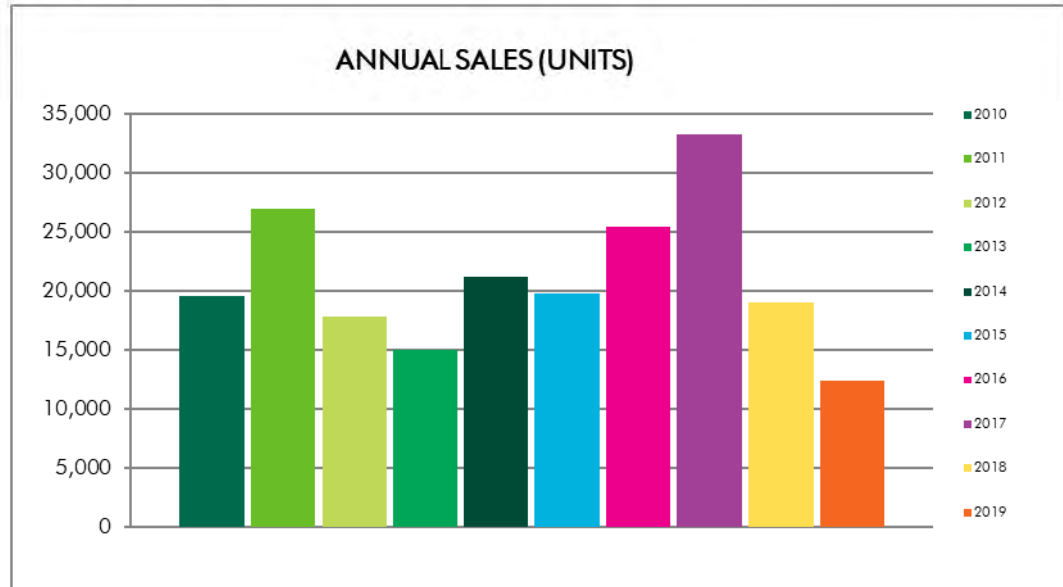
- New Home starts in the GTA market are expected to slow down mainly due to fewer single family starts. High house prices, a policy shift towards high density construction and shortages of serviceable land are key reasons for the slowdown in the low density market. Total housing starts in the GTA are expected to range between 36,300 and 38,500 in 2018 and are expected to slow down further in 2019 with a range of 31,200 to 34,200 units and 25,200 to 31,200 units in 2020.
- Single detached home starts are expected to range between 5,300 and 5,600 units in 2018, a decrease from 10,172 in 2017. Starts are expected to drop further and range from 5,000 to 5,600 2019 and 3,500 to 4,500 in 2020.
- Condominium starts are expected to decrease in 2019 and 2020 but are expected to dominate construction given the strong level of pre-sales recorded in 2016 and 2017. Increasing price gaps with newer resale market alternatives, a better supplied market, lesser demand and a declining number of site openings is expected to decrease preconstruction sales activity leading to fewer starts. Starts in 2018 are expected to range from 31,000 to 32,900 units outpacing the 28,566 units recorded in 2017. Starts in 2019 are estimated at 26,200 to 28,600 units and 21,700 to 31,200 units in 2020.
- With a total of 93,158 sales, the existing home market fell off slightly in 2017 compared to 113,725 sales recorded in 2016. This downward trend is expected to continue in 2018 with a forecast of 82,200 to 87,800 sales. Resales in 2019 are expected to increase to 91,500 to 98,500 sales.
- The lack of purpose built rental units, rising homeownership costs and a growing renter population are expected to result in a strong rental demand and in turn low vacancy rates. Although more completions are expected for 2020 providing some relief, this is not expected to significantly increase the vacancy rate over the forecast horizon. In this environment, landlords will continue to command high rental rates.

High Rise Condominium Market

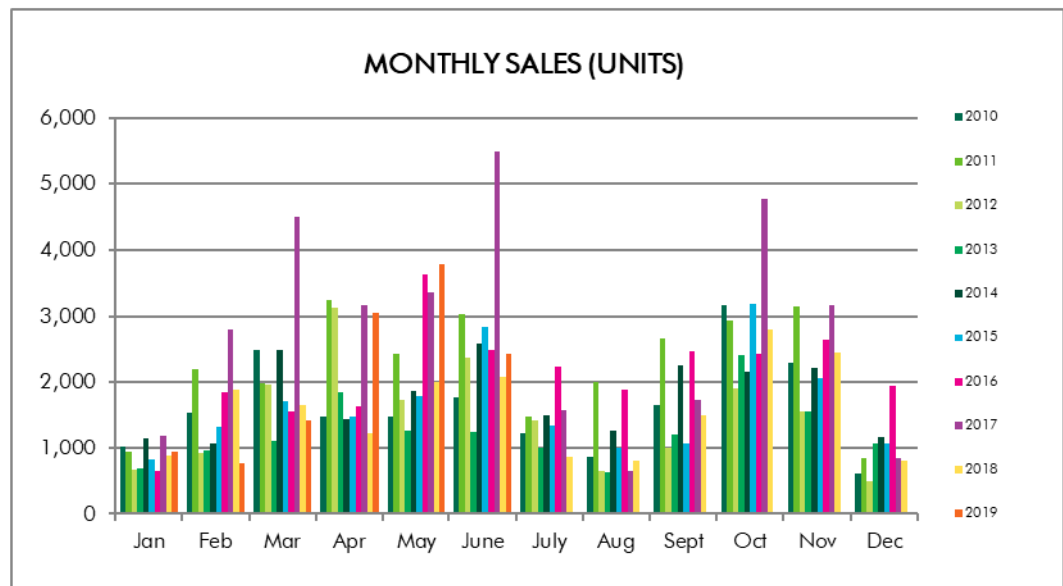
- The Greater Toronto Area high rise condominium market continues to perform strongly. The number of projects and remaining inventory have increased over the last two years but are still at levels significantly lower than their respective peaks recorded in November 2014 (478 projects and 114,997 units) and November 2013 (23,699 unsold units).
- As of June 2019, there were 352 active projects in GTA with a total of 93,358 units. While considerably lower than its historical levels, the inventory has increased since Q3 2017. The number of unsold units stood at 14,377 or 15% as of June 2019. This represents an 8 month inventory assuming a monthly sale level equivalent to the last 12 month average.



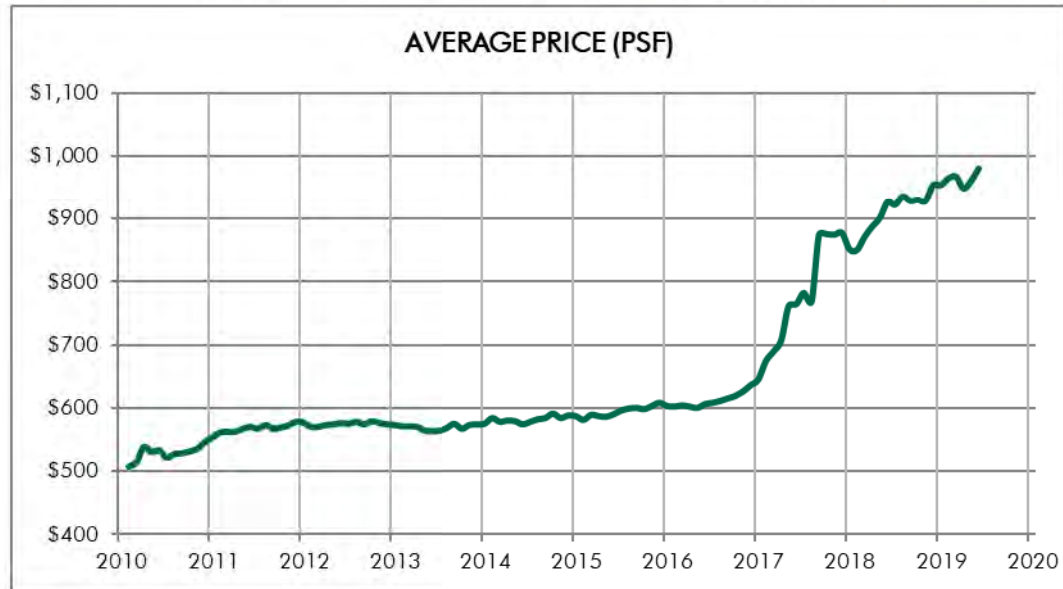
- 2017 was the highest year in terms of sales volume with 33,237 units sold. This is 60% higher than the previous seven-year average. A total of 18,952 units sold in 2018, a considerably slower pace than in 2017 and below the 8 year average.
- As of June 2019, a total of 12,405 units sold in 2019, a stronger pace than that recorded in the first half of 2018.



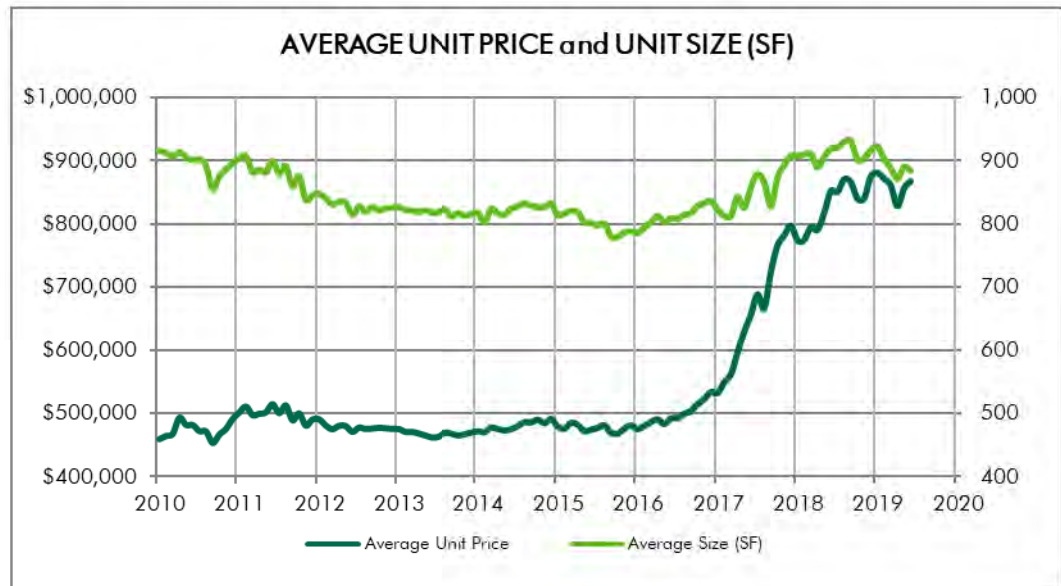
- Since 2010, sales volumes were the highest in October followed by June and November with January, December and August being the slowest months on average.



- Average asking prices per square foot in GTA have steadily increased from 2010 to 2016 prior to skyrocketing from mid-2016 to the end of 2017. Average pricing continues to increase albeit at a slower pace and reached a record high \$981 PSF as of June 2019.



- Average asking unit prices across the city declined from 2011 to 2013 and remained relatively stable up to the end of 2016 even declining in some months. This was mainly due to the average unit size shrinking from 2010 to 2016. The unit sizes across the city have declined by approximately 100 square feet during this period. However, average unit sizes have increased over the last three years climbing back to 2010/2011 levels. As a result, increases in the price per square foot have been even more pronounced. The average unit price as of June 2019 was approximately \$867,204.



Downtown Core Submarket

- The subject property is located in the Downtown Core Submarket.
- The Downtown Core area has 9 of the 352 total active projects in the GTA market. The total number of units in the active projects is 5,207 with 75% of these units sold as of June 2019.
- The average asking price per square foot in the area ranges from \$877 in the case of Halo Residences located on Yonge Street, north of Carlton Street to \$1,733 PSF in the case of United BLDG located on University Avenue and Dundas Street West. The average asking price in the Downtown Core node is \$1,484 PSF with an average total unit price of \$954,613 compared to the GTA averages of \$981 PSF and \$867,169
- The average unit size of 643 SF, considerably smaller than the GTA average of 884 SF as of June 2019.

HIGHEST AND BEST USE

HIGHEST AND BEST USE

The term "Highest and Best Use" is generally considered to be that use which will result in the greatest net return over a given period of time. The "Highest and Best Use" is also known as the optimal use. A Highest and Best Use analysis involves assessing the subject both as vacant and as improved as applicable. In valuation practice, the concept of highest and best use represents the premise upon which value is based.

The four criteria the Highest and Best Use must meet are:

- Legal permissibility;
- Physical possibility;
- Financial feasibility; and
- Maximum profitability.

As Vacant

- The subject site is zoned CR 4.0 (c4.0; r1.5) SS1 (x2553) under the City of Toronto Zoning By-law 569-2013.
- The Official Plan designates the subject site as Mixed Use Areas.
- The subject property is approved for an 85-storey building with a total gross floor area of 1,017,189 square feet, including residential, retail and office components.
- A development project at the subject property being marketed s YSL launched in mid-October 2018 and has since sold approximately 89% of units as of June 2019. The retail component is in the final stages of being sold and 75% of the office component has also sold.

Based on the above, it is concluded that the Highest and Best Use of the subject site, "As Vacant" is for mixed-use development.

VALUATION
METHODOLOGY

VALUATION METHODOLOGY

There are six approaches to the valuation of vacant land.

- Direct Comparison Approach
- Allocation
- Extraction
- Subdivision Development
- Land Residual
- Ground Rent Capitalization

In practice, an approach to value is included or omitted based on its applicability to the property type being valued and the quality and quantity of information available.

Direct Comparison Approach

The Direct Comparison Approach utilizes sales of comparable properties, adjusting for differences to estimate a value for the subject property. This approach is developed in a simplified method to establish a range of unit prices for market comparable sales.

Allocation Method

This technique is based on the principle of balance. A logical relationship or typical ratios of land value to improvement value are analyzed for specific categories of real estate in specific locations.

Extraction Method

This technique deducts the depreciated cost of the improvements on the improved property from the sale price to estimate the sale price of the underlying land. It is a similar procedure to Allocation in that the contribution of the improvements is deducted from the total property value.

Subdivision Development Method

This technique is used to value vacant land when the highest and best use of the land is to be used for subdivision and development. The future selling price of the subdivided lots then have the costs of development subtracted to estimate the current value of the land.

Land Residual Method

This technique arrives at a land value by subtracting the costs of an actual or hypothetical improvement and allowance for developer's profit from the capitalized value of the income the improved property could generate.

Ground Rent Capitalization Method

This technique is used to value lands when the ground rent corresponds to the value of the landowner's interest in the property and market-derived capitalization rates are available to convert the ground rent into an indication of market value.

Methodology Applicable to the Valuation of the Subject

As if Complete Value

The "As if Complete" value of the subject property has been valued based on the income potential and resulting value of the three components of the proposed development.

As is Value

In the case of the subject, we have placed most reliance on the Land Residual approach. Given the unique nature of the proposed development at the subject property with a significant retail and office components coupled with the architectural features of the proposed building, the land transactions we were able to identify are not directly comparable. While acknowledging the sensitive nature of the Land Residual Approach, given the high level of pre-sales a significant portion of the revenue is firm up thus reducing the overall uncertainty and sensitivity.

In addition to the Land Residual approach, we have utilized the Direct Comparison Approach. However, as aforementioned, we have relied on it as a reasonability check to the conclusions reached via the Land Residual approach.

AS IF COMPLETE VALUE

"AS IF COMPLETE"

Methodology

There are three components to the proposed development at the subject property: a residential component, a retail component and an office component. We have considered each component in isolation in order to arrive at a combined "As if Complete" value of the proposed development.

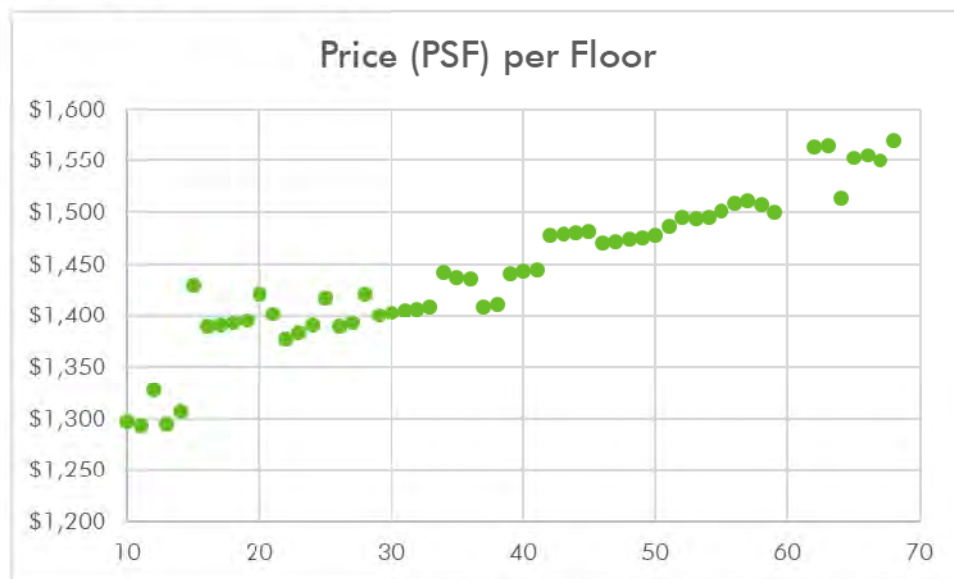
We were provided with a summary pro forma prepared by the client for the proposed project which we reviewed for reasonability and adopted or adjusted as appropriate into our analysis.

The notes contained below are based on our review of the development pro forma and outline our assumptions and findings with respect to this document.

Residential

The following notes pertain to our calculation of the value of the residential portion of the subject property:

- The subject property is located on a prominent corner in close proximity to the Eaton Centre, Ryerson University and University of Toronto as well as walking distance to the Financial Core.
- A project being marketed as YSL launched at the subject property in mid-October and had a strong launch selling 643 units in two days representing 92% of the units released during the launch weekend. A total of 781 units (71% of all units, 89% of released units) were sold as of June 19, 2019 with an average price of \$1,431 PSF.
- The following graph outlines the average achieved price per square foot per floor:



- As outlined in the graph above, there is a clear indication that a floor premium is being achieved at the subject property development with the highest prices being achieved on the highest floors.

- There remain 196 regular condominium units in the podium and tower with an average projected price of \$1,550 PSF. There is a higher concentration of unsold units on higher floors than on lower floors. The average floor number of unsold units is approximately 10 storeys higher than the average floor number of units sold to date. We also note that it is not uncommon that developers will hold on to better units at launch and would subsequently release tranches of units at a higher price point.
- Given the unique nature of the subject property development, finding truly comparable product is challenging. Of the projects outlined in the Comparable Developments chart on page 12 of the report, we point to, the King Toronto. This project launched in October 2018 is located on a prominent location on the south side of King Street West, west of Spadina Avenue and is averaging approximately \$1,650 to \$1,700 PSF. Like the subject property, it represents a newly launched architecturally unique project on a prominent location in Downtown Toronto with a significant retail and office components at the base of the building.
- We also note that since launch in October 2018, when the bulk of the transactions occurred, average preconstruction pricing in GTA has increased from \$931 to \$981 PSF. During the same time period, average pricing in the Downtown Core, the node where the subject property is located, increased from \$1,351 to \$1,484 PSF.
- Given the foregoing, we believe the projected pricing of \$1,550 PSF, representing a premium of 8% over the units sold to date is achievable and have adopted it in our calculations.
- There also remain 125 unreleased "Sky"/penthouse levels (floors 69-85) priced at an average of \$2,022 PSF. The client indicated that this is a totally different product given the height and level of finishes more in line with penthouse levels. Sky units at the subject property will feature 10' ceilings, higher end finishes than the balance of the building and will have premium unobstructed views.
- We have analyzed condominium launches over the last two years, where this data was available, and compared pricing for regular units and penthouse units. The following chart outlines several projects in Toronto's Midtown and Downtown outlining a price differential between these two types of units.

Development Name	Address	Opening Date	Price PSF Range	
			Non Penthouse Units	Penthouse Units
Well - Signature Series	455 Wellington Street West	June-19	\$1,295 - \$1,592	\$1,688
Lookout Condominiums	507-511 Kingston Road	May-19	\$785 - \$1,025	\$1,400
Poet Condominiums	1285 Queen Street East	November-18	\$1,102 - \$1,272	\$1,381 - \$1,429
King Toronto	489-539 King Street West	October-18	\$1,508 - \$1,810	\$2,204 - \$2,788
Aqualuna at Bayside Toronto	261 Queens Quay East	June-18	\$1,127 - \$1,571	\$1,904
Woodsworth	452 Richmond Street West	April-18	\$1,148 - \$1,210	\$1,500 - \$1,500
One Residences	1 Bloor Street West	October-17	\$1,324 - \$2,411	\$3,005 - \$3,935
E2 Condos	39 & 41 Roehampton Avenue	October-17	\$904 - \$1,220	\$1,321 - \$1,457
Eight Forty	840 St Clair Avenue West	October-17	\$748 - \$938	\$1,016

- As outlined in the table on the previous page, penthouse units in the GTA condominium market achieve considerably higher pricing than the balance of units. This premium ranges from 17% to 50% over regular units with an overall average premium of 38%. The average price for sold and unsold regular condominiums at the proposed development is \$1,460 PSF. The Sky suites are priced at \$2,022 PSF, representing a premium of 39%, in line with the premium for penthouse level units outlined above. Given the foregoing, we have adopted the projected pricing for the Sky units.
- Parking spaces and storage lockers have been projected at \$120,000 and \$7,500, respectively. Although not explicitly advertised, 75 parking stalls have sold to date at the subject property at \$120,000 per stall. We have applied the same price point for the balance of the parking spaces. A storage locker price level of \$7,500 is in line with a number of newly launched projects in Downtown Toronto and we have adopted this pricing level in our calculations.
- A deduction for the HST payable and the addition of recovery adjustments, including development charges, Tarion enrollment fees, meter and utility connections and closing credits has been reviewed for reasonableness, and adopted.
- The following outlines the revenue calculations for the Residential component of the proposed development at the subject property:

	Units	Saleable Area (SF)	Price (PSF/space)	
Condominiums Sold	781	457,896	\$1,431	\$655,104,800
Unsold Condominiums	196	148,561	\$1,550	\$230,296,400
Unsold Sky Units	129	117,826	\$2,022	\$238,255,100
Parking Sold	75		\$120,000	\$9,000,000
Unsold Parking	161		\$120,000	\$19,320,000
Unsold Lockers	494		\$7,500	\$3,705,000
HST				-\$108,359,796.00
Sales Incentives				-\$9,600,000
Recoveries				\$41,327,901
Subtotal - Residential				<u>\$1,079,049,405</u>

- Given the foregoing, the estimated value of the residential component at the subject property is \$1,079,049,405.

Retail

- The retail component at the subject property is comprised of 73,378 square feet of space broken down as follows:

Floor	Area (SF)
Below Grade	9,795
Ground	16,953
Second	31,754
Third	14,876
Total	73,378

- As outlined in the Extraordinary Assumptions and Limiting Conditions, the client has indicated that they are in the final stages of signing an Agreement of Purchase and Sale with a purchaser for the retail component at the subject property and that the purchase price of \$97,000,000 (\$1,322 PSF) has been agreed upon.
- The above indicated price reflects a current value a market participant is prepared to pay for the retail component at the subject property.
- As an additional check on value, we have conducted a value calculation using the income approach. The client has provided CBRE with the following projected rental rates for the subject property retail component:

Floor	Area (SF)	Net Rent (PSF)
Below Grade	9,795	\$25.00
Ground	16,953	\$130.00
Second	31,754	\$40.00
Third	14,876	\$40.00
Total	73,378	\$58.79

- We have checked the projected rents and consider them reasonable, while on the high end of the range, and we have adopted them for the purposes of estimating the value of the retail component. We have assumed \$25.00 per square foot for additional rents, a level in line with additional rents for retail units at the base of residential towers and a vacancy allowance of 3%, considered appropriate for multi tenant retail properties in Toronto's urban locations.

- The following chart outlines recent transactions for well located urban street front properties located at the base of residential towers:

Index No.	Address City	Closing Date Price (100%)	Type Year Built	Size (SF) Vacancy (%)	Capitalization Rate Price PSF
1	220 King Street East Toronto	May-19 \$10,700,000	Multi Tenant 2004	19,782 0%	4.50% \$541
2	70 Temperance Street Toronto	Oct-18 \$2,850,000	Single Tenant 2016	1,879 0%	4.40% \$1,517
3	751 - 775 King Street West Toronto	Jul-18 \$22,750,000	Multi Tenant 2013	18,026 0%	4.00% \$1,262
4	700 King Street West Toronto	May-18 \$15,120,000	Multi Tenant 2000	7,746 0%	3.60% \$1,952
5	700 King Street West Toronto	Mar-18 \$14,000,000	Multi Tenant 2000	7,746 0%	3.90% \$1,807

- The CBRE Q2 2019 capitalization rate survey indicates a range of 3.75% to 4.50% for urban street front retail properties. We note however that properties with rental upside and or redevelopment potential typically transact at the low end of this range.
- We have applied a capitalization rate of 4.25% considered appropriate for well located urban street front retail properties rented at market with no redevelopment potential.
- Adopting the above indicated assumptions results in the following value calculation:

Retail Rent	\$4,313,965
Additional Rent	\$1,834,450
Potential Gross Income	\$6,148,415
Vacancy (3.00%)	-\$184,452
Effective Gross Income	\$5,963,963
Expenses	-\$1,834,450
NOI	\$4,129,513
Capitalization Rate	4.25%
Value	\$97,165,001

- The value indication outlined above is in line with the negotiated price for the retail component at the subject property.
- As a result, we have adopted the negotiated pricing and estimate the value of the retail component at the subject property at \$97,000,000.

Office

The following notes pertain to our calculation of the value of the office component at the subject:

- The office component is comprised of 96,832 SF across four floors.
- An agreement was made with Ryerson University to purchase 60,870 square feet of office space on three floors for \$23,056,000 (\$379 PSF) and any additional office area on these three floors at a rate of \$568 PSF. The additional office space across the three Ryerson floors is estimated at 11,754 square feet. We note that this pricing is well below market pricing for Downtown Toronto condominium office component.
- There is an additional 24,208 square feet of office space on a single floor that has not been sold as of the effective date of the report. The space lends itself to be demised into medium or small size units.
- There are no directly comparable condominium office properties in the immediate subject area. As a result, we have considered transactions in recently completed office condominium buildings in areas comparable to that of the subject and have outlined our findings in the table below:

Address	Unit Size Range (SF)	Sale Price Range (PSF)	Transaction Year	Sale Type
130 Queens Quay East	1,225 - 1,872	\$796 - \$924	2019	Resale
135 Yorkville Avenue	1,560 - 6,020□	\$812 - \$1,792	2018	Pre-construction
59 Hayden Street	12,825□	\$794 - \$815	2019	Pre-construction
7 St. Thomas Street	1,132 - 1,462	\$1,117 - \$1,300	2018	Resale
1133 Yonge Street	4,152 - 33,750	\$566 - \$919	2018	Pre-construction
4789 Yonge Street	1,500	\$707	2018	Resale

- Given the pricing of transactions outlined above coupled with the subject property location, as it relates to the comparables, and assuming the unsold office component at the subject property is subdivided into smaller units, in our opinion a value of approximately \$800 PSF would be achievable across the 24,208 square feet of unsold space.
- The following outlines the projected revenue for the office component at the subject property:

Office	Area (SF)	Selling Price (PSF)	Selling Price
Ryerson	60,870	\$379	\$23,056,000
Ryerson Option	11,754	\$568	\$6,676,272
Vacant	24,208	\$800	\$19,366,400
Total	96,832	\$507	\$49,098,672

- Given the foregoing, the estimated value of the office component at the subject property is \$49,098,672.

As if Complete Value Conclusion

The following outlines the calculation of the "As if Complete" value of the subject property:

Component	Value
Residential	\$1,079,049,405
Retail	\$97,000,000
Office	\$49,098,672
Total	\$1,225,148,077
Rounded	\$1,225,100,000

LAND RESIDUAL APPROACH

LAND RESIDUAL APPROACH

Methodology

In order to determine the market value of the property using the Land Residual Method, expenses and developer's profit are subtracted from the value of the development as if complete. There are three main components to the proposed development at the subject: a residential condominium component, a retail component and an office component.

Revenue

A detailed analysis of the revenues for the three components at the subject property is included in the As If Complete Value section of the report.

Expenses / Construction Costs

- The construction costs in the pro forma calculation have been estimated by the client. We have vetted the costs relative to other recent mixed-use projects and while at the high end of the range, they appear to be reasonable.
- Developer's profit typically ranges from 10.00% to 20.00% of total expenses depending on the risks associated with the development. Most of the uncertainty is removed having in place approvals coupled with a significant level of pre-sales, Given the foregoing, we feel that a developer's profit equal to 12.50% of the expenses is appropriate for the proposed development at the subject.

Costs Incurred to Date Beneficial to a Potential Purchaser

- As of the effective date of the report, the client has incurred significant costs to advance the development. Of the costs incurred, a total of \$15,980,689 is considered beneficial to a potential purchaser. The following table outlines these costs:

Costs Incurred to Date Beneficial to a Potential Purchaser	
Land	
Section 37 - Partial Payment	\$39,000
Sub Total	<u>\$39,000</u>
Construction	
Construction & Pre-Development Costs	\$565,320
Demolition and Heritage Retention	\$1,777,430
Site Connections	\$128,512
Building/Misc Permits	\$543,218
Sub Total	<u>\$3,014,480</u>
Design	
Architect & Engineers	\$3,078,977
Planning & Zoning Consultants	\$2,404,469
Sub Total	<u>\$5,483,446</u>
Legal	
General	\$1,043,763
Sub Total	<u>\$1,043,763</u>
Marketing & Sales	
Sales Commissions	\$6,400,000
Sub Total	<u>\$6,400,000</u>
Total Costs Incurred to Date Beneficial to a Potential Purchaser	\$15,980,689

- In our opinion, all of the costs outlined above would be viewed as beneficial to a potential purchaser of the subject property site and would have to be incurred by a purchaser should they proceed with the current proposal. It is therefore reasonable to assume a potential purchaser would be willing to pay for the full amount of the costs.
- In order to arrive at the value of the subject property on an "As is" basis, we have added these costs to the land residual value.

Pro Forma

The following is CBRE's adjusted pro forma reflecting the estimated revenue and expenses for the subject property, the resulting underlying land value and an "As is" value of the subject property:

Land Residual Calculation				
Revenues				
Residential				
	Units	Saleable Area (SF)	Price (PSF/space)	
Condominiums Sold	781	457,896	\$1,431	\$655,104,800
Unsold Condominiums	196	148,561	\$1,550	\$230,296,400
Unsold Sky Units	129	117,826	\$2,022	\$238,255,100
Parking Sold	75		\$120,000	\$9,000,000
Unsold Parking	161		\$120,000	\$19,320,000
Unsold Lockers	494		\$7,500	\$3,705,000
HST				-\$108,359,796.00
Sales Incentives				-\$9,600,000
Recoveries				\$41,327,901
Subtotal - Residential				\$1,079,049,405
		Saleable Area (SF)	Price (PSF)	
Retail		73,378	\$1,322	\$97,000,000
Office		96,832	\$507	\$49,098,672
Subtotal - Commercial				\$146,098,672
Total Revenue				\$1,225,148,077
Expenses				
		PSF of GFA	PSF of GCA	
LTT/DCs/Permits		\$87	\$79	\$88,348,702
Construction		\$383	\$347	\$389,275,910
Marketing		\$85	\$77	\$85,980,650
Finance/Legal/Admin		\$147	\$134	\$149,862,646
Contingency		\$23	\$21	\$23,773,569
Occupancy Fees		-\$8	-\$7	-\$7,735,291
Total Expenses		\$717	\$651	\$729,506,186
Gross Income				\$495,641,891
Less: Developer's Profit			12.50%	-\$91,188,273
Land Value + Land Profit				\$404,453,618
Less: Land Profit			12.50%	-\$44,939,291
Land Residual				\$359,514,327
Per Square Foot Buildable				\$353
Costs Incurred to Date Beneficial to a Potential Purchaser				\$15,980,689
"As is" Value				\$375,495,016
Final Value (Rounded)				\$375,500,000

Land Residual Method Conclusions

Utilizing the revenues and expenses as analyzed above, a land value of \$353 PSFB is arrived at via the Land Residual Method prior to the adjustment for costs incurred to date. We do note that this methodology is highly sensitive to changes in the input assumptions. Changes in overall costs, price level of residential units and profit projections can have a significant impact on the Land Residual Value.

Given the inherent sensitivity of the Land Residual Method, we have conducted a sensitivity analysis to see what effect changes in unsold condominium prices have on land values since the residential component forms the majority of the projected revenues at the subject property.

Unsold Average Condominium Selling Price	\$1,650	\$1,700	\$1,759	\$1,800	\$1,850
Residual Land Value	\$328	\$340	\$353	\$363	\$375

The average projected sales price for the unsold and unreleased units at the subject property including podium tower and "Sky" units is \$1,759. As outlined in the table above, residual land values are highly sensitive to the achievable condominium prices. A \$50 PSF price difference in sale prices results in a delta of approximately \$12 PSFB. While we believe the estimated price level of \$1,759 PSF at the subject property is achievable, we recognize that a relatively small change in pricing can have a considerable impact on the underlying land value.

DIRECT COMPARISON APPROACH

DIRECT COMPARISON APPROACH

Major Differences

Differences between the transactions and the subject property are identified and the appropriate effect on the prices paid is noted in order to make a direct comparison.

We have identified eight important differences upon which to assess each transaction:

Time of Sale

- The sale date, particularly the negotiated sale date, is an important factor to consider as well as the prevailing marketing conditions at the time the sale was negotiated.

Financing

- Financing terms provided by a vendor can have an impact on the purchase price. For example, more favourable financing that might include a Vendor Take Back mortgage at a lower than market interest rate tends to have a positive influence on the price.

Location

- Location is also a major factor affecting value, primarily due to its influence on land use, development timing and exposure/views.

Scale

- As there is generally an inverse size/rate relationship, larger scale parcels typically trade at a lower rate and vice versa. Smaller development sites are generally considered more attractive given the reduced exposure to market risk, and the smaller amount of required capital.

Topography

- Topographical features tend to vary widely, particularly amongst large land tracts, with extreme topographical features such as valley lands and environmentally sensitive areas, having a negative impact on achievable development yields overall. Sales of lands with significantly higher proportionate areas affected by irregular topographical features tend to result in lower gross unit values. This factor is more applicable to greenfield parcels, as opposed to urban properties.

Planning Status

- Land use designations and planning status are clearly important. Properties lacking requisite planning approvals are not likely to achieve as high a price as sites with advanced planning, primarily attributable to associated risk levels.

Development Timing

- Development timing clearly affects value. Properties with imminent development prospects due to phasing policies and/or servicing allocation are favoured by developers and typically trade at a higher price. Furthermore, properties in locales with relatively rapid absorption rates allow for shorter development time horizons, translating into higher values due to mitigated risk relative to those that are slower.

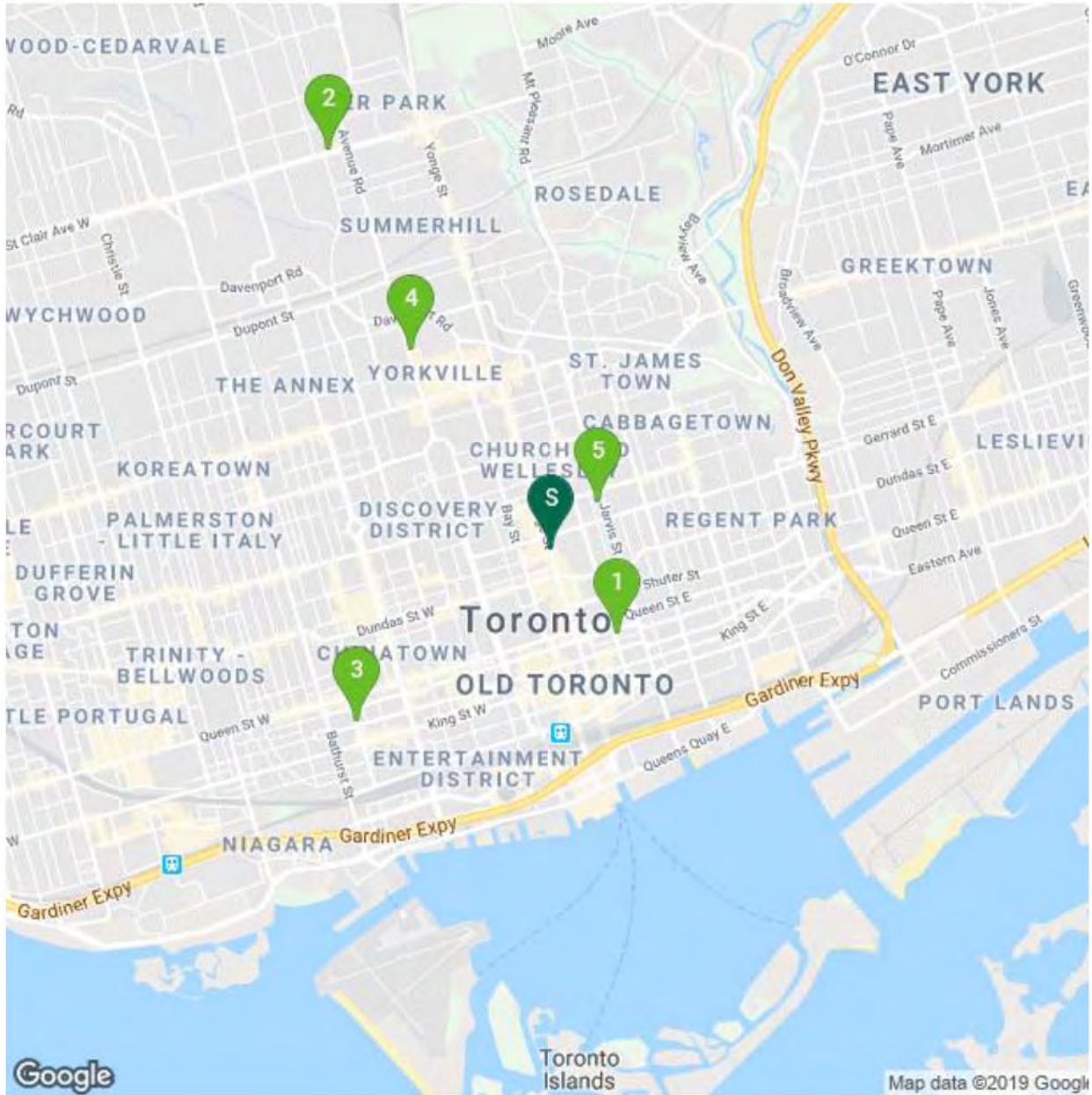
Site Character

- Intrinsic features of each property are recognized such as: configuration and site conditions affecting the construction cost, street and highway access, the nature of adjoining properties, important views to and from the potential buildings being built, and market demographics.

COMPARABLE SALES ANALYSIS

CBRE conducted a survey of land transactions within the vicinity of the subject. The map below and the table on the next page summarize the results of this survey and represent the comparables considered in the valuation of the subject.

The price per buildable square foot was used as the unit of comparison. A brief description of each comparable is found after the table and more detailed information can be found in Appendix C.



Index No.	Address City, Province	Closing Date Price (100%)	Size (Acres) Size (SF)	Official Plan Zoning	Gross Floor Area (SF) FSI	Price PSF Buildable Development Status
1	89 and 97 Church Street Toronto, Ontario	July-19 \$73,483,784	0.27 11,892	Mixed-Use Areas CR 4.0 (c2.0; r4.0) SS1 (x2254)	303,650 25.53	\$242 Approved
2	202 St. Clair Avenue W Toronto, Ontario	October-18 \$47,000,000	0.73 31,973	Apartment Neighbourhoods R (d2.0)	145,891 4.56	\$322 No application
3	119-123 Portland Street, 502 Adelaide Street W Toronto, Ontario	December-18 \$25,600,000	0.23 10,019	Regeneration Areas CRE (x76)	102,075 10.19	\$251 Approved
4	89 Avenue Road Toronto, Ontario	December-18 \$31,000,000	0.26 11,326	Mixed Use Areas 0	88,344 7.80	\$351 Approved with conditions
5	225 Mutual Street Toronto, Ontario	November-18 \$82,120,180	0.80 34,848	Mixed Use Areas CR T4.0 C1.0 R4.0	362,475 10.41	\$227 Approved
Subject 363 - 385 Yonge Street Toronto, Ontario			0.92 40,181	Mixed Use Areas CR 4.0 (c4.0; r1.5) SS1 (x2553)	1,017,189 25.32	Approved

Index No. 1

89 and 97 Church Street (\$242 PSFB)

July 15, 2019

- The property is located on the northeast corner of Church Street and Lombard Street.
- At the time of sale, the property was improved with a surface parking lot and a two storey retail property.
- A rezoning and site plan approval applications were submitted to the City of Toronto on April 19, 2016. The application called for a 49 storey mixed-use building including approximately 307,664 square feet of gross floor area across 468 residential units.
- On March 23, 2017 the applicant submitted an appeal to the OMB/LPAT given the City's failure to make a decision within a prescribed time frame. The appeal was approved in principle in July 2018 but the tribunal withheld the final order in accordance with City Council's decision.
- Most recent drawings made available at the City of Toronto and dated January 17, 2019 outline a mixed-use building with a total gross floor area of 303,650 square feet including a 1,561 square foot retail component and 407 residential units.
- Sources familiar with the transaction indicated that the Agreement of Purchase and sale was conditional upon the proposed development receiving full zoning approvals.
- No project has launched as of the effective date of the report.

Index No.2

202 St. Clair Avenue W (\$322 PSFB)

October 1, 2018

- This transaction represents an assembly of three properties located at the northwest corner of St. Clair Avenue West and Forest Hill Road.
- At the time of sale, the property was improved with four single family detached dwellings, and two single family detached dwellings converted into office buildings.
- Subsequent to the transaction date, a rezoning application was submitted to the City of Toronto on February 7, 2019 proposing a 9-storey residential building with 85 condominium units with ground level townhomes and a mix of larger suite sizes above. The total GFA of the proposed development is 145,891 square feet.
- More recent architectural drawings dated July 2019 detail a total GFA of 144,925 square feet with 91 residential units resulting in a slight adjustment of the price PSFB to \$324.
- No project has launched as of the date of sale.

Index No. 3

119-123 Portland Street, 502 Adelaide Street W (\$251 PSFB)

December 21, 2018

- Located on the northeast corner of Adelaide Street West and Portland Street.
- At the time of sale, the property was improved with three single detached residential dwellings and a single storey retail building.
- In September 2016 a rezoning application was submitted to the City of Toronto proposing a 12-storey building comprised of 37 residential units and retail at grade.
- A revised proposal was submitted to the City in March 2018. On June 26, 2018 a 14-storey building containing 105 residential units with a total gross floor area of 102,075 square feet including 2,922 square feet of retail space was approved by the City Council.
- The developer, Minto Communities, started advertising a project at the property known as "123 Portland", consisting of approximately 118 units within a 14-storey building. The project is in its pre-launch phase and no pricing has been made available to the public.

Index No. 4

89 Avenue Road (\$351 PSFB)

December 7, 2018

- Located on the east side of Avenue Road, just north of Elgin Avenue in Toronto's Yorkville neighbourhood.
- At the time of sale, the property was improved with an eight storey hotel.
- A rezoning application to construct a 28-storey, mixed-use (hotel and residential) building was submitted to the City of Toronto in March 2012. The proposed development was refused in 2013. Subsequently, the applicant appealed the City's decision to the Ontario Municipal Board.
- In June 2014, the Ontario Municipal Board issued a decision indicating that the appeal was settled. The parties settled for a mixed-use development with a gross floor area of 104,410 square feet. The final order was withheld pending receipt of a site plan agreement and Section 37 agreement.
- In April 2019, the purchaser submitted a Site Application to the City of Toronto proposing a 20 storey building with a total gross floor area of 88,344 square feet.
- No project has launched as of the date of sale.

Index No. 5

225 Mutual Street (\$227 PSFB)

November 29, 2018

- Located on the west side of Jarvis Street just south of Carlton Street.
- At the time of sale, the property was improved with a heritage listed single detached residential dwelling on the north side of the parcel that had been boarded up and vacant for some time.
- In January 2012, a development proposal was submitted to the City of Toronto proposing a high density residential development. The initial proposal was revised in August 2012 proposing a 43 storey tower with 470 units including four townhouses along Mutual Street. The application was subsequently appealed to the OMB at which time the previous owner and the City entered into mediation.
- In February 2018, the OMB issued a decision and order permitting the development of a 34 storey tower with 372 units including four integrated townhouses fronting on Mutual Street. The total gross floor area of the development would be 362,475 square feet.
- No project has launched as of the date of sale.

Comparable Sales Discussion

We have the following comments regarding the above-noted sales:

- The sales reflect a range of \$227 to \$351 PSF buildable.
- Index No. 5 at \$227 PSFB is an approved property geographically the closest to the subject property but is located in an area still undergoing gentrification. In addition, the subject property benefits from its proximity to transit, shopping and a Yonge Street address. We would expect a considerably lower price point for finished product at Index No. 5. As a result, a higher value PSFB would be expected at the subject.
- Index No. 1 and No. 3 transacted at \$242 PSFB and \$251 PSFB, respectively. Like the subject property, both sites had approvals in place at the time of sale, shortening time to development and reducing development risk. Although both are located in popular Downtown Toronto locations, the average price achieved and projected for the unsold units at the subject property is considerably higher than pricing expected at Indices No. 1 and No. 2. As a result, a higher value PSFB is expected at the subject property.
- Index No. 2 at \$322 PSFB and Index No. 4 at \$351 PSFB and are located in Forest Hill and Yorkville areas where residential condominium units achieve a significant premium. The subject property is priced and has achieved a price level equivalent to the prices being achieved in these areas. We do acknowledge the retail and office component at the subject property have a negative impact on the underlying value of the subject property as they are priced below the average residential. We also do acknowledge that proposed developments at Index No. 2 and Index No. 4 are considerably smaller in scale than the proposed development of the subject. However, these two sites did not have development approvals as of the sale date. These two transactions are indicative of what market participants are willing to pay for sites in locations where end units are expected to sell at the high end of the market. Overall, these two transactions provide a good gauge for the value of the subject property.
- Given the foregoing, we feel that the Direct Comparison approach is supportive of our value conclusions of \$353 PSFB (before adjustments are made for costs incurred to date) using the Land Residual approach.

RECONCILIATION OF VALUE

RECONCILIATION OF VALUE

In determining the value of the subject property on an "As if Complete" basis, we considered the sell-out value of the residential, retail and office components. This analysis resulted in a value of \$1,225,100,000.

Given the advanced nature of the proposed development and a significant level of pre-sales, we have placed more weight on the Land Residual Method when valuing the subject property on an "As is Basis" but have also considered the Direct Comparison Approach. The Land Residual Method indicated a value of \$375,500,000 (inclusive of costs incurred to date) and the Direct Comparison Approach provided additional support for this value.

Therefore, based on the information contained within this appraisal, it is our professional opinion that the market value of the 100% fee simple interest in the subject property, on an "As if Complete" basis as well as an "As Is" basis subject to the extraordinary assumptions and limiting conditions contained herein, as at July 30, 2019 is as follows:

As if Complete Value	\$1,225,100,000
As is Value	\$375,500,000

CERTIFICATION

CERTIFICATION OF THE APPRAISAL

363 - 385 Yonge Street, Toronto, Ontario

We certify to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and represents our personal, unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in the property that is the subject of this report and have no personal interest or bias with respect to the parties involved.
4. Our compensation is not contingent upon the reporting of a predetermined value or direction in value that favours the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event, such as the approval of a loan.
5. This appraisal assignment was not based upon a requested minimum valuation, a specific valuation or the approval of a loan.
6. Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Canadian Uniform Standards of Professional Appraisal Practice of The Appraisal Institute of Canada and the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice.
7. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
8. Vid Stambolovic has completed the requirements of the continuing education program of the Appraisal Institute.
9. Vid Stambolovic made a personal inspection of the property on July 30, 2019. The inspection was considered to be sufficient to describe the subject property, develop an opinion of highest and best use and compare the subject property with recent market leasing and investment data.
10. No one has provided professional assistance to the persons signing this report.
11. Vid Stambolovic has extensive experience in the appraisal of similar property types.
12. Vid Stambolovic is currently certified in the Province where the subject is located.
13. Valuation and Advisory Services Group operates as an independent economic entity within CBRE Limited. Although other employees of CBRE Limited divisions may be contacted as a part of our routine market research investigations, absolute client confidentiality and privacy are maintained at all times with regard to this assignment without conflict of interest.

It is our professional opinion that the market value of the 100% fee simple interest in the subject property, subject to the extraordinary assumptions and limiting conditions noted on page 9, as at July 30, 2019 is:

As if Complete Value	\$1,225,100,000
As is Value	\$375,500,000



Vid Stambolovic, MBA, AACI
Director
Valuation & Advisory Services
Phone: 416 847 3266

August 8, 2019

APPENDIX A

TERMS OF REFERENCE

Property Identification

The subject, 363 - 385 Yonge Street, Toronto is a parcel of land currently under construction. The site contains approximately 0.92 acres or 40,181 square feet according to Geowarehouse. The property is located on the southeast corner of Yonge Street and Gerrard Street East.

The subject is legally described as:

LT 35 E/S YONGE ST, 36 E/S YONGE ST PL 22A TORONTO;
PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN OT46105;
PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN CT497024;
PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA310343;
PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA540937;
PT LT 32 E/S YONGE ST PL 22A TORONTO AS IN CA472341;
PT LT 31 E/S YONGE ST, 32 E/S YONGE ST PL 22A TORONTO AS IN CA761626;
PT LT 31 E/S YONGE ST PL 22A TORONTO AS IN EP126440

The subject property is more fully described within the enclosed report.

Ownership and Property History

According to Geowarehouse, the current ownership is held by YSL Residences Inc. The subject property transacted on February 16, 2016 for \$157,500,000 and is currently not listed for sale.

Purpose of the Appraisal

The appraisal estimates the current Market Value of the subject property, subject to the *Critical Assumptions* included herein. The report is a narrative appraisal and has been prepared in accordance with the standards set forth by the Appraisal Institute of Canada.

Definition of Tenure

fee simple

- Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, expropriation, police power and escheat.

Definition of Market Value

Market value is defined as follows:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their own best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in Canadian dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale

Intended Use and User of Report

The appraisal report, including the market value conclusion therein, will be used to assist Cresford Developments in financing.

Scope of Work

The following steps were completed by CBRE, Limited for this assignment:

- Inspected the property
- Location analysis
- Review of surrounding land uses
- Land use regulation review

Survey Work

- Comparable sales transaction analysis

Report Format

- Narrative report format

Critical Assumptions

A formal title search was beyond the scope of this assignment. Except as described herein, CBRE Limited has no knowledge of any easements or encroachments. It is recommended that the client/reader obtain a detailed title search outlining all easements and encroachments on the property, if any, prior to making a business decision.

To our knowledge, there are no known covenants, conditions and restrictions impacting the site, which are considered to affect the marketability or highest and best use, other than zoning restrictions.

CBRE Limited, or the consultant(s) has not observed, yet is not qualified to detect, the existence of potentially hazardous material or underground storage tanks, which may be present on or near the site. It should also be noted that the existence of hazardous materials or underground storage tanks might have an effect on the value of the property.

Exposure Time

Exposure time is not intended to be a prediction of a date of sale. Instead, it is an integral part of the opinion analysis and is based on one or more of the following:

- Statistical information about days on the market
- Information gathered through sales verification
- Interviews with market participants

The reasonable exposure time is a function of price, time, and use. It is not an isolated estimate of time alone. Exposure time is different for various types of real estate and under various market conditions.

Exposure time is the estimated length of time the property would have been offered prior to a hypothetical market value sale on the effective date of opinion. It is a retrospective estimate based on an analysis of recent past events, assuming a competitive and open market. It assumes not only adequate, sufficient, and reasonable time but also adequate, sufficient, and reasonable marketing effort. Exposure and marketing time is therefore interrelated with opinion conclusion of value.

Based on the foregoing analysis, an exposure time of three - six months is reasonable. CBRE Limited assumes the subject would have been competitively priced and aggressively promoted nationally and internationally.

ASSUMPTIONS AND LIMITING CONDITIONS

1. Unless otherwise specifically noted in the body of the report, it is assumed that title to the property or properties appraised is clear and marketable and that there are no recorded or unrecorded matters or exceptions to total that would adversely affect marketability or value. CBRE is not aware of any title defects nor has it been advised of any unless such is specifically noted in the report. CBRE, however, has not examined title and makes no representations relative to the condition thereof. Documents dealing with liens, encumbrances, easements, deed restrictions, clouds and other conditions that may affect the quality of title have not been reviewed. Insurance against financial loss resulting in claims that may arise out of defects in the subject property's title should be sought from a qualified title company that issues or insures title to real property.
2. Unless otherwise specifically noted in the body of this report, it is assumed: that the existing improvements on the property or properties being appraised are structurally sound, seismically safe and code conforming; that all building systems (mechanical/electrical, HVAC, elevator, plumbing, etc.) are in good working order with no major deferred maintenance or repair required; that the roof and exterior are in good condition and free from intrusion by the elements; that the property or properties have been engineered in such a manner that the improvements, as currently constituted, conform to all applicable local, provincial, and federal building codes and ordinances. CBRE professionals are not engineers and are not competent to judge matters of an engineering nature. CBRE has not retained independent structural, mechanical, electrical, or civil engineers in connection with this appraisal and, therefore, makes no representations relative to the condition of improvements. Unless otherwise specifically noted in the body of the report: no problems were brought to the attention of CBRE by ownership or management; CBRE inspected less than 100% of the entire interior and exterior portions of the improvements; and CBRE was not furnished any engineering studies by the owners or by the party requesting this appraisal. If questions in these areas are critical to the decision process of the reader, the advice of competent engineering consultants should be obtained and relied upon. It is specifically assumed that any knowledgeable and prudent purchaser would, as a precondition to closing a sale, obtain a satisfactory engineering report relative to the structural integrity of the property and the integrity of building systems. Structural problems and/or building system problems may not be visually detectable. If engineering consultants retained should report negative factors of a material nature, or if such are later discovered, relative to the condition of improvements, such information could have a substantial negative impact on the conclusions reported in this appraisal. Accordingly, if negative findings are reported by engineering consultants, CBRE reserves the right to amend the appraisal conclusions reported herein.
3. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraisers. CBRE has no knowledge of the existence of such materials on or in the property. CBRE, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea formaldehyde foam insulation, contaminated groundwater or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

We have inspected, as thoroughly as possible by observation, the land; however, it was impossible to personally inspect conditions beneath the soil. Therefore, no representation is made as to these matters unless specifically considered in the appraisal.

4. All furnishings, equipment and business operations, except as specifically stated and typically considered as part of real property, have been disregarded with only real property being considered in the report unless otherwise stated. Any existing or proposed improvements, on or off-site, as well

as any alterations or repairs considered, are assumed to be completed in a workmanlike manner according to standard practices based upon the information submitted to CBRE. This report may be subject to amendment upon re-inspection of the subject property subsequent to repairs, modifications, alterations and completed new construction. Any estimate of Market Value is as of the date indicated; based upon the information, conditions and projected levels of operation.

5. It is assumed that all factual data furnished by the client, property owner, owner's representative, or persons designated by the client or owner to supply said data are accurate and correct unless otherwise specifically noted in the appraisal report. Unless otherwise specifically noted in the appraisal report, CBRE has no reason to believe that any of the data furnished contain any material error. Information and data referred to in this paragraph include, without being limited to, numerical street addresses, lot and block numbers, land dimensions, square footage area of the land, dimensions of the improvements, gross building areas, net rentable areas, usable areas, unit count, room count, rent schedules, income data, historical operating expenses, budgets, and related data. Any material error in any of the above data could have a substantial impact on the conclusions reported. Thus, CBRE reserves the right to amend conclusions reported if made aware of any such error. Accordingly, the client-addressee should carefully review all assumptions, data, relevant calculations, and conclusions within 30 days after the date of delivery of this report and should immediately notify CBRE of any questions or errors. CBRE does not make any representation or warranty, express or implied, as to the accuracy or completeness of the information or the state of affairs of the real property furnished by the Client to CBRE and contained in any appraisal report prepared by CBRE.
6. The date of value to which any of the conclusions and opinions expressed in this report apply, is set forth in the Letter of Transmittal. Further, that the dollar amount of any value opinion herein rendered is based upon the purchasing power of the Canadian Dollar on that date. This appraisal is based on market conditions existing as of the date of this appraisal. Under the terms of the engagement, we will have no obligation to revise this report to reflect events or conditions which occur subsequent to the date of the appraisal. However, CBRE will be available to discuss the necessity for revision resulting from changes in economic or market factors affecting the subject.
7. CBRE assumes no private deed restrictions, limiting the use of the subject property in any way.
8. Unless otherwise noted in the body of the report, it is assumed that there is no mineral deposit or subsurface rights of value involved in this appraisal, whether they are gas, liquid, or solid. Nor are the rights associated with extraction or exploration of such elements considered unless otherwise stated in this appraisal report. Unless otherwise stated it is also assumed that there are no air or development rights of value that may be transferred.
9. CBRE is not aware of any contemplated public initiatives, governmental development controls, or rent controls that would significantly affect the value of the subject.
10. The estimate of Market Value, which may be defined within the body of this report, is subject to change with market fluctuations over time. Market value is highly related to exposure, time promotion effort, terms, motivation, and conclusions surrounding the offering. The value estimate(s) consider the productivity and relative attractiveness of the property, both physically and economically, on the open market.
11. Any cash flows included in the analysis are forecasts of estimated future operating characteristics are predicated on the information and assumptions contained within the report. Any projections of income, expenses and economic conditions utilized in this report are not predictions of the future. Rather, they are estimates of current market expectations of future income and expenses. The achievement of the financial projections will be affected by fluctuating economic conditions and is dependent upon other future occurrences that cannot be assured. Actual results may vary from the projections considered herein. CBRE does not warrant these forecasts will occur. Projections may be affected by circumstances beyond the current realm of knowledge or control of CBRE

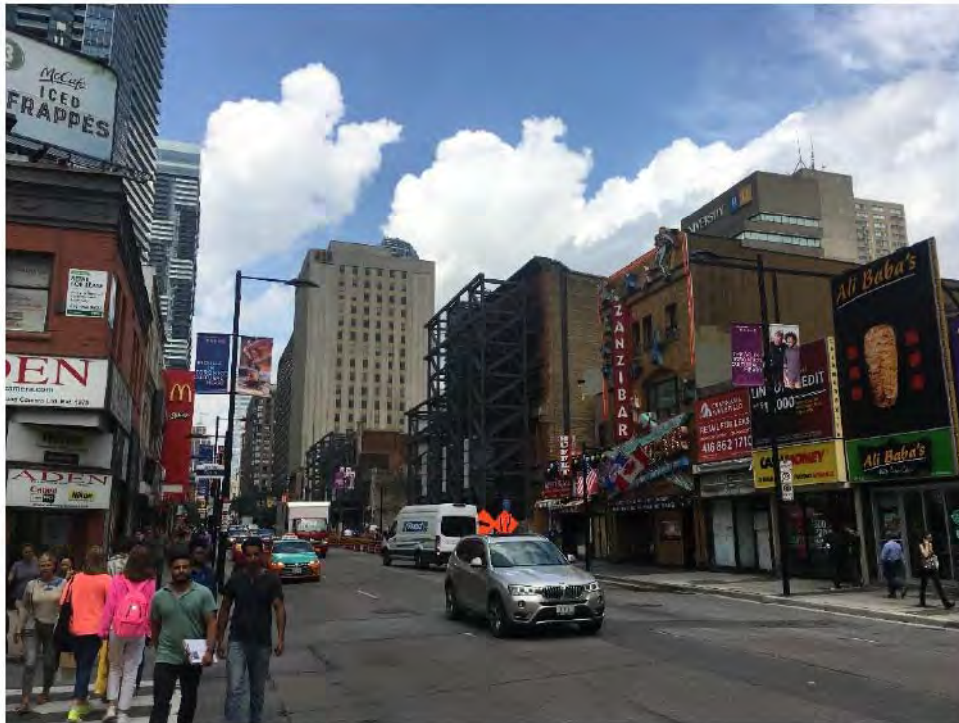
12. Unless specifically set forth in the body of the report, nothing contained herein shall be construed to represent any direct or indirect recommendation of CBRE to buy, sell, or hold the properties at the value stated. Such decisions involve substantial investment strategy questions and must be specifically addressed in consultation form.
13. Also, unless otherwise noted in the body of this report, it is assumed that no changes in the present zoning ordinances or regulations governing use, density, or shape are being considered. The property is appraised assuming that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, provincial, nor national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report is based, unless otherwise stated.
14. The report has been prepared at the request of the client, and for the exclusive (and confidential) use of the client. The report may not be duplicated in whole or in part without the specific written consent of CBRE nor may this report or copies hereof be disclosed to third parties without said written consent, which consent CBRE reserves the right to deny. If consent is given, it will be on condition that CBRE will be provided with an Indemnification Agreement and/or Non-Reliance letter, in a form and content satisfactory to CBRE, by a party satisfactory to CBRE. Exempt from this restriction is duplication for the internal use of the client-addressee and/or transmission to attorneys, accountants, or advisors of the client-addressee. Also exempt from this restriction is transmission of the report to any court, governmental authority, or regulatory agency having jurisdiction over the party/parties for whom this appraisal was prepared, provided that this report and/or its contents shall not be published, in whole or in part, in any public document without the express written consent of CBRE which consent CBRE reserves the right to deny. Finally, this report shall not be advertised to the public or otherwise used to induce a third party to purchase the property or to make a "sale" or "offer for sale" of any "security". Any third party which may possess this report is advised that they should rely on their own independently secured advice for any decision in connection with this property. CBRE shall have no accountability or responsibility to any third party.
15. Any value estimate provided in the report applies to the entire property, and any pro ration or division of the title into fractional interests will invalidate the value estimate, unless such pro ration or division of interests has been set forth in the report.
16. The distribution of the total valuation in this report between land and improvements applies only under the existing program of utilization. Component values for land and/or buildings are not intended to be used in conjunction with any other property or appraisal and are invalid if so used.
17. The maps, plats, sketches, graphs, photographs and exhibits included in this report are for illustration purposes only and are to be utilized only to assist in visualizing matters discussed within this report. Except as specifically stated, data relative to size or area of the subject and comparable properties has been obtained from sources deemed accurate and reliable. None of the exhibits are to be removed, reproduced, or used apart from this report.
18. No opinion is intended to be expressed on matters which may require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate appraisers. Values and opinions expressed presume that environmental and other governmental restrictions/conditions by applicable agencies have been met, including but not limited to seismic hazards, flight patterns, decibel levels/noise envelopes, fire hazards, hillside ordinances, density, allowable uses, building codes, permits, licenses, etc. No survey, engineering study or architectural analysis has been made known to CBRE unless otherwise stated within the body of this report. If the Consultant has not been supplied with a termite inspection, survey or occupancy permit, no responsibility or representation is assumed or made for any costs associated with obtaining same or for any deficiencies discovered before or after they are obtained. No representation or warranty is made concerning obtaining these items. CBRE assumes no responsibility for any costs or consequences arising due to the need, or the lack of need, for flood hazard insurance.

19. Acceptance and/or use of this report constitutes full acceptance of the Contingent and Limiting Conditions and special assumptions set forth in this report. It is the responsibility of the Client, or client's designees, to read in full, comprehend and thus become aware of the aforementioned contingencies and limiting conditions. Neither the Appraiser nor CBRE assumes responsibility for any situation arising out of the Client's failure to become familiar with and understand the same. The Client is advised to retain experts in areas that fall outside the scope of the real estate appraisal/consulting profession if so desired.
20. CBRE assumes that the subject property analyzed herein will be under prudent and competent management and ownership; neither inefficient nor super-efficient.
21. It is assumed that there is full compliance with all applicable federal, provincial, and local environmental regulations and laws unless noncompliance is stated, defined and considered in the appraisal report.
22. No survey of the boundaries of the property was undertaken. All areas and dimensions furnished are presumed to be correct. It is further assumed that no encroachments to the realty exist.
23. The property has been valued on the basis that the property complies in all material respects with any restrictive covenants affecting the property and has been built and is occupied and is being operated, in all material respects, in full compliance with all requirements of law, including all zoning, land use classification, building, planning, fire and health by-laws, rules, regulations, orders and codes of all federal, provincial, regional and municipal governmental authorities having jurisdiction with respect thereto. There may be work orders or other notices of violation of law outstanding with respect to the real estate as described in the report. However, such circumstances have not been accounted for in the appraisal process.
24. No inquiries have been placed with the fire department, the building inspector, the health department or any other government regulatory agency, unless such investigations are expressly represented to have been made in the report. The subject property must comply with such regulations and, if it does not comply, its non-compliance may affect the market value of the property. To be certain of such compliance, further investigations may be necessary.
25. Because market conditions, including economic, social and political factors, change rapidly and, on occasion, without notice or warning, the estimate of value expressed herein, as of the effective date of this appraisal, cannot be relied upon as of any other date without subsequent advice of CBRE.

Client shall indemnify and hold CBRE fully harmless against any loss, damages, claims, or expenses of any kind whatsoever (including costs and reasonable attorneys' fees), sustained or incurred by a third party as a result of the negligence or intentional acts or omissions of Client, and for which recovery is sought against CBRE by that third party.

APPENDIX B

PHOTOS



View from Yonge Street



View from Yonge Street



View from Gerrard Street



View from Gerrard Street

APPENDIX C

Index No. 1



Property Description

Property Address	89 and 97 Church Street Toronto, Ontario Canada
Product Type	High Density Residential Land
Property Size (Acres)	0.27
Property Size (SF)	11,892
PIN	21402-0111, -0110
Topography	Level
Shape	Irregular
Position	Corner
Utilities	Serviced
Official Plan	Mixed-Use Areas
Zoning	CR 4.0 (c2.0; r4.0) SS1 (x2254)
Frontage	105 feet along Lombard Street 120 feet along Church Street

Proposed Development

GFA (SF)	303,650
Site Density	25.53
Number of Units	407
Development Status	Approved

Transaction Summary

Adjusted Sale Price (100% Interest)	\$73,483,784
Sale Price Per Acre	\$269,171,369
Sale Price Per Buildable SF	\$242
Sale Price Per Unit	\$180,549
Sale Date	July-19
Interest	100%
Vendor	2681007 Ontario Inc.
Purchaser	Minto Group
Broker	N/A

Commentary

At the time of sale, the property was improved with a two storey retail building and a parking lot.

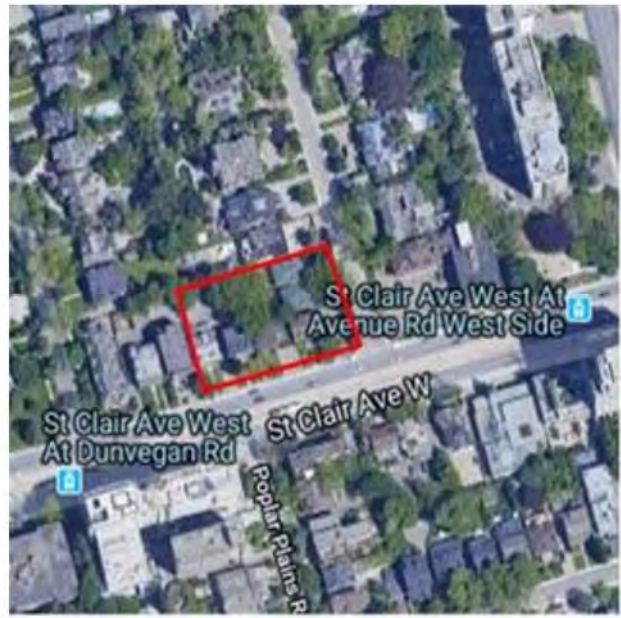
On April 19, 2016 a rezoning and site plan approval applications were submitted to the City of Toronto planning department.

The applicant appealed the Zoning By-law amendment application to the Ontario Municipal Board on March 23, 2017 due to Council's failure to make a decision with respect to the application within the time prescribed by the Planning Act.

Most recent drawings made available at the City of Toronto dated January 17, 2019 outline a building with a total gross floor area of 303,650 square feet including a 1,561 square foot retail component and 407 residential units.

Sources familiar with the transaction indicated that the Agreement of Purchase and sale was conditional upon the proposed development receiving full zoning approvals.

Index No. 2



Property Description	
Property Address	202 St. Clair Avenue W Toronto, Ontario Canada
Product Type	Residential - High Density Land
Property Size (Acres)	0.73
Property Size (SF)	31,973
PIN	21189-0098,-0099,-0100,-0101,-0102,-0103
Topography	Level
Shape	Regular
Position	Corer
Utilities	Serviced
Official Plan	Apartment Neighbourhoods
Zoning	R (d2.0)
Frontage	230 feet along St. Clair Avenue West feet along 140 feet along Forest Hill Road feet along

Transaction Summary	
Adjusted Sale Price (100% Interest)	\$47,000,000
Sale Price Per Acre	\$64,032,697
Sale Price Per Buildable SF	\$322
Sale Price Per Unit	\$552,941
Sale Date	October-18
Interest	100%
Vendor	Milbome Group
Purchaser	Altree Developments
Broker	Commercial Focus Realty Inc

Commentary

This transaction represents an assembly of three properties, with transactions occurring in December 2018 and January 2019.

The property is designated as Apartment Neighbourhoods in the City of Toronto Official Plan. The City of Toronto Zoning By-law classifies the property R (d2.0), a Residential classification.

At the time of sale, the property was improved with four single family detached dwellings, and two single family detached dwellings converted into office buildings.

Subsequent to the transaction date, a rezoning application was submitted to the City of Toronto on February 7, 2019 proposing a 9-storey residential building with 85 condominium units with ground level townhomes. The total GFA of the proposed development is 145,891 square feet.

Proposed Development	
GFA (SF)	145,891
Site Density	4.56
Number of Units	85
Development Status	No application

Index No. 3



Property Description	
Property Address	119-123 Portland Street, 502 Adelaide Street W Toronto, Ontario Canada
Product Type	High Density Residential Land
Property Size (Acres)	0.23
Property Size (SF)	10,019
PIN	21239-0200,-0201,-0202,-0199
Topography	Level
Shape	Regular
Position	Cornor
Utilities	Serviced
Official Plan	Regeneration Areas
Zoning	CRE (x76)
Frontage	105 feet along Portland Street 95 feet along Adelaide Street West

Proposed Development	
GFA (SF)	102,075
Site Density	10.19
Number of Units	105
Development Status	Approved

Transaction Summary	
Adjusted Sale Price (100% Interest)	\$25,600,000
Sale Price Per Acre	\$111,304,347
Sale Price Per Buildable SF	\$251
Sale Price Per Unit	\$243,809
Sale Date	December-18
Interest	100%
Vendor	Portland Adelaide Developments Inc.
Purchaser	Minto Group
Broker	N/A

Commentary

The property is designated as Regeneration Areas in the City of Toronto Official Plan. The City of Toronto Zoning By-law classifies the property as CRE (x76), a Commercial Residential Employment classification.

At the time of sale, the subject property was improved with three single detached residential dwellings and a single storey retail building.

The original rezoning application pertaining to the land in this transaction was submitted to the City of Toronto in September 2016. The application proposed the construction of a 12-storey building which would include 37 residential units and retail space at grade.

Subsequently the proposal was revised with a final submission to the City taking place in March 2018. The application was approved by City Council on June 26, 2018. The approved proposal comprises of a 14-storey building containing 105 residential units. The building would have a total gross floor area of 102,075 square feet including 2,922 square feet of retail space at grade.

Index No. 4



Property Description	
Property Address	89 Avenue Road Toronto, Ontario Canada
Product Type	High Density Residential Land
Property Size (Acres)	0.26
Property Size (SF)	11,326
PIN	21196-0100
Topography	Level
Shape	Regular
Position	Midblock
Utilities	Serviced
Official Plan	Mixed Use Areas
Zoning	0
Frontage	45 feet along Avenue Road feet along

Transaction Summary	
Adjusted Sale Price (100% Interest)	\$31,000,000
Sale Price Per Acre	\$119,230,769
Sale Price Per Buildable SF	\$351
Sale Price Per Unit	N/A
Sale Date	December-18
Interest	100%
Vendor	89 Avenue Road Inc.
Purchaser	Amour Heights Developments
Broker	N/A

Commentary
At the time of sale, the property was improved with an eight storey hotel.

A rezoning application to construct a 28-storey, mixed-use (hotel and residential) building was submitted to the City of Toronto in March 2012. The proposed development was refused in 2013. Subsequently, the applicant appealed the City's decision to the Ontario Municipal Board.

In June 2014, the Ontario Municipal Board issued a decision indicating that the appeal was settled. The parties settled for a mixed-use development with a gross floor area of 104,410 square feet. The final order was withheld pending receipt of a site plan agreement and Section 37 agreement.

Proposed Development	
GFA (SF)	88,344
Site Density	7.80
Number of Units	N/A
Development Status	Approved with conditions

Subsequent to the transaction date, on April 30, 2019 the purchaser submitted a Site Plan Application proposing a 20 storey building with a total gross floor area of 88,344 square feet.

Index No. 5



Property Description

Property Address	225 Mutual Street Toronto, Ontario Canada
Product Type	High Density Residential Land
Property Size (Acres)	0.80
Property Size (SF)	34,848
PIN	21102-0264
Topography	Level
Shape	Irregular
Position	Midblock
Utilities	Serviced
Official Plan	Mixed Use Areas
Zoning	CR T4.0 C1.0 R4.0
Frontage	150 feet along Jarvis Street 95 feet along Mutual Street

Proposed Development

GFA (SF)	362,475
Site Density	10.41
Number of Units	372
Development Status	Approved

Transaction Summary

Adjusted Sale Price (100% Interest)	\$82,120,180
Sale Price Per Acre	\$102,765,836
Sale Price Per Buildable SF	\$227
Sale Price Per Unit	\$220,753
Sale Date	November-18
Interest	100%
Vendor	Duration investments Limited
Purchaser	Phantom Developments
Broker	CBRE Limited

Commentary

At the time of sale, the subject property was improved with a heritage single-detached residential dwelling, with the remainder of the property vacant.

On January 27, 2012 a proposal was submitted to the City of Toronto for the redevelopment of the land in this transaction. The proposal was subsequently revised and resubmitted on August 23, 2012 proposing a 43-storey residential building containing 470 residential units, including four 3-storey townhouses fronting along Mutual Street. The application was subsequently appealed to the OMB where the applicant and the City of Toronto entered into mediation.

On February 27, 2018 the OMB issued a decision and order allowing the development of a 34-storey residential building on the property. The building would have a total gross floor area of 362,475 square feet and include 372 residential units including four integrated townhouse units fronting along Mutual Street.

CBRE VALUATION & ADVISORY SERVICES

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2

APPRAISAL REPORT

CBRE File No. :: 18-APPRTOR-0595

363-385 Yonge Street
Toronto, Ontario
Effective Date: November 1, 2018

Prepared for:

Maria Athanasoulis
Cresford Developments
170 Merton Street
Toronto, Ontario, M4S 1A1



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CBRE File No. :: 18-APPRTOR-0595

November 15, 2018

Maria Athanasoulis
 Cresford Developments
 170 Merton Street
 Toronto, Ontario, M4S 1A1

RE: 363-385 Yonge Street, Toronto, Ontario

Dear Ms. Athanasoulis:

At your request and authorization, CBRE Limited has completed an investigation and analysis of the above referenced property and is pleased to submit this current narrative appraisal report.

This appraisal report is prepared for the purpose of providing an estimate of market value of the 100% fee simple interest of 363-385 Yonge Street based on an effective date of November 1, 2018. We understand this report will be used by the intended user and any other intended users noted herein to assist in financing.

The market value reported herein is subject to the Extraordinary Assumptions and Limiting Conditions noted within this report on page 6 which are an integral part of this report and are inseparable from this letter. The analyses, opinions and conclusions utilized in this report were developed based on our interpretation of the standards set forth in the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP).

Based on the analysis contained in this report, the market value of the subject property as at November 1, 2018 is:

Three Hundred Thirty Five Million Six Hundred Thousand Dollars
\$335,600,000

It has been a pleasure to assist you in this assignment. If you have any questions concerning the analysis, or if CBRE Limited can be of further service, please contact us. d

Respectfully submitted,

CBRE LIMITED

Grant Chernenkoff, MBA, AACI
 Director
 Valuation & Advisory Services
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ADDENDA

Addendum "A"

- Terms of Reference
- Assumptions and Limiting Conditions

Addendum "B"

- Comparable Sales Transactions

Addendum "C"

- Photos



363-385 Yonge Street
Effective Date: November 1, 2018



363-385 Yonge Street, Toronto, Ontario



Executive Summary

Investment Summary

Investment Characteristics

Extraordinary Assumptions and Limiting
Conditions

INVESTMENT SUMMARY

Property Address:	363-385 Yonge Street
Interest Appraised:	Fee Simple
Effective Date:	November 1, 2018
Product Type:	Commercial properties with approvals for high density mixed-use development
Land Area:	0.93 acres

VALUATION SUMMARY

Final Value Conclusion:	\$335,600,000
Allowable Building Area (SF):	1,009,429
Value PSF Buildable:	\$332.50

INVESTMENT CHARACTERISTICS

Location

Strengths

- Corner lot with a Yonge Street address.
- Located mid-way between College and Dundas subway stations.
- Close proximity to the Financial Core and Ryerson University.
- Ample and wide range of amenities available in immediate vicinity. Opportunity to create brand new retail enhances the value of the site.
- The location has excellent residential rental appeal which in turn is attractive to investors and which further benefits absorption and development timelines.
- Very successful completion of the Aura condominium development located on the northwest corner of Yonge Street and Gerrard Street East.
- Launch of YC, Teahouse 501 Yonge Condominiums, Clover on Yonge and Halo Residences on Yonge located north of the subject property along Yonge Street speak to the attractiveness of the location.
- The area continues to undergo substantial improvement and intensification with major developments along Yonge Street.

Weaknesses

- Although rapidly gentrifying, Yonge Street retail in this area is still predominately lower end. However, the proposed development would significantly improve the retail mix on this stretch of Yonge Street.

Physical

Strengths

- Significant frontage on Yonge Street.
- Corner positioning.
- Access to the property via O'Keefe Lane.

Weaknesses

- Heritage listed buildings at 363-367 Yonge Street, 381 Yonge Street and 385-391 Yonge Street need to be incorporated into the development.

Development Status

Strengths

- The final build form of the proposed development has been settled between the property owner and municipal council with final approval being granted by the Local Planning Appeal Tribunal (LPAT, formerly the Ontario Municipal Board) at an August 2018 meeting. The approved development would be 85-storays in height with a total gross floor area of 1,009,429 square feet, including 103,689 and 96,832 square feet of retail and office space respectively.
- Successfully launched a project being marketed as YSL with 658 of 1,105 units sold within approximately three weeks of launch representing over 90% of units made available for purchase.

Weaknesses

- None noted.

Investment Market/Liquidity

Strengths

- Toronto is one of Canada's strongest investment markets.
- The national average cap rate was unchanged from the first quarter of the year. While the spread between bond yields and cap rates has compressed steadily since the start of 2016, the current cushion does not appear to be prohibitive to active buyers and remains in line with the long-term historical average.
- Q2 2018 investment activity, which was bolstered by the closing of several large M&A deals in the REIT sector, puts the country on pace to challenge the record-setting transaction volumes achieved in 2017.
- Vendors are continuing to price core assets aggressively and demand for well-performing properties across asset classes and geographies remains healthy.
- GDP growth in Q1 2018 slowed to 1.3%, however, the economy's surprising strength in April suggests momentum may be building in Q2.
- Job growth surged at the end of Q2 2018, negating minor losses recorded earlier in the quarter. Wage growth continues to be strong and the unemployment rate remains near record lows indicating healthy labour market conditions.

- Trade tensions have caused Canada 10-Yr bond yields to fall from their highs in May and are currently only marginally higher over last quarter.
- Demand for well located, urban sites remains incredibly strong.

Weaknesses

- Trade war tensions continue to ratchet up and threaten the global economic outlook and business confidence.
- Retail sales figures and declining consumer confidence indicate slowing household consumption, the major contributor to Canada's economic growth.
- The Bank of Canada is likely to continue raising interest rates with potentially two more increases before the end of the year, adding to worries of an inverting yield curve.
- Four upward moves over the past 12 months by the Bank of Canada together with new mortgage regulations may dampen the housing market. These changes are also beginning to impact development pro formas which are also being squeezed by increases in development charges and construction costs.

EXTRAORDINARY ASSUMPTIONS AND LIMITING CONDITIONS

The Assumptions and Limiting Conditions for this report have been included in Addendum "A".



Property Overview

Tenure

Location Description

Site Description

Current Improvements

Site Survey

Proposed Development

Zoning and Planning

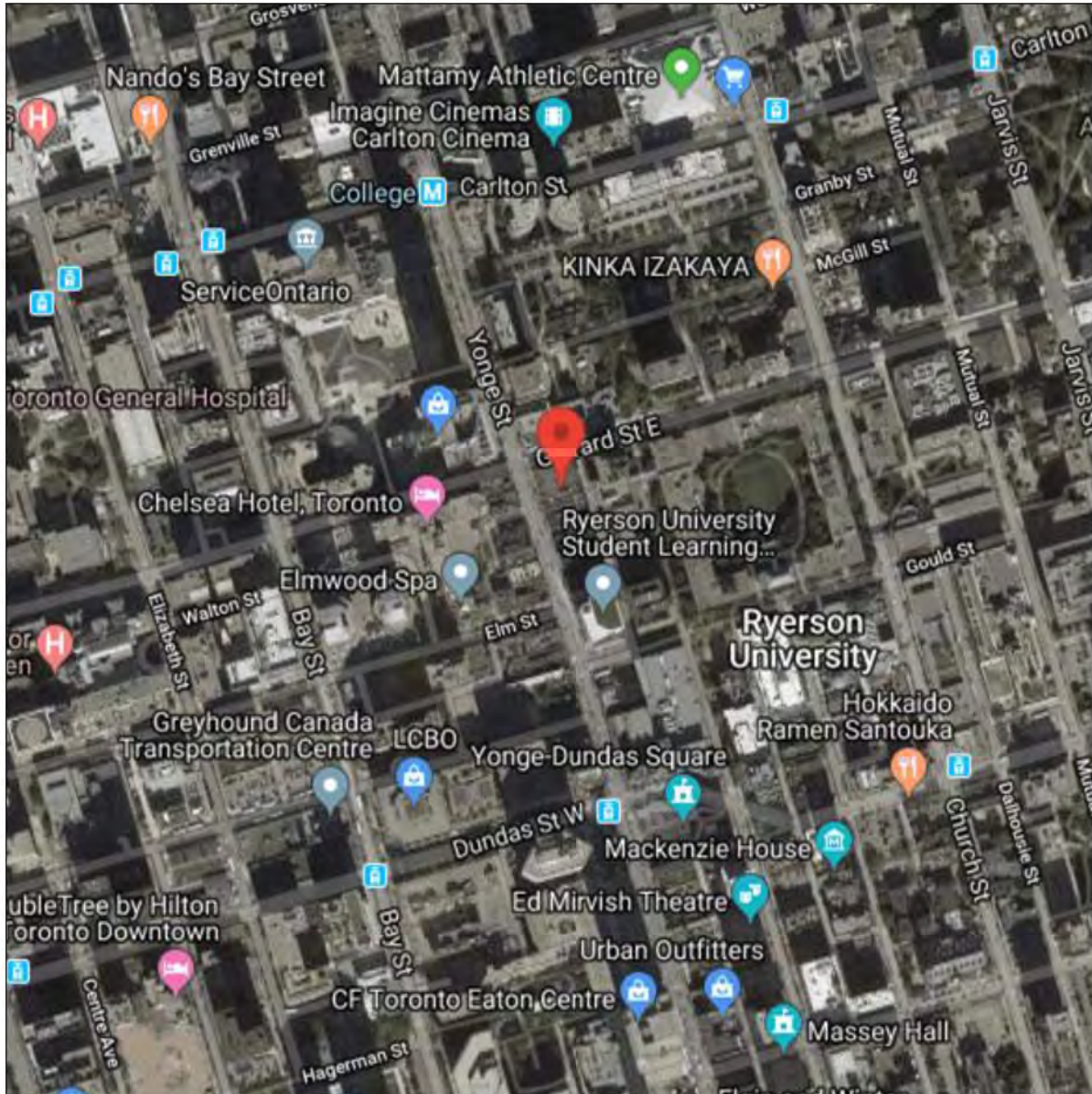
TENURE

The tenure being appraised is as follows:

- 100% fee simple interest

LOCATION DESCRIPTION

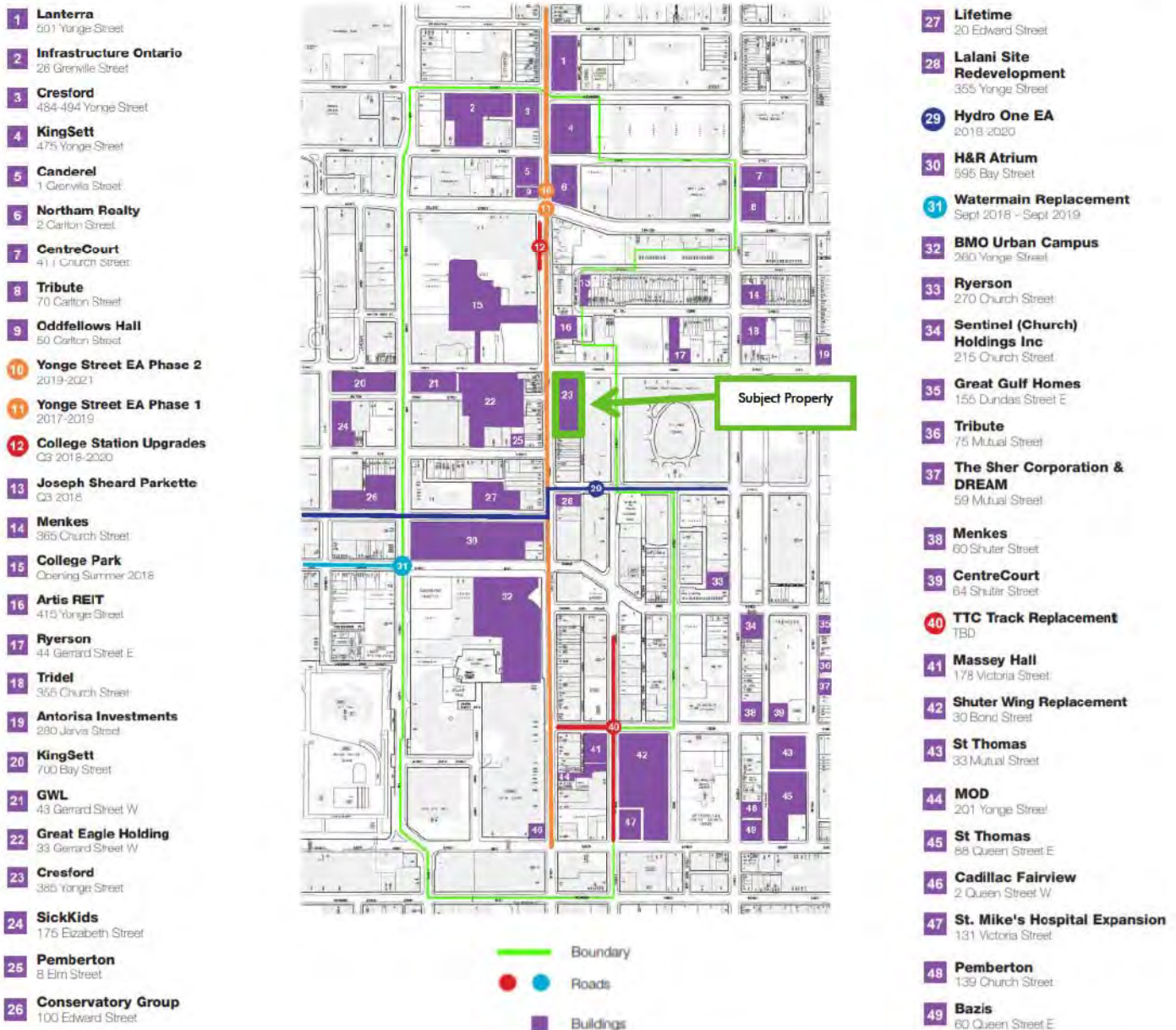
The subject property is located in Downtown Toronto. Specifically, the subject is located on the southeast corner of Yonge Street and Gerrard Street East. The subject has the following frontage: 305 feet along Yonge Street and 135 feet along Gerrard Street East.



Area Overview

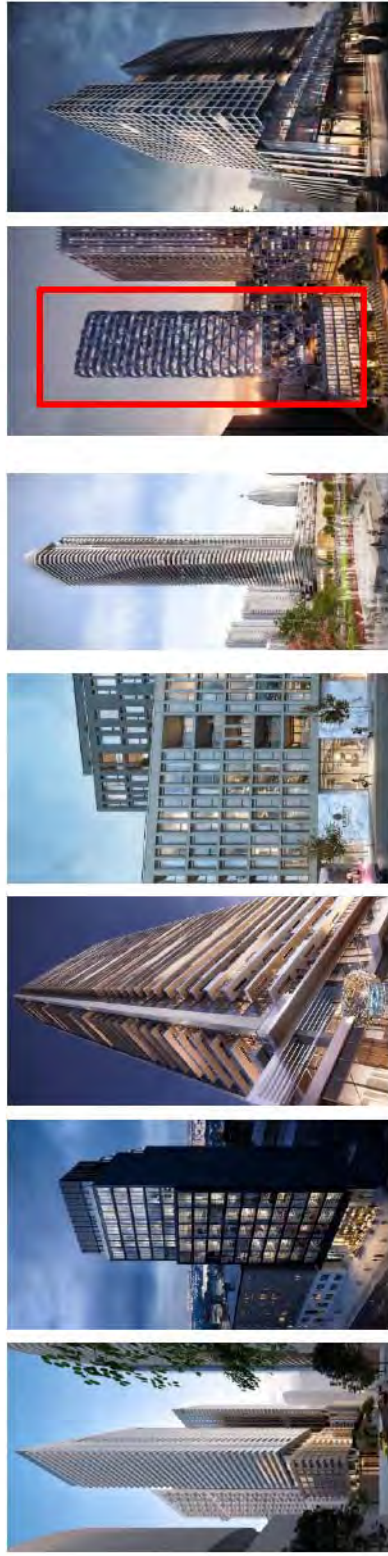
Yonge Street has long been one of the major shopping destinations in the City of Toronto. The opening of the Eaton Centre in 1977 shifted much of the retail focus away from the street and into the new mall. Various efforts have been made over the years in order to revive the street life though few met with much success until the late 1990s. In 1998, the Yonge Street Regeneration Project was launched by Toronto City Council in an attempt to revitalize the area. One of the major components of the Project was municipal acquisition, through market or expropriation means, of the properties on the northeast and southeast corner of the intersection of Yonge Street and Dundas Street. Those on the southeast corner became Yonge-Dundas Square, completed in 2002 while the northeast corner ultimately became 10 Dundas Street East, a multi-use theatre/retail/office complex.

In addition to the Regeneration Project, the Downtown Yonge Business Improvement Association (DYBIA) was formed in 2001 and brought local business and property owners together in an organized structure. Along with the ongoing expansion of Ryerson University, these two initiatives have been quite successful in returning people to the street and have helped spur numerous development projects in the area, as illustrated by the following map provided by the DYBIA:



Area Developments

There are several recent large scale residential and mixed-use developments in the downtown area some of which are outlined in the table below.



Name	Encore Theatre District	Woodsworth	Central	Uovo	Pinnacle One Yonge-Prestige	Artists Alley 2	Panda Condominiums
Address	28 Widmer Street	452 Richmond Street West	38 Widmer Street	2114 Yonge Street	1 Yonge Street	234 Simcoe Street	20 Edward Street
Status	Pre-Construction	Pre-Construction	Pre-Construction	Pre-Construction	Under Construction	Pre-Construction	Pre-Construction
Number of Units	216	125	426	67	496	318	555
Number of Storeys	49	17	45	11	65	36	30
Opening Date	August 2018	April 2018	April 2018	April 2018	February 2018	February 2018	October 2017
First Occupancy Date	January 2022	October 2020	October 2021	October 2020	May 2022	October 2022	May 2021
Currently Available Price PSF	\$1,413	\$1,211	\$1,276	\$1,245	\$1,376	\$1,116	\$1,353
Achieved Price Range PSF	\$1,099 - \$1,630	\$1,154 - \$1,500*	\$1,116 - \$1,390	\$964 - \$1,659	\$1,182 - \$1,594	\$1,006 - \$1,293	\$1,161 - \$1,367
Sold as of September 2018	30%	46%	64%	33%	49%	92%	99%
Sold in first 12 months	30%	46%	64%	33%	49%	92%	99%
Parking Price	\$69,000	N/A	\$79,000	\$75,000	\$60,000	\$75,000	\$80,000
Locker Price	\$10,000	\$5,000	\$12,000	\$6,500	N/A	\$5,000	\$6,500
Notes		*High end of pricing range has not yet sold.					

In addition to the developments outlined on the previous page, we note that a high density development being marketed as Clover on Yonge (595 Yonge Street) launched a block of suites in March 2018. Twenty-three suites previously held back from the market sold at an average price of \$1,364 PSF with prices ranging from \$1,212 to \$1,489 PSF.

Interest in the immediate area is further substantiated by a submitted rezoning application for the redevelopment of the Chelsea Hotel lands located west of the subject property at 33 Gerard Street West. The proposal calls for construction of three towers (88, 88 and 49 storeys) and one two-storey structure. The development would have residential, hotel, commercial, office and retail components with a total gross floor area of 1,680,892 SF. The application is currently under appeal at the Ontario Municipal Board.

Land Use

Current uses in the immediate vicinity of the subject include:

North

- Gerrard Street East
- Mix of retail, residential and office uses along Yonge Street
- Aura, Karma, YC, Teahouse 501 Yonge Condominiums and Halo Residences on Yonge residential condominium developments

South

- Mix of retail, residential and office uses along Yonge Street
- Ryerson Student Learning Centre
- Yonge-Dundas Square

East

- O'Keefe Lane
- Ryerson University

West

- Yonge Street
- Chelsea Hotel (owners are currently considering a major mixed-use re-development of this site)

Access

Regional

- Access to Gardiner Expressway via Yonge Street and Lakeshore Boulevard.
- Access to Don Valley Parkway and 400-series Highways via Yonge Street and Bloor Street.

Local

- Vehicular access provided by Yonge Street, Gerrard Street East and O'Keefe Lane.

Public Transit

- Close proximity to Dundas and College subway stations.
- Close proximity to streetcars running along College/Carlton Street and Dundas Street.

Amenities

Full range amenities available along Yonge Street.

Conclusion

Overall, the location is considered excellent for high density mixed-use development.

SITE DESCRIPTION

Position	Corner
Site Area	0.93 acres as per Geowarehouse
Configuration	Regular
Topography	Level
Access	Ingress and egress from Yonge Street, Gerrard Street East and O'Keefe Lane
Services	The subject lot is fully serviced.

Conclusion

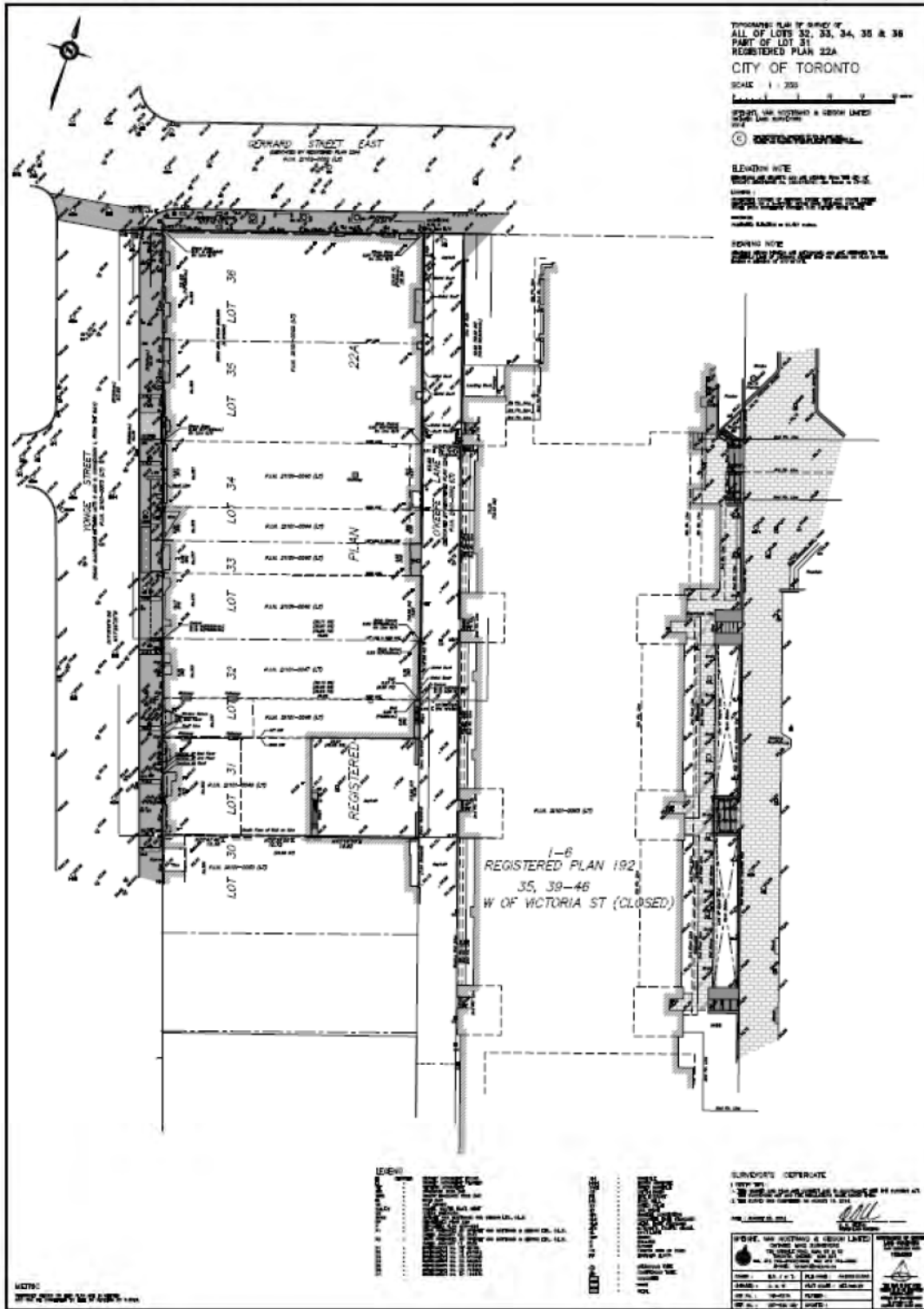
The site appears to support the proposed development of high density mixed-use development.

CURRENT IMPROVEMENTS

The subject property is currently improved with eight 1-4 storey buildings with ground floor retail and office and residential uses on the upper floors. The site currently contains four listed heritage buildings at 363-367 Yonge Street, 381 Yonge Street and 385-391 Yonge Street.

SITE SURVEY

The following site survey was provided by the client:



Conclusion

Overall, the subject site is appropriate for high density mixed-use development.

PROPOSED DEVELOPMENT

The initial proposal for redevelopment of the subject property was submitted to the City of Toronto in April 2015. The proposal called for two towers of 73 and 62 stories extending from a podium containing total gross floor area of 1,175,793 square feet, including 101,062 square feet of retail on the first three floors and basement level as well as 186,980 square feet of office space in the building podium. The overall density of the initial proposal was 29.22 times the site area.

In February 2016, the subject property was purchased by Cresford Developments. On February 24, 2017 the new owner submitted a revised development proposal to the City. The revised plans call for a single 98 storey tower extending from a nine storey podium and has been designed by the renowned international firm Kohn Pederson Fox. The redesign contained a retail component located below, at and above-grade, office and/or institutional space on floors 4 to 8, residential units on floors 10-40 and 44-98, with mechanical space at floors 9, 41, 65, 88 and 99.

With the impending changes to the OMB, the owner appealed their zoning application to the OMB, however they had continued to work actively with the City to address their comments regarding built form and to eliminate all shadows on Allan Gardens. The City has acknowledged that the site is appropriate for a very tall building.

The property owner worked with the City to finalize a settlement, and received Council approval to move forward with a settlement in June 2018. Subsequently at an LPAT meeting in August 2018, the property owner received approvals for the built form, massing and gross floor area of the development. The approved development would measure at 85-stories in height and have a total gross floor area of 1,009,429 square feet, including 103,689 and 96,832 square feet of retail and office space respectively. The retail space will be located between the ground and third levels, while office space will be on levels 4 to 7 with residential units above. The residential component will have a total of 1,105 units. The proposed development being marketed as YSL (Yonge Street Living) launched in mid-October and sold over 90% of the units that had been released.



ZONING AND PLANNING

Official Plan

- The subject has been classified as Mixed Use Areas under the City of Toronto's Official Plan.
- This designation permits a range of residential, commercial and institutional uses. The Plan includes criteria that direct the form and quality of development in this land use designation. The criteria state that new buildings: provide a transition between areas of different intensity and scale including a stepping down of heights towards lower scale neighbourhoods; minimize shadow impacts; and provide an attractive, safe and comfortable pedestrian environment.

Site and Area Specific Policy 174 – Yonge Street Between Queen Street and North of Gerrard Street

- The subject property is subject to Site and Area Specific Policy 174, Yonge Street Between Queen Street and North of Gerrard Street.
- The general planning objective of SASP 174 is to provide an overall framework for continued revitalization in the area.
- The key principles of the Policy are for changes to be consistent with and enhance the character of the area, retention of heritage buildings, streetscape improvements, locating business along Yonge Street, to ensure site and massing achieve adequate light, achieving a harmonious relationship to the built form context, to minimize wind and shadow impacts etc.

Zoning

- Existing zoning is CR 4.0 (c4.0; r1.5) – Commercial Residential Area.
- An Official Plan amendment and rezoning application were submitted to the City of Toronto for a redevelopment of the subject on April 24, 2015 with a mixed-use building comprised of retail, office and residential components. The proposal included two towers of 73 and 62 stories extending from a nine storey podium. The application called for a total of approximately 1,175,793 square feet of gross floor area for the redevelopment project, equivalent to a density of 29.2 times the site size.
- On February 24, 2017 a revised application for the subject property was submitted to the City of Toronto. The revised proposal was also for a mixed-use development comprised of retail, office and residential components. The two towers have been replaced with a single 98 storey building extending from a nine storey podium. The total gross floor area had been revised to 1,068,855 square feet resulting in a lower density of 26.6 times the site size.
- A Community Consultation meeting pertaining to the revised proposal was held on April 19, 2017 and the comments were generally positive.
- With the impending changes to the OMB, the application was appealed and a hearing was set for August 2018. However, the owner had continued to work with the City on a settlement that was expected to be brought forward to Council in June 2018 for approval.
- In June 2018 a settlement had been agreed upon and the property owner received Council approval to move forward with the settlement to the LPAT hearing set for August 2018. Subsequently at the August 2018 meeting, the LPAT approved the built form, massing and gross floor area of the development. The approved development would measure at 85-storeys in height with a total gross floor area of 1,009,429 square feet, including a 103,689 square foot retail and 96,832 square foot office component.



Market Overview

Canada Economic Overview

Ontario Economic Overview

Toronto Economic Overview

Canada Investment Marketview

Residential Market Overview

CANADA ECONOMIC OVERVIEW

Economic Indicators - Canada

	2015	2016	2017	2018F	2019F	2020F	2021F	2022F
Real GDP Growth at Market Prices (\$2007 millions)	\$1,776,251	\$1,801,368	\$1,854,959	\$1,894,828	\$1,928,275	\$1,962,146	\$1,996,253	\$2,029,590
Annual Growth (%)	1.0%	1.4%	3.0%	2.1%	1.8%	1.8%	1.7%	1.7%
Total Employment (000s)	17,949	18,083	18,413	18,672	18,835	19,000	19,171	19,354
Annual Growth (%)	0.9%	0.7%	1.8%	1.4%	0.9%	0.9%	0.9%	1.0%
Unemployment Rate (%)	6.9%	7.0%	6.3%	5.8%	5.8%	5.7%	5.7%	5.6%
Household Income per Capita (\$)	\$45,549	\$46,046	\$47,195	\$48,608	\$49,990	\$51,375	\$52,801	\$54,311
Population (000s)	35,804	36,205	36,641	37,041	37,394	37,744	38,093	38,441
Annual Growth (%)	0.9%	1.1%	1.2%	1.1%	1.0%	0.9%	0.9%	0.9%
Retail Sales (\$ millions)	\$523,922	\$550,793	\$586,272	\$600,009	\$612,202	\$625,366	\$638,818	\$652,537
Annual Growth (%)	2.6%	5.1%	6.4%	2.3%	2.0%	2.2%	2.2%	2.1%
CPI Annual Growth (%)	1.1%	1.4%	1.5%	1.8%	2.1%	2.1%	2.0%	2.1%

F = Forecast data.

Source: The Conference Board of Canada, Metropolitan Outlook I, Spring 2018

Notable highlights regarding Canada's economic environment are provided below and have been sourced from The Conference Board of Canada's Spring 2018 Metropolitan Outlook I report:

- The Canadian economy grew at a six-year high of 3.0% in 2017, however, real GDP growth began to slow in the latter half of the year. The moderation is expected to continue into the coming years in Canada with real GDP growth forecast at 2.1% in 2018 and 1.8% in 2019.
- Last year, Canada created a 10-year high of 329,800 net new jobs which pushed the unemployment rate down to 6.3%. Over the next two years, an annual average of 221,300 net new jobs are forecast to be created. Increased retirements from the baby boomer generation are expected to further compress the unemployment rate to 5.8% by 2019.
- Despite a low Canadian dollar and a stronger global economy, merchandise trade in Canada is anticipated to be weak in 2018. In particular, non-energy merchandise exports will be affected by manufacturers' reluctance to invest into expanding their operations, resulting in export growth of only 0.6% for 2018. Oil and gas exports are forecast to rise by 3.3% in 2018, however, this growth is well below the 6.9% average of the past five years.
- Household spending will remain a main contributor to economic growth, however, rising interest rates and already high levels of household debt will constrain consumer spending growth to 2.4% in 2018 and 1.9% in 2019.
- The current uncertainties surrounding NAFTA renegotiations and worries of additional U.S. import tariffs are weighing on business investments. As well, the large U.S. tax cut passed in 2017 and the minimum wage hikes in select Canadian provinces are creating some concerns regarding Canada's business competitiveness. As a result, overall business investments are forecast to grow, but remain firmly below their 2014 peak.
- High levels of household debt, rising mortgage rates and increased federal mortgage regulations are forecast to dampen residential housing starts in Canada. However, the strong employment market and decent population growth will still support housing starts of 207,000 units in 2018 and 191,000 in 2019.
- Public investment spending is forecast to remain strong throughout 2018 as the federal government upholds its spending commitments. However, public spending is expected to slow over the subsequent years as governments begin to balance their budgets.

ONTARIO ECONOMIC OVERVIEW

	Economic Indicators - Ontario							
	2015	2016	2017	2018F	2019F	2020F	2021F	2022F
Real GDP Growth at Market Prices (\$2007 millions)	\$618,051	\$634,258	\$653,065	\$666,758	\$679,418	\$692,970	\$707,218	\$721,077
Annual Growth (%)	2.8%	2.6%	3.0%	2.1%	1.9%	2.0%	2.1%	2.0%
Total Employment (000s)	6,924	7,000	7,125	7,218	7,298	7,378	7,455	7,553
Annual Growth (%)	0.7%	1.1%	1.8%	1.3%	1.1%	1.1%	1.0%	1.3%
Unemployment Rate (%)	6.8%	6.6%	6.0%	5.8%	5.8%	5.8%	5.8%	5.7%
Household Income per Capita (\$)	\$45,090	\$46,124	\$46,831	\$48,214	\$49,605	\$50,932	\$52,287	\$53,838
Population (000s)	13,779	13,953	14,170	14,352	14,511	14,665	14,818	14,966
Annual Growth (%)	0.8%	1.3%	1.6%	1.3%	1.1%	1.1%	1.0%	1.0%
Retail Sales (\$ millions)	\$188,893	\$202,235	\$215,724	\$222,903	\$228,122	\$233,238	\$238,395	\$244,325
Annual Growth (%)	5.5%	7.1%	6.7%	3.3%	2.3%	2.2%	2.2%	2.5%
CPI Annual Growth (%)	1.2%	1.8%	1.7%	2.6%	2.4%	2.1%	2.1%	2.1%

F = Forecast data.
Source: The Conference Board of Canada, Metropolitan Outlook I, Spring 2018

Notable highlights regarding Ontario's economic environment are provided below and have been sourced from The Conference Board of Canada's Spring 2018 Metropolitan Outlook I report:

- Rising interest rates and stricter mortgage regulations are expected to slow consumer spending and residential construction activity in Ontario. As a result, real GDP growth is expected to cool from 3.0% last year to 2.1% and 1.9% in 2018 and 2019.
- After the province implemented the first of two minimum wage increases earlier this year, job growth is expected to cool to 93,000 and 80,000 net new jobs in 2018 and 2019. The unemployment rate is forecast to hold steady at 5.8% in 2018 and 2019.
- Population growth in Ontario is projected to remain stable over the next couple of years and rise by 1.3% in 2018 and 1.1% in 2019.
- Ongoing NAFTA renegotiations and increased protectionism in the U.S. are clouding the province's trade outlook. Ontario is expected to continue its shift of international exports away from manufactured goods and into services. Auto exports are forecast to decline while finance and insurance services exports rise.
- Public transit and road infrastructure spending are expected to help the province's economic growth this year. However, these efforts may be constrained by slower revenue growth and the rising cost of servicing the province's elevated amount of debt.
- As single-detached homes become more unaffordable, particularly in the GTA region, demand for condominium units are expected to rise. As a result, single-unit housing starts are forecast to shrink by an annual average of 1.5% from 2018 to 2022, while multi-unit housing starts are expected to increase by an annual average of 1.1% over the same period.
- In the wake of rising interest rates, softer employment gains and a stabilizing housing market, household spending on durable goods is expected to cool to 2.6% this year and average 1.2% per year from 2019 to 2022. However, household spending on services is projected to remain stable and rise an annual average 2.6% from 2018 to 2022.
- Business non-residential investment is forecast to rise 6.1% in 2018, led by six mixed-use development projects worth \$2.6 billion located in downtown Toronto.

TORONTO ECONOMIC OVERVIEW

Economic Indicators - Toronto								
	2015	2016	2017	2018F	2019F	2020F	2021F	2022F
Real GDP Growth at Market Prices (\$2007 millions)	\$316,702	\$327,342	\$339,007	\$347,203	\$355,114	\$363,163	\$371,724	\$380,497
Annual Growth (%)	3.7%	3.4%	3.6%	2.4%	2.3%	2.3%	2.4%	2.4%
Total Employment (000s)	3,177	3,215	3,290	3,334	3,378	3,430	3,480	3,545
Annual Growth (%)	2.9%	1.2%	2.3%	1.3%	1.3%	1.6%	1.4%	1.9%
Unemployment Rate (%)	7.0%	7.0%	6.5%	5.9%	5.9%	5.8%	5.8%	5.7%
Household Income per Capita (\$)	\$46,093	\$46,279	\$46,988	\$47,797	\$49,071	\$50,425	\$51,801	\$53,414
Population (000s)	6,117	6,224	6,346	6,456	6,550	6,644	6,739	6,834
Annual Growth (%)	1.1%	1.8%	2.0%	1.7%	1.5%	1.4%	1.4%	1.4%
Retail Sales (\$ millions)	\$77,474	\$83,067	\$88,685	\$91,921	\$94,423	\$96,797	\$99,229	\$102,094
Annual Growth (%)	5.2%	7.2%	6.8%	3.6%	2.7%	2.5%	2.5%	2.9%
CPI Annual Growth (%)	1.6%	2.0%	2.1%	2.7%	2.4%	2.1%	2.1%	2.1%

F = Forecast data.
Source: The Conference Board of Canada, Metropolitan Outlook I, Spring 2018

Notable highlights regarding Toronto's economic environment are provided below and have been sourced from The Conference Board of Canada's Spring 2018 Metropolitan Outlook I report:

- Following four years of exceptional economic performance, real GDP growth in Toronto is forecast to moderate to 2.4% in 2018 and 2.3% in 2019. The slower growth will largely be due to the cooling housing market in addition to factors including higher interest rates, slower job gains and high levels of household debt.
- Job gains have been robust in Toronto over the past few years with total employment reaching a record high of almost 3.3 million in 2017. Further records are expected to be set as employment growth is forecast at 1.3% for the next two years. As a result, the unemployment rate is projected to fall from its 16-year low of 6.5% in 2017 to 5.9% in 2018 and 2019.
- Net migration into Toronto reached almost 90,000 people in 2017, a 15-year high and marking over 30 years of continuous net in-migration. Inflows are projected to moderate and average approximately 63,000 people annually from 2018 to 2022. The annual population growth during this period is forecast to be 1.4%, exceeding the annual national average growth rate of 1.0%.
- Toronto is seeing a surge in non-residential construction activity with major projects including an 85-storey mixed-use building called The One, a 32-storey, 879,000 sq. ft. office tower by Cadillac Fairview and the Ontario Pension Board, the \$2 billion CIBC Square office tower project and Thomson Reuters' new US\$100 million technology centre. Current infrastructure projects include a new transit hub at the Kipling GO station, the \$5.3 billion Eglinton Crosstown LRT and \$720 million in various other infrastructure upgrades.
- Residential housing starts are forecast to drop by 4.3% in 2018 to 37,000 units before rebounding 1.4% in 2019 to 37,600 units.
- Manufacturing sector growth is forecast to accelerate over the next two years to 1.8% in 2018 and 2.0% in 2019. Growth is expected to be led by a weak Canadian dollar and strong demand from the U.S., however, it will also be tempered by firms deferring further production investments.
- The services sector in Toronto is forecast to grow by 2.5% in 2018, with positive growth across all 12 services subsectors, followed by a 2.3% expansion in 2019.
- Growth in the FIRE industry is expected to cool over the next couple of years due to a slowing housing market brought on by new government regulations. FIRE industry growth is forecast to be 2.8% in both 2018 and 2019.

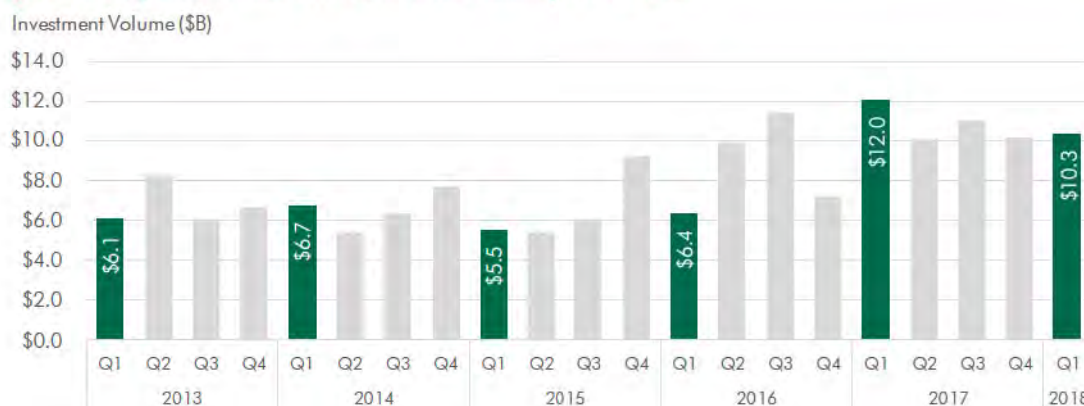
- The combination of rising interest rates, high household debt, slower job gains and a cooling housing market is forecast to dampen growth in the wholesale and retail trade sectors to 2.9% in 2018 and 2.4% in 2019.

CANADA INVESTMENT MARKETVIEW

Investment markets remain active on the heels of record setting year



Figure 1: Quarterly National Commercial Real Estate Investment Volume | 2013 to Q1 2018



Source: CBRE Research, RealNet Canada Inc., RealTrack, Collette Plante, JLR Land Titles Solutions, Q1 2018.

- National investment volume totalled \$10.3 billion in Q1 2018 over 1,654 transactions. While this total was a slight decrease from Q1 2017, when investments totalled \$12.0 billion, the 2018 figure was still the second highest volume on record and the fourth largest quarter of the last 5 years.
- The most active markets in Q1 2018 were Toronto, Vancouver and Montreal, where acquisitions totalled \$3.9 billion, \$2.4 billion and \$1.6 billion respectively. Montreal in particular had an extremely strong quarter, outperforming same period results from 2017 by over 50%.
- The office sector was the most active asset class in Q1 2018 with investment volumes totalling just under \$2.9 billion driven by the sale of a 50% stake in the Bay Adelaide Centre for \$850.0 million.
- The most active buyers in Q1 2018 were foreign investors who accounted for 33% of all trades greater than \$10.0 million in Q1 2018.

On the heels of two consecutive record setting years for investment in Canadian commercial real estate, national investment volumes totalled \$10.3 billion in Q1 2018 with over 1,600 transactions closing over the quarter. This was the second largest first quarter on record, surpassed only by last year's first quarter acquisition total of \$12.0 billion (which was boosted by the sale of a 50% interest in Cadillac Fairview's Vancouver portfolio) and the fourth largest quarter of the past five years. The robust deal velocity, continued supply of trophy assets and growing interest from investors, both domestic and foreign, has put 2018 on pace to near or surpass last year's record investment total, especially with several large M&A deals poised to close over the coming year.



Bay Adelaide Centre, Toronto, Ontario

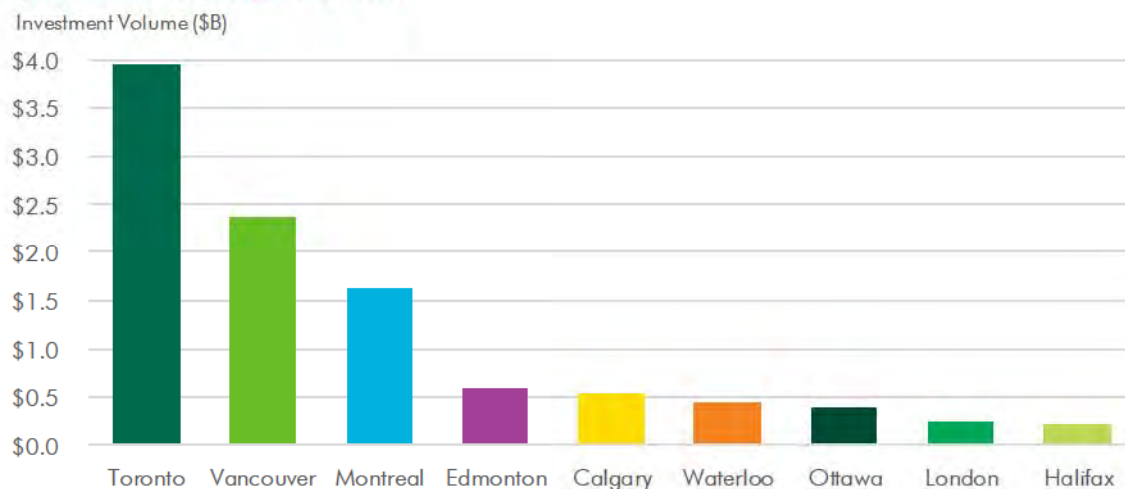
Investment Breakdown by Market

Toronto and Vancouver continue to be the most active investment markets in Canada as volumes totaling \$3.9 billion and \$2.4 billion were recorded in each city, respectively, over the first quarter of the new year. Toronto's impressive total was driven primarily by the office sector which accounted for 44% of the market's investment activity in Q1 2018. Demand for top of class office assets in Toronto continues to be elevated. This was seen in the per square foot valuations for office assets which traded in Q1 2018, including Bay Adelaide Centre and 55 University Avenue.

While the country's two largest markets continue to see healthy levels of both supply of assets and liquidity, their combined share of the total national investment volume actually dropped from 67% in Q1 2017 to 61% in Q1 2018. The primary cause for this fall was the extremely strong quarter for Montreal, which has been seeing growing demand from investors for several quarters now. While supply of assets has been limited over this time, capital looking to enter or grow their position in Montreal continues to swell, driving price across a variety of property types. Investment volumes exceeded \$1.6 billion in Montreal in Q1 2018, marking an increase of 52% over Q1 2017. Activity was also spread across a variety of asset classes with multifamily, office, industrial and retail sectors accounting for 29%, 24%, 18% and 15% of the markets overall investment total, respectively, to start 2018.

Other markets to improve on their first quarter 2017 investment performance include Ottawa, London and Halifax. Investment volumes in these three markets totalled \$378.7 million, \$243.0 million and \$205.0 million in Q1 2018, representing year-over-year growth rates of 10%, 187% and 99%, respectively. The relatively elevated levels of investment activity in secondary markets across the country is a growing trend which speaks to the strength and confidence investors have in Canada as a desirable destination for capital.

Figure 2: Investment Volume by Market | Q1 2018



Source: CBRE Research, RealNet Canada Inc., RealTrac, Collette Plante, JLR Land Titles Solutions, Q1 2018.

Investment Breakdown by Asset class

Property sales were distributed fairly evenly across a variety of commercial real estate asset classes in Q1 2018. The highest sales volume took place in the office sector where just under \$2.9 billion worth of assets traded hands. This total was in line with Q1 2017, when investments totalled just over \$2.9 billion, a difference of only 3%. Several trophy office assets were sold over the quarter including a 50% stake in Bay Adelaide Centre to Dadco Investments for \$850.0 million and 55 University Avenue to Investors Group for \$195.1 million. As evidenced by the sale of the Bay Adelaide Centre asset, many major owners continue to be willing to dispose of partial interest shares in top of class office assets in an attempt to capitalize on the record levels of pricing seen across the sector.

The second most active sector in Q1 2018 was the retail asset class, which accounted for just over \$2.0 billion of investment volume to start the new year. Despite uncertainty surrounding the future of retail, it's clear that liquidity remains for these types of assets. Deal velocity for retail properties was in fact up in Q1 2018, as the number of transactions tracked by CBRE rose from 380 over the first quarter of 2017 to 395 in 2018.

Following retail was the industrial sector which saw nearly \$1.9 billion worth of assets sold in Q1 2018. Investor demand for industrial properties continues to skyrocket driven by a lack of new supply and rock-solid property fundamentals, including record low availabilities in most major markets. While liquidity remains abundant, owners have remained hesitant to divest as seen by a lack of high priced assets trading hands in Q1 2018. The largest industrial deal over the first quarter was the sale of American Business Park to KingSett Capital for \$90.6 million.

Outside of the top three asset classes, ICI Land, multifamily and hotels sectors all had robust quarters as well, driven by healthy deal velocity and a handful of blockbuster deals, such as the sale of the Gateway Casinos portfolio for a total consideration of \$500.0 million.

Figure 3: Investment Volume by Asset Class | Q1 2018



Source: CBRE Research, RealNet Canada Inc., RealTrack, Collette Plante, JLR Land Titles Solutions, Q1 2018.

Figure 4: Notable Transactions | Q1 2018

Sector	Market	Price (millions)	Property/Address	Size (sf / units / acres / rooms)	Purchaser	Purchaser Type
Office	Toronto	\$850.0	Bay Adelaide Centre	2,216,400	Dadco Investments	Foreign Investor
Hotel / Retail	Vancouver	\$500.8	Gateway Casino Portfolio	-	Mesirow Financial	Foreign Investor
Office	Toronto	\$195.1	55 University Ave	265,000	Investors Group	Institutional
Retail	Toronto	\$180.9	Dixie Outlet Mall	420,000	Slate Asset Management	REIT/REOC
Office	Montreal	\$155.0	7250-7450 Mile End St, 280 Gary-Carter St	395,000	Sun Life Assurance	Institutional
Multifamily	London	\$115.0	1235 Richmond St	744	Rise Real Estate	Private Canadian
Office	Vancouver	\$107.5	555 Robson St	135,000	GWL Realty	Pension Fund/Advisor
Industrial	Toronto	\$90.6	American Business Park	553,000	KingSett Capital	Private Equity

Source: CBRE Research, RealNet Canada Inc., RealTrack, Collette Plante, JLR Land Titles Solutions, Q1 2018.

Purchaser Profile Breakdown

Foreign investors surpassed private domestic buyers to become the largest investor group in Canada in Q1 2018, accounting for over 33% of investment activity compared to 24% for private domestic buyers. This comes against the backdrop of tightening financial regulations in China which seemed to slow foreign capital inflows to the country in 2017. Interestingly, unlike the foreign investment spike seen in 2016, which was driven by institutional capital from China, foreign investment in 2018 has been more balanced with capital being sourced from the United States, Europe and Asia and with buyers showing interest across asset classes.

REIT/REOC, Pension Fund/Advisor, Private Equity and Institutional buyers also remained active to start the year, each accounting for between 8% and 12% of the market in Q1 2018.

Figure 5: Purchaser Profile | 2008 to Q1 2018



*Purchaser profile breakdown includes deals greater than \$10.0 million dollars only.
Source: CBRE Research, Q1 2018.

Figure 6: Investment Volume Summary (\$ Millions) | Q1 2018

Sector	Vancouver	Calgary	Edmonton	London	Waterloo Region	Toronto	Ottawa	Montreal	Halifax	National Q1 2018	National Q1 2017
Office	388.1	81.0	23.9	0.0	97.4	1,736.2	97.9	391.3	43.5	2,859.3	2,954.5
Industrial	305.0	139.9	205.5	0.0	90.5	780.2	63.7	286.3	14.2	1,885.2	1,757.6
Retail	600.6	117.3	134.5	103.3	63.5	728.3	32.1	245.1	27.3	2,051.9	3,317.1
Multifamily	123.6	31.4	87.6	129.9	133.8	287.8	78.7	472.5	102.2	1,447.5	1,219.5
ICI Land	556.7	164.2	111.7	9.9	38.2	398.7	58.3	198.4	17.9	1,554.2	1,153.3
Hotels	397.5	0.6	16.5	0.0	13.3	9.0	48.0	23.5	0.0	508.3	1,570.7
Q1 2018	2,371.5	534.5	579.7	243.0	436.7	3,940.2	378.7	1,617.1	205.0	10,306.4	
Q1 2017	4,579.8	969.5	635.4	84.8	505.8	2,976.5	344.2	1,066.9	102.8		11,972.7

Source: CBRE Research, RealNet Canada Inc., RealTrack, Collette Plante, JLR Land Titles Solutions, Q1 2018.

RESIDENTIAL MARKET OVERVIEW

The following are excerpts from the CMHC Fall 2017 Housing Market Outlook Canada Edition, the Fall 2017 Ontario Region Highlights, the Fall 2017 Greater Toronto Area outlook and Altus Data Solutions' Downtown Core New Homes High Rise Submarket Report for September 2018.

Canadian Housing Market

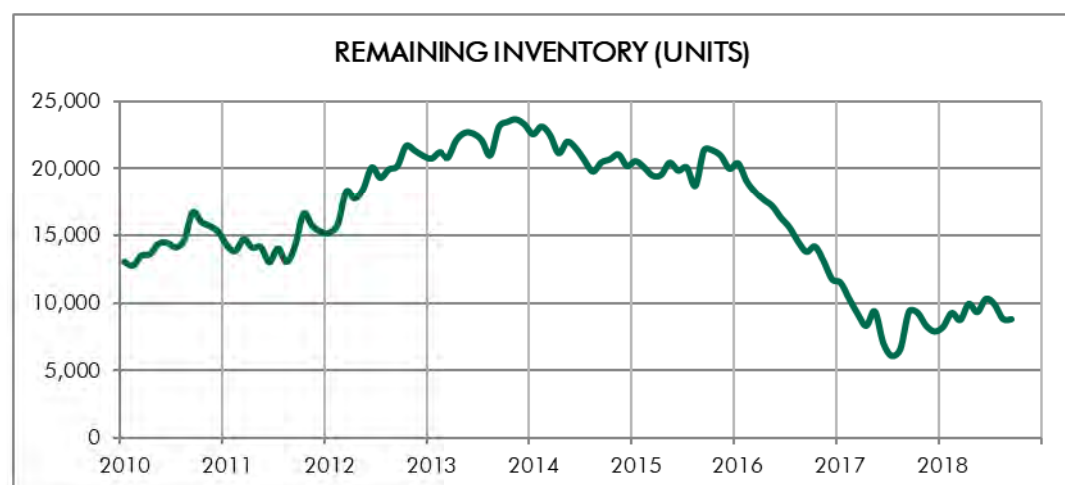
- National housing starts are expected to show strong numbers in 2017 with over 200,000 units projected (an inner range of 206,300 – 214,900). Starts are expected to slowly decline in 2018 and 2019 as there is projected to be less stimulative economic activity and gradually increasing mortgage rates.
- Single-detached home starts have been increasing since the first quarter of 2016, driven by strong demand and low unsold inventories for this type of product. Starts for single-detached homes are projected to be 75,900 – 77,100 units for 2017 compared to 74,100 units in 2016. A decline to approximately 66,000 – 68,500 units is projected for 2018 and 2019.
- Multi-unit starts have shown strong growth recently and are expected to increase in 2017 and 2018 and level off by 2019, remaining above the historical average over the forecast horizon. The pool of potential young buyers aged 24-34 is expected to shrink somewhat, but it is expected that this will be at least partially offset by an aging population that may look to downsize from traditional single family homes. The projected figures for 2017 are 128,800 – 139,400 units while 2018 and 2019 are forecast at 124,400 – 136,200 and 123,200 – 137,800 units, respectively.
- Resale transactions set records in 2016 and are projected to be slightly lower in 2017 with 2018 and 2019 forecast to be more in line with projected economic conditions. A modest decrease in international migration and the expected slow growth in mortgage rates are expected to be the primary contributing factors to this decline.

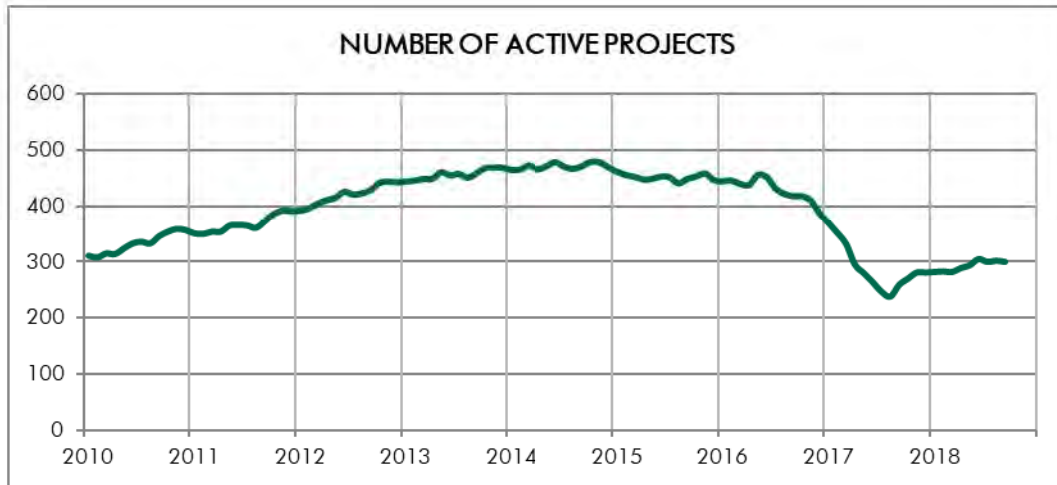
Ontario Housing Market

- The Ontario economy is expected to lose some steam relative to the rest of the country. After reaching recent highs of 77,400 – 79,300 units in 2017, the total number of new housing starts in Ontario is expected to cool somewhat to 66,300 – 68,700 in 2018 and 67,700 – 71,100 in 2019.
- Multi-family housing starts are expected to continue to outpace single-family starts for the foreseeable future with forecasts of between 48,900 and 50,700 units in 2017 and between 48,500 and 50,900 units in 2018. The demand for rental accommodations, both primary (purpose-built) and secondary (privately-owned units), is expected to continue to grow across the province. Rental vacancy rates could drop even further if ownership affordability erodes faster than expected and/or if the supply of new rental buildings slows due to new rent control legislation.
- Resale activity cooled somewhat in the second and third quarters of 2017 as the Ontario Fair Housing Plan contributed to a dampening of price expectations. The adjustment in sales was more pronounced in the GTA than other centres, especially those in eastern and southwestern Ontario. Total resales are forecast at 213,200 – 216,400 in 2017, down from 242,724 in 2016. Resales for 2018 and 2019 are forecast to be largely in-line with those for 2017.
- Average resale prices are forecast to increase in 2017, albeit at a slower pace than in previous years. The average for 2017 is forecast at \$572,500 - \$584,900, and this is expected to drop modestly to \$561,900 - \$575,100 in 2018 and \$568,300 - \$594,100 in 2019.

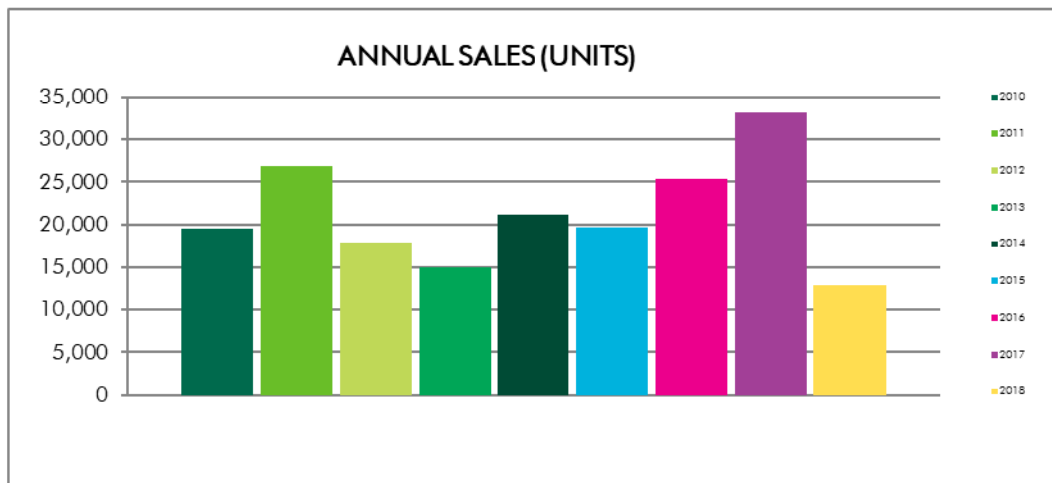
GTA Housing Market

- The GTA market is expected to see minimal changes over the forecast period extending to 2019. Total housing starts in the GTA are expected to range between 38,600 and 41,300 in 2017 and are expected to slow down slightly in 2018 and 2019 to between 36,300 and 40,200 units and 37,400 and 42,200 units respectively.
- Single detached home starts are expected to range between 9,500 and 10,500 units in 2017, a decrease from 11,884 in 2016. Starts are expected to drop sharply in 2018 and 2019 to 4,400 – 5,800 and 5,200 – 6,900, respectively, as land constraints, servicing delays and labour constraints will lead to higher costs.
- Multi-unit starts are expected to continue outpacing the single detached starts over the next two years. Starts in 2017 are expected to be outpace 2016 levels with current estimates ranging from 29,100 to 30,900 units. The pace is expected to increase slightly in 2018 and 2019 where forecast ranges are 31,900 to 35,000 and 31,900 to 36,300 respectively.
- The existing home market fell off slightly in 2017 with total sales projected at 93,100 – 96,900 compared to 113,725 in 2016. This downward trend is expected to continue over the next two years with forecasts of 90,200 to 97,800 in 2018 and 88,700 to 97,300 in 2019. Notwithstanding the slowdown in volume, average pricing continued to climb to \$790,300 – \$819,700 in 2017.
- Demand for rental units in the GTA is expected to grow faster than historical averages over the next few years, driven in large part by strong immigration inflows, high price levels and rising interest rates. These factors are expected to contribute to an average vacancy rate for rental apartments of around 1.0% for 2017 and 2018. Only a slight easing is expected by 2019 (up to 1.2%) as the private rental apartment supply is expected to grow at its fastest pace since the early 1990s.
- The Greater Toronto Area high rise condominium market continues to perform strongly. The number of projects has leveled off since peaking in November 2014, at 478 projects with a total of 114,997 units. The amount of unsold inventory has decreased significantly since peaking at 23,699 in November 2013.
- As of September 2018, there were 299 active projects in GTA with a total of 75,361 units. The unsold inventory has generally been on a declining trend from late 2013 to mid 2017. The inventory has increased since Q3 2017 but is still relatively low compared to historical levels. The number of unsold units stood at 8,820 as of September 2018.

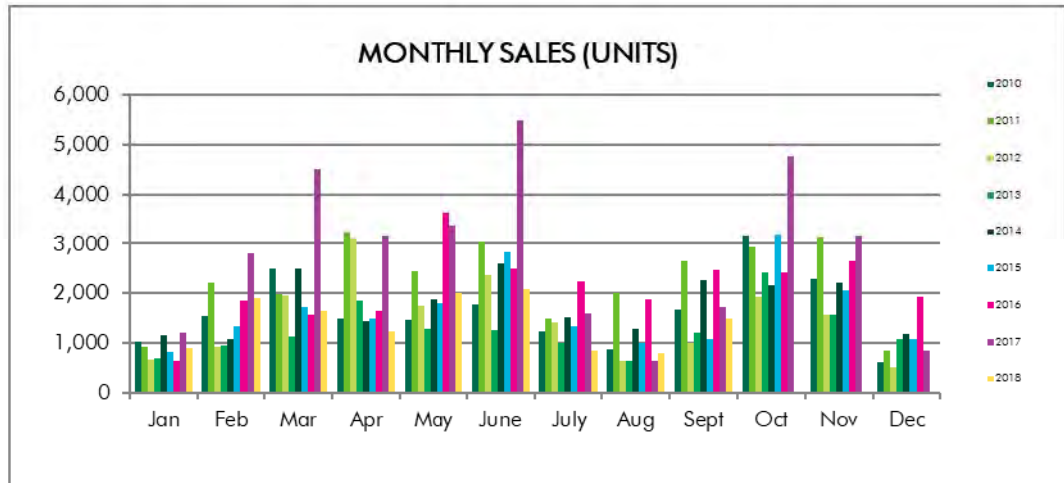




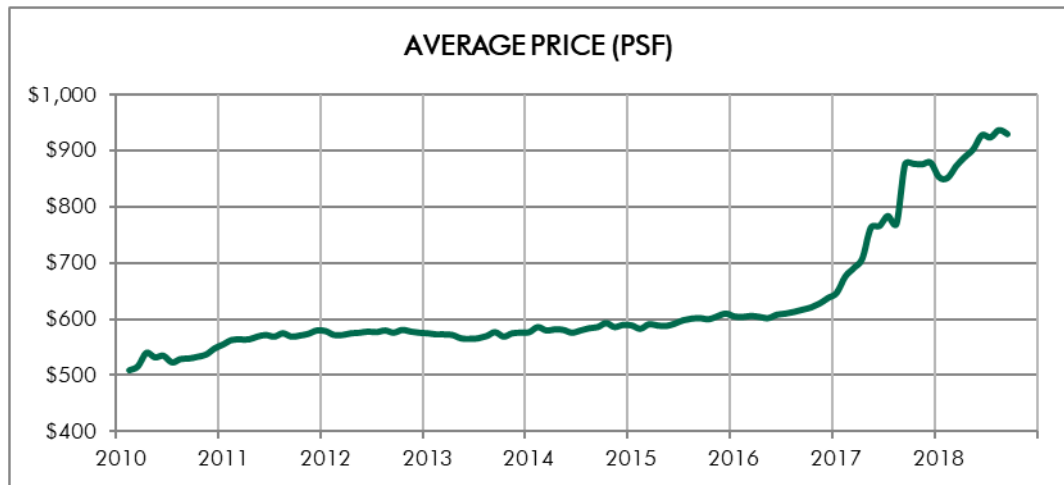
- 2017 was the highest year in terms of sales volume with 33,237 units sold. This is 60% higher than the previous seven-year average. A total of 12,889 units sold to date in 2018, a considerably slower pace than in 2017 and below the 8 year average.



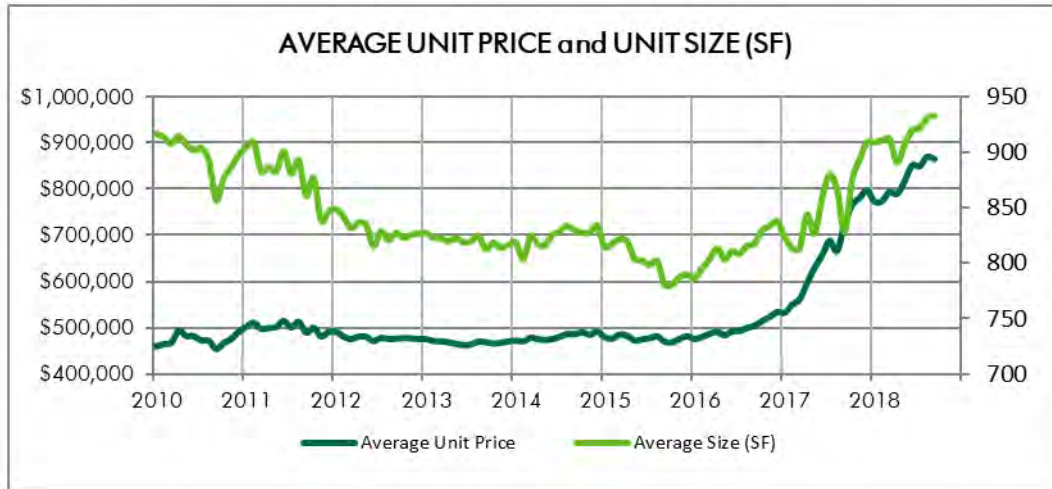
- Since 2010, sales volumes were the highest in October followed by June and November with January, December and August being the slowest months on average.



- Average sale prices per square foot in GTA have steadily increased from 2010 to 2016. Prices have skyrocketed from mid-2016 to the end of 2017. Subsequently, average pricing has leveled off but has continued to increase over the last few months and as of September 2018 equaled \$929 PSF.



- Average unit prices across the city declined from 2011 to 2013 and remained relatively stable up to the end of 2016 even declining in some months. This was mainly due to the average unit size shrinking from 2010 to 2016. The unit sizes across the city have declined by approximately 100 square feet during this period. However, average unit sizes have increased over the last three years climbing back to 2010 levels. As a result, increases in the price per square foot have been even more pronounced. The average unit price as of August 2018 was approximately \$865,000.



- The property is located in the Downtown Core submarket.
- The Downtown Core area has 8 of the 299 total active projects in the GTA market. The total number of units in the active projects is 3,503 with 97% of these units sold as of September 2018.
- The average selling prices range from \$773 PSF in the case of Massey Tower on Yonge Street just north of Queen Street, to \$1,353 PSF in the case of Panda Condominiums located on Edward Street just west of Yonge Street. average price per square foot in the area is \$1,156 PSF with an average total unit price of \$816,364 compared to the GTA averages of \$929 PSF and \$865,729.
- The average unit size of 935 SF is slightly higher than the GTA average of 930 SF as of August 2018.



Highest and Best Use

HIGHEST AND BEST USE

The term "Highest and Best Use" is generally considered to be that use which will result in the greatest net return over a given period of time. The "Highest and Best Use" is also known as the optimal use. A thorough Highest and Best Use analysis involves assessing the subject both as vacant and as improved and was beyond the scope of this mandate. In valuation practice, the concept of highest and best use represents the premise upon which value is based.

The four criteria the Highest and Best Use must meet are:

- legal permissibility;
- physical possibility;
- financial feasibility; and
- maximum profitability.

As Vacant

- The subject site is zoned CR 4.0 (c4.0; r1.5).
- The Official Plan designates the subject site as Mixed Use Area.
- Several high density residential developments have been approved along Yonge Street in the subject area.
- The subject property is approved for an 85-storey building with a total gross floor area of 1,009,429 square feet, including retail and office spaces.
- A development project at the subject property being marketed s YSL launched in mid-October 2018 and sold over 90% of the units that had been released.

Based on the above, it is concluded that the Highest and Best Use of the subject site, "As Vacant" is for high density mixed-use development.

As Improved

- The subject property is improved with eight two-four storey mixed-use buildings.
- In order for the existing use to be the highest and best use, the value of the site as improved would have to exceed the value of the site as if vacant.
- The scale of the proposed development is such that it outweighs the value and income potential of the current improvements.

Based on the above, it is concluded that the Highest and Best Use of the subject site, "As Improved", is for the development of a high density mixed-use project.



Valuation Methodology

VALUATION METHODOLOGY

There are six approaches to the valuation of vacant land.

- Direct Comparison Approach
- Allocation
- Extraction
- Subdivision Development
- Land Residual
- Ground Rent Capitalization

In practice, an approach to value is included or omitted based on its applicability to the property type being valued and the quality and quantity of information available.

Direct Comparison Approach

The Direct Comparison Approach utilizes sales of comparable properties, adjusting for differences to estimate a value for the subject property. This approach is developed in a simplified method to establish a range of unit prices for market comparable sales.

Allocation Method

This technique is based on the principle of balance. A logical relationship or typical ratios of land value to improvement value are analyzed for specific categories of real estate in specific locations.

Extraction Method

This technique deducts the depreciated cost of the improvements on the improved property from the sale price to estimate the sale price of the underlying land. It is a similar procedure to Allocation in that the contribution of the improvements is deducted from the total property value.

Subdivision Development Method

This technique is used to value vacant land when the highest and best use of the land is to be used for subdivision and development. The future selling price of the subdivided lots then have the costs of development subtracted to estimate the current value of the land.

Land Residual Method

This technique arrives at a land value by subtracting the costs of an actual or hypothetical improvement and allowance for developer's profit from the capitalized value of the income the improved property could generate.

Ground Rent Capitalization Method

This technique is used to value lands when the ground rent corresponds to the value of the landowner's interest in the property and market-derived capitalization rates are available to convert the ground rent into an indication of market value.

Conclusion

In the case of the subject, we have considered both the Direct Comparison Approach as well as the Land Residual Approach. The Direct Comparison Approach is considered the most recognized approach to valuing high density redevelopment land but relies upon the strength of the comparable sales and adjustments that can be somewhat subjective. We have identified six land sales over the last ten months in the subject area and comparable Downtown locations. We believe this is a sufficient number of transactions to warrant use of the Direct Comparison Approach.

In addition to the Direct Comparison Approach, we have utilized the Land Residual Method. We do acknowledge that the Land Residual Method is highly sensitive to changes in the input assumptions. However, given the unique nature of the proposed development at the subject property and a lack of ideal comparable land transactions, we feel that this approach provides good guidance for the value of the subject property.



Direct Comparison Approach

DIRECT COMPARISON APPROACH

Major Differences

Differences between the transactions and the subject property are identified and the appropriate effect on the prices paid is noted in order to make a direct comparison.

We have identified eight important differences upon which to assess each transaction:

Time of Sale

- The sale date, particularly the negotiated sale date, is an important factor to consider as well as the prevailing marketing conditions at the time the sale was negotiated.

Financing

- Financing terms provided by a vendor can have an impact on the purchase price. For example, more favourable financing that might include a Vendor Take Back mortgage at a lower than market interest rate tends to have a positive influence on the price.

Location

- Location is also a major factor affecting value, primarily due to its influence on land use, development timing and exposure/views.

Scale

- As there is generally an inverse size/rate relationship, larger scale parcels typically trade at a lower rate and vice versa. Smaller development sites are generally considered more attractive given the reduced exposure to market risk, and the smaller amount of required capital.

Topography

- Topographical features tend to vary widely, particularly amongst large land tracts, with extreme topographical features such as valley lands and environmentally sensitive areas, having a negative impact on achievable development yields overall. Sales of lands with significantly higher proportionate areas affected by irregular topographical features tend to result in lower gross unit values. This factor is more applicable to greenfield parcels, as opposed to urban properties.

Planning Status

- Land use designations and planning status are clearly important. Properties lacking requisite planning approvals are not likely to achieve as high a price as sites with advanced planning, primarily attributable to associated risk levels.

Development Timing

- Development timing clearly affects value. Properties with imminent development prospects due to phasing policies and/or servicing allocation are favoured by developers and typically trade at a higher price. Furthermore, properties in locales with relatively rapid absorption rates allow for shorter development time horizons, translating into higher values due to mitigated risk relative to those that are slower.

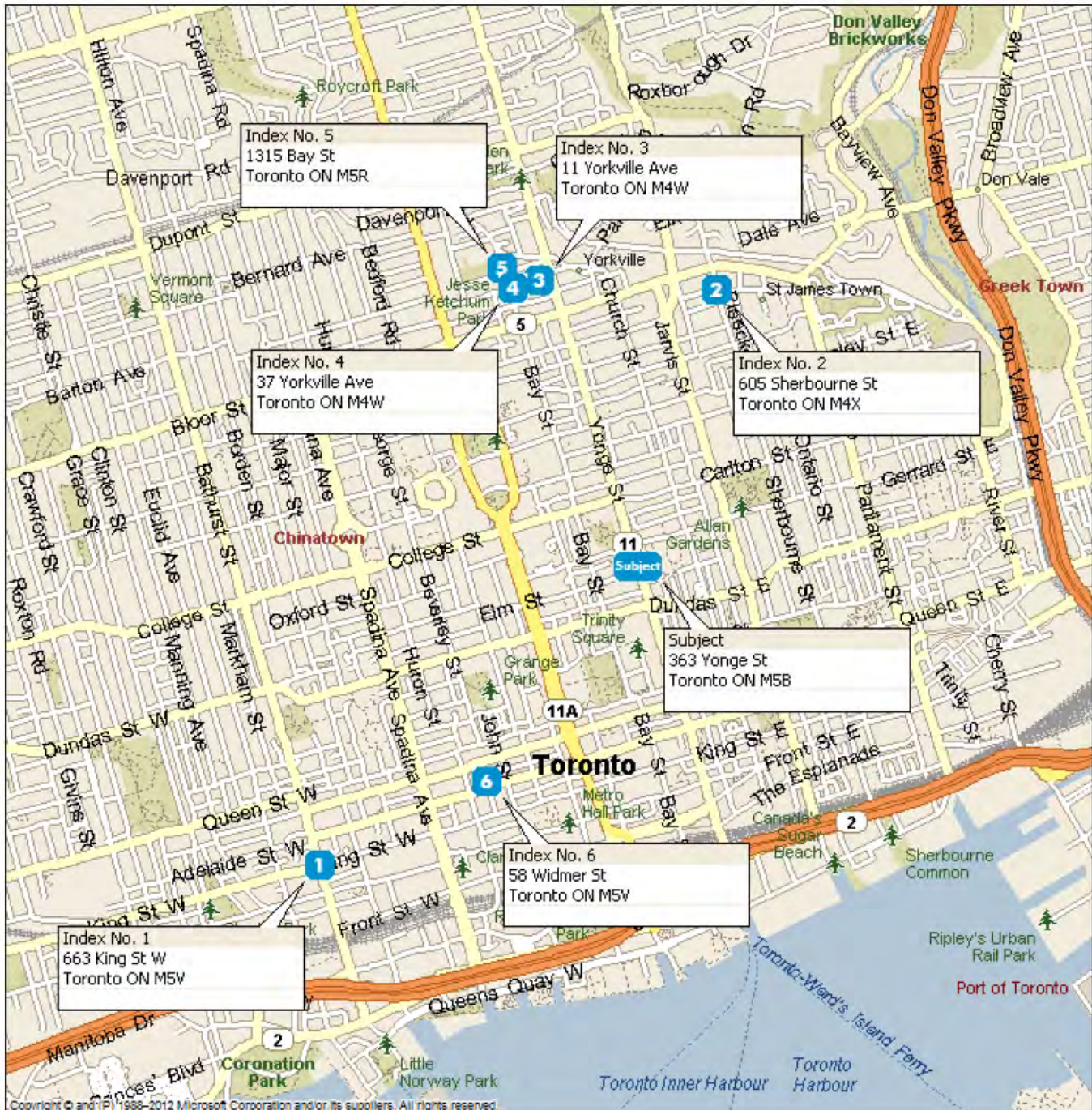
Site Character

- Intrinsic features of each property are recognized such as: configuration and site conditions affecting the construction cost, street and highway access, the nature of adjoining properties, important views to and from the potential buildings being built, and market demographics.

COMPARABLE SALES ANALYSIS

CBRE conducted a survey of land transactions within the vicinity of the subject. The map below and the table on the next page summarize the results of this survey and represent the comparables considered in the valuation of the subject.

The price per buildable square foot was used as the unit of comparison. A brief description of each comparable is found after the table and more detailed information can be found in Addendum B.



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Index No.	Address City Province	Closing Date Price (100%)	Zoning Size (Acres) Size (SF)	Allowable Building Area Density Development Status	Price PSF Price PSF Buildable
1	663 King Street West and 54-60 Stewart Street Toronto Ontario	March-18 \$47,000,000	CRE 0.57 24,742	239,422 9.68 Appealed to OMB	\$1,900 \$196
2	605 Sherbourne Street, 4-6 Howard Street & 6-16 Glen Road Toronto Ontario	March-18 \$102,400,000	R4Z4 1.17 50,791	441,858 8.70 Approved	\$2,016 \$232
3	11, 17 and 19 Yorkville Avenue, 18 Cumberland Street Toronto Ontario	January-18 \$133,365,000	CR 3.0 (c1.75; r3.0) SSI (x2401) 0.80 34,961	563,997 16.13 No application	\$3,815 \$236
4	27-37 Yorkville Avenue & 26, 30, 50 Cumberland Street Toronto Ontario	December-17 \$268,500,000	CR 3.0 (C1.75; R3.0) 1.44 62,552	984,579 15.74 Approved	\$5,252 \$334
5	1315-1323 Bay Street & 50-58 Scollard Street Toronto Ontario	December-17 \$87,000,000	CR T3.0 (C1.75 R3.0) 0.55 24,036	229,831 9.56 Approved	\$3,620 \$379
6	40-58 Widmer Street Toronto Ontario	December-17 \$75,200,000	RA 0.38 16,458	292,778 17.79 Approved	\$4,569 \$257
Subject 363-385 Yonge Street					
	Toronto Ontario		CR 4.0 (c4.0; r1.5) 0.93 40,522	1,009,429 24.91 Approved	

Index No. 1 – 663 King Street West and 54-60 Stewart Street (\$196 PSFB) – March 27, 2018

- Located on the southeast corner of King Street West and Bathurst Street.
- The property transacted in a portfolio of seven properties across the City of Toronto.
- At the time of sale, the property was improved with a four storey office building and two semi-detached residential dwellings.
- In December 2016, a rezoning application was submitted proposing the development of 19-storey building containing 247 residential condominium units.
- The development would have a total gross floor area of 239,422 square feet, including 53,281 square feet of retail space.
- The proposed development has been appealed to the OMB.
- No project launched as of the effective date of this report.

Index No. 2 – 605 Sherbourne Street, 4-6 Howard Street & 6-16 Glen Road (\$232 PSFB) – March 19, 2018

- Located on Sherbourne Street just south of Bloor Street West.
- At the time of sale the property was improved with three vacant houses and six recently renovated semi-detached residential units generating an annual net operating income of \$231,137.
- An Official Plan amendment and a rezoning application were submitted in August 2010 proposing the development of a 50 storey, 470 unit residential condominium tower with retail at grade on Block 1 and seven street-oriented townhomes on Block 2 (in addition to the existing improvements). The total proposed GFA was 441,858 square feet including approximately 11,840 square feet of retail space.
- The applications were approved in May 2016.
- No project launched as of the effective date of this report.

Index No. 3 – 11, 17 and 19 Yorkville Avenue, 18 Cumberland Street (\$236 PSFB) – January 23, 2018

- This sale represents an assembly of six properties located along Yorkville Avenue and Cumberland Street, just east of Yonge Street.
- At the time of sale, no application had been submitted to the City of Toronto for the development of the property. Subsequently, a rezoning and site plan application were submitted to the City of Toronto to permit a development comprised of a 62 storey mixed use building including 716 residential condominium units including 81 rental replacement units.
- The mixed-use building would have a total gross floor of approximately 553,728 square feet.
- Additionally, a 2-storey commercial building would be built on the southern portion of the property totaling approximately 10,269 square feet.

Index No. 4 – 27-37 Yorkville Avenue & 26, 30, 50 Cumberland Street (\$334 PSFB) – December 20, 2017

- Located midblock east of Bay Street with frontages along Yorkville Avenue and Cumberland Street.
- The initial proposal for redevelopment (excluding 26-32 Cumberland Street) was submitted to the City of Toronto on June 12, 2012. The proposed development was subsequently revised to include 26-32 Cumberland Street. The revised development was to be comprised of a 40 and 62 storey tower extending from a 2, 7 and 10 storey base building with a gross floor area of 1,148,628 and a total of 1,100 residential units. On August 25, 2014, the City of Toronto Council adopted the rezoning and official plan amendment application.
- The proposed development has evolved further. As of June 20, 2017, the proposal included a 66 and a 42 storey tower with a gross floor area of 1,132,912 square feet broken down as follows: 887,280 square feet – Residential; 73,873 square feet – Retail; and 171,763 square feet – above grade parking.
- A development marketed as 33 Yorkville launched in September 2017.
- All units made available for sale (907 units) sold on the launch day. The price being achieved ranges from \$1,153 PSF to \$1,939 PSF with the bulk of the sales falling in the \$1,200 to \$1,550 PSF range.

Index No. 5 – 1315-1323 Bay Street & 50-58 Scollard Street (\$379 PSFB) – December 20, 2017

- Located on the northeast corner of Bay Street and Scollard Street.
- At the time of sale, the property was improved with four vacant heritage buildings and surface parking lot.
- A rezoning application was submitted in November 2015 proposing the development of a 41 storey, 112 unit residential condominium tower with retail uses at grade. Subsequently, a site plan application was submitted in July 2016 outlining the same built form. The rezoning application was approved in April 2017, though the site plan application was still in circulation as of the date of sale.
- The development would have a total gross floor area of 229,831 square feet.
- A development marketed as “50 Scollard” launched in June 2018 with only 49 units released. The units are priced at \$2,280 to \$3,091 PSF with only 10% of the released units sold in the first three months.

Index No. 6 – 40-58 Widmer Street (\$257 PSFB) – December 19, 2017

- Located midblock on the west side of Widmer Street just south of Richmond Street West.
- At the time of sale, the property was vacant and unimproved.
- An initial application to permit a 40 storey high density development comprised of 390 units was submitted to the City of Toronto on June 7, 2012. The original application evolved and on February 3, 2016 the City of Toronto Council approved a zoning by-law amendment to allow for the construction of a 41 storey apartment building with a gross floor area of 292,778 square feet with 426 units.

- A development marketed as “Central” launched in April 2018. The price being achieved ranges from \$1,116 to \$1,390 PSF with 61% of the project’s units sold in the first five months.

Comparable Sales Discussion

We have the following comments regarding the above-noted sales:

- The sales reflect a range of \$196196 to \$ 379 PSF buildable.
- Index No. 1 at \$196 PSFB represents the most recent high-density land transaction in Toronto’s Downtown West. The subject’s location is considered superior given its proximity to the universities, financial core and the subway line. We further note that this transaction is part of a portfolio sale and as a result is not directly comparable. However, it is illustrative of the increasingly high prices being paid for well-located sites. Overall, a higher value PSFB is expected at the subject.
- Index No. 2 transacted at \$232 PSFB. The location of this property is considered inferior to that of the subject. We further note that while the overall sale price of this property was \$102,400,000, there are some adjustments that need to be considered. First, the sale price includes six recently renovated residential units that reportedly generated an annual NOI of approximately \$231,000 which were slated to remain as is. This means that the value of these improvements needs to be deducted from the overall sale price. Applying a cap rate of 4% to the NOI results in a value of approximately \$5.78 million dollars. Second, there is to be no parkland dedication or cash-in-lieu payment due to an agreement with the neighbouring land owner who is also developing a major project. Third, there is a pre-determined Section 37 contribution which again has been negotiated in conjunction with the neighbouring land owner. The latter two issues are difficult to precisely quantify but would result in an upward adjustment to the sale price. Given the superior location of the subject property, a higher value PSFB would be expected at the subject.
- Index No. 3 transacted at \$236 PSFB but represents an assembly of six properties that took place over two and a half years, resulting in lower dollar cost averaging. It is our understanding that an additional \$8,400,000 was spent on lease buyouts to tie up the land resulting in an increase to \$251 PSF. Additionally, there are no development approvals in place for this property. Despite the superior Yorkville location, given the longer time to development and the time it took to complete the assembly, a higher price per buildable square foot would be expected for the subject.
- Index No. 4 is located just east of Bay Street between Cumberland Street and Yorkville Avenue and transacted for an adjusted unit rate of \$334 PSFB. This amount is reflective of a \$60,000,000 adjustment to the overall sale price for the estimated increase in costs associated with replacing the existing parking garage owned and operated by the Toronto Parking Authority. While the increased costs are a very real issue, the presence of a large public parking facility should provide a net benefit to the projected retail component on the lower levels of proposed development. Overall, we would expect a unit rate for the subject to be lower given its inferior location.
- The high end of the range is represented by Index No. 5 at \$379 PSFB. This property is located on a prominent corner in the Yorkville neighbourhood across the street from the Four Seasons hotel. At the time of sale, the proposed development was approved. We also note that the proposed development at this location is a considerably smaller boutique building where units are expected to sell for a very high average price. As a result, a lower value PSFB is expected at the subject.
- Index No. 6 at \$257 PSFB represents a Downtown West transaction. When determining the purchase price, the purchaser underwrote the transaction assuming residential units would sell at \$1,200 PSF. We believe that the subject property will achieve higher pricing for residential units. This is somewhat offset by the large office component at the subject. Overall, we would expect a higher value PSFB at the subject property.

In addition to the sales discussed above, we are also aware of an offer submitted by a reputable developer to purchase 475 Yonge Street (the Courtyard Marriot), an approved site located on the east side of Yonge Street just north of Carlton Street. The offer was equivalent to \$325 PSFB with a gross floor area of approximately 1 million square feet. However, it is our understanding that the property owner was looking for a considerable higher offer and had decided to keep the property. We do note, however, that 475 Yonge Street is improved with a well-performing operating hotel which serves to both provide holding income and provide a solid backstop in the event that redevelopment does not ultimately proceed. Nonetheless, the offer is indicative of what purchasers are willing to pay for prime redevelopment sites in Downtown Toronto with in-place approvals. Although it did not result in a transaction, we feel that the offer provides a good gauge of value for the subject property given the comparable location and approval status of 475 Yonge Street and the subject property.

We further note that we had discussions with several professionals active in the urban land market and they indicated that, if made available, the subject property would likely transact in the \$300 to \$325 PSFB range. Given the bona fide offer for 475 Yonge Street, we feel that a value at the high end of the range is warranted for the subject. Accordingly, based on the foregoing, we would estimate the market value as at November 1, 2018 as follows:

PSF Buildable	GFA (SF)	Total
\$325	1,009,429	\$328,064,425
\$340	1,009,429	\$343,205,860
Indicated Value		\$335,635,143
Rounded		\$335,600,000



Land Residual Method

LAND RESIDUAL METHOD

Methodology

In order to determine the market value of the property using the Land Residual Method, expenses and developer's profit are subtracted from the value of the development as if complete. There are three main components to the proposed development at the subject: an office component, a retail component, and a traditional residential condominium component.

We were provided a summary pro forma prepared by the client for the proposed project which we reviewed for reasonability and adopted or adjusted as appropriate into our analysis.

The notes contained below are based on our review of the development pro forma and outline our assumptions and findings with respect to this document.

Revenue

The following notes pertain to our calculation of the revenue side of the development pro forma:

Residential Condominiums

- The subject property is located on a prominent corner in close proximity to the Eaton Centre, Ryerson University and University of Toronto as well as walking distance to the Financial Core. We further note that there are no competing projects in the area scheduled to launch in 2018. Projects outlined in the Area Developments section of this report suggest a lower price PSF for the subject property. However, the proposed development at the subject property would represent a superior product to those outlined on page 11 and we further note that condominium prices have continued to increase since the beginning of the year in the Downtown Core node.
- A project being marketed as YSL launched in mid-October and sold 643 units in two days representing 92% of the units released during the launch weekend. A total of 658 units were sold as of November 9, 2018 with an average price of \$1,440 PSF.
- There remain 322 unreleased units in the podium and tower with an average projected price of \$1,563 PSF. The client indicated that they purposely held back many of the smaller units which tend to sell at a higher price per square foot as well as units with the more desirable southern exposure. Many of these unrelease/unsold units reflect the 001A, 014, 015 & 024 layouts. As outlined in the following table, prices achieved for these suite types to date are well above the average achieved price.

Unit Model	Type	Area (SF)	No. of Sales	Floor Levels Sold to Date	Achieved Price Range (PSF)
001A	Studio	307	7	15 - 21	\$1,596 - \$1,791
014	1 Bed + Den	502	48	15 - 67	\$1,554 - \$1,677
015	1 Bed + Den	513	43	15 - 59	\$1,520 - \$1,624
024	2Bed	702	14	20 - 50	\$1,788 - \$1,866

- It is not uncommon that developers will hold on to better units at launch and would subsequently release tranches of units at a higher price point. Given the foregoing, we have adopted the projected average price of \$1,563 PSF for the balance of the unsold and unreleased units in the podium and tower.

- There also remain 125 unreleased “Sky”/penthouse levels (floors 69-85) priced at an average of \$1,975 PSF or approximately 30% higher than the balance of the tower. The client indicated that Sky units will feature 10’ ceilings, upgraded finishes and premium unobstructed views.
- We have analyzed condominium launches over the last 18 months, where this data was available, and compared pricing for regular units and penthouse units. The following chart outlines several projects in Toronto’s Midtown and Downtown outlining a price differential between these two types of units.

Project Name	Address	Opening Date	Price PSF Range Non Penthouse Units	Price PSF Range Penthouse Units
Woodsworth	452 Richmond Street West	Apr-18	\$1,156 - \$1,214	\$1,500
E2 Condos	39 & 41 Roehampton Avenue	Oct-17	\$904 - \$1,220	\$1,321 - \$1,457
One Residences	1 Bloor Street West	Oct-17	\$1,324 - \$2,311	\$3,005 - \$3,935
Concord Canada House - West	23 Spadina Avenue	Jul-17	\$1,156 - \$1,818	\$1,903 - \$1,967
Concord Canada House - East	23 Spadina Avenue	Jun-17	\$1,114 - \$1,461	\$1,638 - \$1,863
West	89 - 109 Niagara Street	Jun-17	\$719 - \$962	\$1,171 - \$1,279

- As outlined in the table above, penthouse units in the GTA condominium market achieve higher pricing than the balance of the units. Given the foregoing we have adopted the projected pricing for the Sky units.
- Parking spaces and storage lockers have been projected at \$120,000 and \$7,500 each. Although not explicitly advertised, 64 parking stalls have sold at launch at \$120,000. We have applied the same price point for the balance of the parking space. Based on our research of other new condominium projects in the Downtown Core market, we have adjusted the storage locker pricing to \$5,000 in our pro forma.
- A deduction for the HST payable and the addition of recovery adjustments, including development charges, Tarion enrollment fees, meter and utility connections and closing credits has been reviewed for reasonableness, and adjusted to reflect our pricing adjustments.

Retail

- There are two primary commercial components to the proposed development: retail and office.
- The pro forma provided by the client assumed the following rental rate breakdown for the retail component:

Retail	Area (SF)	Net Rent (PSF)
Below Grade	9,795	\$25.00
Ground	16,953	\$130.00
Second	31,754	\$40.00
Third	14,876	\$40.00

- There are almost no directly comparable retail properties in the subject area since the proposed project would represent a significant amount of newly build retail space at the base of a high rise mixed-use building. The existing retail on the Yonge Street strip does not represent comparable product as most of it is in older buildings. However, we had discussions with retail leasing agents and have adjusted the projected rental rates in the proposed development as follows:

Retail	Area (SF)	Net Rent (PSF)
Below Grade	9,795	\$20.00
Ground	16,953	\$125.00
Second	31,754	\$35.00
Third	14,876	\$25.00

- The pro forma completed by the client did not include a rate for additional rent (common area maintenance and realty taxes). We have utilized a figure of \$20.00 per square foot which is typical for newly constructed retail space.
- We estimate the stabilized vacancy and bad debt allowance at 3% of potential gross revenue which is considered reasonable for this type of retail product.
- Although significantly larger at 73,378 SF, we feel that recent transactions for retail space at the base of condominium buildings and recently constructed retail buildings represent the best benchmark for the subject property. The chart on the next page outlines the most recent comparable sale transactions.

Index No.	Address City	Closing Date Price (100%)	Type Year Built	Size (SF) Vacancy (%)	Capitalization Rate Price PSF
1	751 and 775 King Street West Toronto	July-18 \$22,750,000	Multi Tenant 2013	18,026 0%	4.00% \$1,262
2	700 King Street West Toronto	May-18 \$15,120,000	Multi Tenant 2000	7,746 0%	3.60% \$1,952
3	1986 Queen Street East Toronto	April-18 \$13,150,000	Single Tenant 2014	8,767 0%	3.80% \$1,500
4	700 King Street West Toronto	March-18 \$14,000,000	Multi Tenant 2000	7,746 0%	3.90% \$1,807
5	1990 Bloor Street West Toronto	September-17 \$3,850,000	Single Tenant 2017	3,620 100%	4.70% \$1,064
6	3018 Yonge Street Toronto	September-17 \$1,980,000	Single Tenant 2015	1,820 0%	4.00% \$1,088
7	297-301 College Street Toronto	August-17 \$28,000,000	Multi Tenant 2014	30,429 0%	4.40% \$920
8	373 King Street West Toronto	August-17 \$8,300,000	Multi Tenant 2012	16,046 0%	4.70% \$517
9	8 Mercer Street Toronto	July-17 \$9,550,000	Multi Tenant 2015	8,748 0%	4.50% \$1,092

- In addition to the sales outlined above, we note that the three storey 86,000 SF retail portion of the One Bloor development (1 Bloor Street East) transacted in November 2017 for \$2,237 PSF. The transaction was negotiated in August 2016. At the time the transaction was negotiated only one tenancy was confirmed. Applying market rental rates to the balance of the retail component resulted in a capitalization rate of approximately 4.0%.
- We also note that CBRE's Q3 2018 Canadian Cap Rate Survey for Urban Streetfront retail properties in Toronto indicates a range from 3.75% to 4.50%.
- Given the foregoing, we feel that a capitalization rate of 4.25% is appropriate for the subject property. We note that his results in a value of \$1,167 PSF which is slightly below the average of the comparable properties outlined above. Though the subject would be among the best located retail properties among the comparable sales, the multi-level nature and corresponding lower average net rental rate result in lowering the total value per square foot.

Office

- The office component is comprised of 96,832 SF across four floors.
- An agreement was made with Ryerson University for three of the four office floors. Ryerson University will be purchasing two floors of office component at \$568 PSF while the third floor was donated to the university. The agreement permits the option to buy the fourth floor of office space at a market rate. The client is carrying the 4th office floor at \$800 PSF.
- The following chart outlines some of the comparable office condo projects in downtown Toronto and most recent pricing:

Index No.	Address	Sales Price (PSF)	Transaction Year
1	130 Queen's Quay East	\$644 - \$673	2018
2	135 Yorkville Avenue	\$812 - \$1,792*	2018
3	1133 Yonge Street	\$566 - \$919	2018
4	7 St. Thomas Street	\$1,117 - \$1,300	2018
5	59 Hayden Street	\$775 - \$800	2018**
6	477 Richmond Street West	\$622	2018
7	334 Adelaide Street West	\$744 - \$899	2017 and 2018
8	4789 Yonge Street	\$657 - \$707	2017 and 2018
9	4665 Yonge Street	650	2018
10	2828 Bathurst Street	\$697	2018
11	117 Peter Street	\$507 - \$764	2017

- As with the retail space, there are no directly comparable condominium office properties in the immediate area. Given the sales indicated above and discussions with leasing and sales agents familiar with the area, we feel that \$750 per square foot is reflective of market pricing for condominium office product at the subject and have carried this pricing for the unsold office level at the subject property. On a blended basis, this translates into a rate of \$472 per square foot across the entire office component.

Expenses / Construction Costs

- The construction costs in the pro forma calculation have been estimated by the client. We have vetted the costs relative to other recent mixed-use projects and while at the high end of the range, they appear to be reasonable.
- Developer's profit typically ranges from 10.00% to 20.00% of total expenses depending on the risks associated with the development. Most of the uncertainty is removed having in place approvals coupled with a significant level of pre-sales. Given the foregoing, we feel that a developer's profit equal to 12.50% of the expenses is appropriate for the proposed development at the subject.

Pro Forma

The following is CBRE's adjusted pro forma reflecting the estimated revenue and expenses for the subject property and the resulting underlying land value:

Land Residual Calculation						
Revenues						
Residential						
	Units	Saleable Area	Price (PSF/space)			
Sold Condominiums	658	385,791	\$1,440			\$555,536,100
Unsold Condominiums	322	219,818	\$1,563			\$343,491,748
Unsold Sky Units	125	113,644	\$1,975			\$224,446,900
Parking Sold	64		\$120,000			\$7,680,000
Unsold Parking	232		\$120,000			\$27,840,000
Unsold Lockers	494		\$5,000			\$2,470,000
HST						-\$109,188,467
Recoveries						\$45,706,406
Subtotal - Residential						\$1,097,982,687
Commercial						
	Area (SF)	Net Rent (PSF)	Additional Rent (PSF)	Vacancy	Capitalization Rate	
Retail	73,378	\$52	\$20.00	3.00%	4.25%	\$85,655,029
Office	96,832	\$472				\$45,656,288
Subtotal - Retail						\$131,311,317
Total Revenue						\$1,229,294,004
Expenses						
		PSF				
LTT/DCs/Permits		\$93				\$93,535,178
Construction		\$390				\$393,212,476
Marketing		\$92				\$92,918,918
Finance/Legal/Admin		\$161				\$162,430,631
Contingency		\$14				\$13,834,306
Occupancy Fees		-\$8				-\$7,772,784
Total Expenses						\$748,158,725
Gross Income						\$481,135,279
Less: Developer's Profit				12.50%		-\$93,519,841
Land Value + Land Profit						\$387,615,439
Less: Land Profit				12.50%		-\$43,068,382
Land Residual						\$344,547,057
Final Value (Rounded)						\$344,500,000
Per Square Foot Buildable						\$341

Land Residual Method Conclusions

Utilizing the revenues and expenses as analyzed above, a land value of \$341 PSFB is arrived at via the Land Residual Method. We do note that this methodology is highly sensitive to changes in the input assumptions. Changes in overall costs, price level of residential units, rental rates for the commercial component and profit projections can have a significant impact on the Land Residual Value.

Given the inherent sensitivity of the Land Residual Method, we have conducted a sensitivity analysis to see what effect changes in unsold condominium prices have on land values since the residential component forms the majority of the projected revenues at the subject property.

Unsold Average Condominium Selling Price (PSF)	\$1,600	\$1,650	\$1,703	\$1,750	\$1,800
Residual Land Value (PSF)	\$311	\$326	\$341	\$355	\$370

The average projected sales price for the unsold and unreleased units at the subject property including podium tower and "Sky" units is \$1,703. As outlined in the table above, residual land values are highly sensitive to the achievable condominium prices. A \$50 PSF price difference in sale prices results in a delta of approximately \$15 PSFB. While we believe the estimated price level of \$1,703 PSF at the subject property is achievable, we recognize that a relatively small change in pricing can have a considerable impact on the underlying land value.



Reconciliation of Value

RECONCILIATION OF VALUE

The value indication resulting from the Direct Comparison approach was \$325 PSF. The value indication resulting from the Land Residual approach was \$341 PSF. As outlined earlier in the report, both approaches are considered valid.

Based on the information contained within this appraisal, it is our professional opinion that the market value of the 100% fee simple interest in the subject property, subject to the extraordinary assumptions and limiting conditions contained herein, as at the valuation date is as follows:

PSF Buildable	GFA (SF)	Total
\$325	1,009,429	\$328,064,425
\$340	1,009,429	\$343,205,860
Indicated Value		\$335,635,143
Rounded		\$335,600,000



Certification

CERTIFICATION OF THE APPRAISAL

363-385 Yonge Street, Toronto, Ontario

We certify to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and represents our personal, unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in the property that is the subject of this report and have no personal interest or bias with respect to the parties involved.
4. Our compensation is not contingent upon the reporting of a predetermined value or direction in value that favours the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event, such as the approval of a loan.
5. This appraisal assignment was not based upon a requested minimum valuation, a specific valuation or the approval of a loan.
6. Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Canadian Uniform Standards of Professional Appraisal Practice of The Appraisal Institute of Canada and the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice
7. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
8. Grant Chernenkoff and Vid Stambolovic have completed the requirements of the continuing education program of the Appraisal Institute.
9. Vid Stambolovic made a personal inspection of the property on October 1, 2018. The inspection was considered to be sufficient to describe the subject property, develop an opinion of highest and best use and compare the subject property with recent market leasing and investment data.
10. No one has provided professional assistance to the persons signing this report.
11. Grant Chernenkoff and Vid Stambolovic have extensive experience in the appraisal of similar property types.
12. Grant Chernenkoff and Vid Stambolovic are currently certified in the Province where the subject is located.
13. Valuation and Advisory Services Group operates as an independent economic entity within CBRE Limited. Although other employees of CBRE Limited divisions may be contacted as a part of our routine market research investigations, absolute client confidentiality and privacy are maintained at all times with regard to this assignment without conflict of interest.

It is our professional opinion that the market value of the 100% fee simple interest in the subject property, subject to the extraordinary assumptions and limiting conditions noted on page 6, as at November 1, 2018 is: \$335,600,000.



Grant Chernenkoff, MBA, AACI
Director
Valuation & Advisory Services
Phone: 416 815 2308



Vid Stambolovic, MBA, AACI
Director
Valuation & Advisory Services
Phone: 416 847 3266

November 15, 2018

Addendum "A"

Terms of Reference
Assumptions and Limiting Conditions



TERMS OF REFERENCE

Property Identification

The subject, 363-385 Yonge Street, is a parcel of land currently improved with eight 1-4 storey mixed-use buildings with commercial, office and retail uses. The site contains approximately 0.93 acres or 40,522 square feet according to Geowarehouse. The property is located on the southeast corner of Yonge Street and Gerrard Street East.

The subject is legally described as:

LT 35 E/S YONGE ST, 36 E/S YONGE ST PL 22A TORONTO;
PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN OT46105;
PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN CT497024;
PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA310343;
PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA540937;
PT LT 32 E/S YONGE ST PL 22A TORONTO AS IN CA472341;
PT LT 31 E/S YONGE ST, 32 E/S YONGE ST PL 22A TORONTO AS IN CA761626;
PT LT 31 E/S YONGE ST PL 22A TORONTO AS IN EP126440

The subject is more fully described within the enclosed report.

Ownership and Property History

The current ownership is held by 2502295 Ontario Inc. According to Geowarehouse, the subject property transacted on February 16, 2016 for \$157,500,000 and is currently not listed for sale.

Purpose of the Appraisal

The appraisal estimates the current Market Value of the subject property, subject to the *Critical Assumptions* included herein. The report is a Narrative Appraisal and has been prepared in accordance with the standards set forth by the Appraisal Institute of Canada.

Definition of Market Value

Market value is defined as follows:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their own best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in Canadian dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale

Intended Use and User of Report

The appraisal report, including the market value conclusion therein, will be used to assist Cresford Developments in financing.

Scope of Work

The following steps were completed by CBRE, Limited for this assignment:

- Inspected the property
- Location analysis
- Review of surrounding land uses
- Land use regulation review

Survey Work

- Comparable sales transaction analysis

Report Format

- Narrative report format

Critical Assumptions

A formal title search was beyond the scope of this assignment. Except as described herein, CBRE Limited has no knowledge of any easements or encroachments. It is recommended that the client/reader obtain a detailed title search outlining all easements and encroachments on the property, if any, prior to making a business decision.

To our knowledge, there are no known covenants, conditions and restrictions impacting the site, which are considered to affect the marketability or highest and best use, other than zoning restrictions.

CBRE Limited, or the consultant(s) has not observed, yet is not qualified to detect, the existence of potentially hazardous material or underground storage tanks, which may be present on or near the site. It should also be noted that the existence of hazardous materials or underground storage tanks might have an effect on the value of the property.

Exposure Time

Exposure time is not intended to be a prediction of a date of sale. Instead, it is an integral part of the opinion analysis and is based on one or more of the following:

- Statistical information about days on the market
- Information gathered through sales verification
- Interviews with market participants

The reasonable exposure time is a function of price, time, and use. It is not an isolated estimate of time alone. Exposure time is different for various types of real estate and under various market conditions.

Exposure time is the estimated length of time the property would have been offered prior to a hypothetical market value sale on the effective date of opinion. It is a retrospective estimate based on an analysis of recent past events, assuming a competitive and open market. It assumes not only adequate, sufficient, and reasonable time but also adequate, sufficient, and reasonable marketing effort. Exposure and marketing time is therefore interrelated with opinion conclusion of value.

Based on the foregoing analysis, an exposure time of three - six months is reasonable. CBRE Limited assumes the subject would have been competitively priced and aggressively promoted nationally and internationally.

ASSUMPTIONS AND LIMITING CONDITIONS

1. Unless otherwise specifically noted in the body of the report, it is assumed that title to the property or properties appraised is clear and marketable and that there are no recorded or unrecorded matters or exceptions to total that would adversely affect marketability or value. CBRE Limited is not aware of any title defects nor has it been advised of any unless such is specifically noted in the report. CBRE Limited, however, has not examined title and makes no representations relative to the condition thereof. Documents dealing with liens, encumbrances, easements, deed restrictions, clouds and other conditions that may affect the quality of title have not been reviewed. Insurance against financial loss resulting in claims that may arise out of defects in the subject property's title should be sought from a qualified title company that issues or insures title to real property.
2. Unless otherwise specifically noted in the body of this report, it is assumed: that the existing improvements on the property or properties being appraised are structurally sound, seismically safe and code conforming; that all building systems (mechanical/electrical, HVAC, elevator, plumbing, etc.) are in good working order with no major deferred maintenance or repair required; that the roof and exterior are in good condition and free from intrusion by the elements; that the property or properties have been engineered in such a manner that the improvements, as currently constituted, conform to all applicable local, provincial, and federal building codes and ordinances. CBRE Limited professionals are not engineers and are not competent to judge matters of an engineering nature. CBRE Limited has not retained independent structural, mechanical, electrical, or civil engineers in connection with this opinion and, therefore, makes no representations relative to the condition of improvements. Unless otherwise specifically noted in the body of the report: no problems were brought to the attention of CBRE Limited by ownership or management; CBRE Limited inspected less than 100% of the entire interior and exterior portions of the improvements; and CBRE Limited was not furnished any engineering studies by the owners or by the party requesting this opinion. If questions in these areas are critical to the decision process of the reader, the advice of competent engineering consultants should be obtained and relied upon. It is specifically assumed that any knowledgeable and prudent purchaser would, as a precondition to closing a sale, obtain a satisfactory engineering report relative to the structural integrity of the property and the integrity of building systems. Structural problems and/or building system problems may not be visually detectable. If engineering consultants retained should report negative factors of a material nature, or if such are later discovered, relative to the condition of improvements, such information could have a substantial negative impact on the conclusions reported in this opinion. Accordingly, if negative findings are reported by engineering consultants, CBRE Limited reserves the right to amend the opinion conclusions reported herein.
3. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraisers. CBRE Limited has no knowledge of the existence of such materials on or in the property. CBRE Limited, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea formaldehyde foam insulation, contaminated groundwater or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

We have inspected, as thoroughly as possible by observation, the land; however, it was impossible to personally inspect conditions beneath the soil. Therefore, no representation is made as to these matters unless specifically considered in the opinion.

4. All furnishings, equipment and business operations, except as specifically stated and typically considered as part of real property, have been disregarded with only real property being considered in the report unless otherwise stated. Any existing or proposed improvements, on or off-site, as well as any alterations or repairs considered, are assumed to be completed in a workmanlike manner according to standard practices based upon the information submitted to CBRE Limited. This report may be subject to amendment upon re-inspection of the subject property subsequent to repairs, modifications, alterations and completed new construction. Any estimate of Market Value is as of the date indicated; based upon the information, conditions and projected levels of operation.
5. It is assumed that all factual data furnished by the client, property owner, owner's representative, or persons designated by the client or owner to supply said data are accurate and correct unless otherwise specifically noted in the opinion report. Unless otherwise specifically noted in the opinion report, CBRE Limited has no reason to believe that any of the data furnished contain any material error. Information and data referred to in this paragraph include, without being limited to, numerical street addresses, lot and block numbers, land dimensions, square footage area of the land, dimensions of the improvements, gross building areas, net rentable areas, usable areas, unit count, room count, rent schedules, income data, historical operating expenses, budgets, and related data. Any material error in any of the above data could have a substantial impact on the conclusions reported. Thus, CBRE Limited reserves the right to amend conclusions reported if made aware of any such error. Accordingly, the client-addressee should carefully review all assumptions, data, relevant calculations, and conclusions within 30 days after the date of delivery of this report and should immediately notify CBRE Limited of any questions or errors.

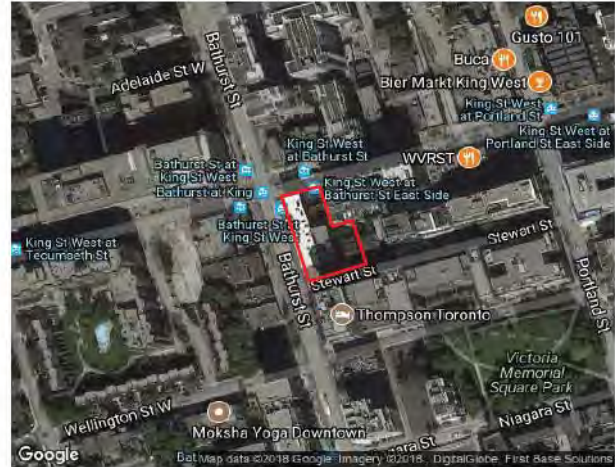
6. The date of value to which any of the conclusions and opinions expressed in this report apply, is set forth in the Letter of Transmittal. Further, that the dollar amount of any value opinion herein rendered is based upon the purchasing power of the Canadian Dollar on that date. This opinion is based on market conditions existing as of the date of this opinion. Under the terms of the engagement, we will have no obligation to revise this report to reflect events or conditions which occur subsequent to the date of the opinion. However, CBRE Limited will be available to discuss the necessity for revision resulting from changes in economic or market factors affecting the subject.
7. CBRE Limited assumes no private deed restrictions, limiting the use of the subject property in any way.
8. Unless otherwise noted in the body of the report, it is assumed that there are no mineral deposit or subsurface rights of value involved in this opinion, whether they be gas, liquid, or solid. Nor are the rights associated with extraction or exploration of such elements considered unless otherwise stated in this opinion report. Unless otherwise stated it is also assumed that there are no air or development rights of value that may be transferred.
9. CBRE Limited is not aware of any contemplated public initiatives, governmental development controls, or rent controls that would significantly affect the value of the subject.
10. The estimate of Market Value, which may be defined within the body of this report, is subject to change with market fluctuations over time. Market value is highly related to exposure, time promotion effort, terms, motivation, and conclusions surrounding the offering. The value estimate(s) consider the productivity and relative attractiveness of the property, both physically and economically, on the open market.
11. Any cash flows included in the analysis are forecasts of estimated future operating characteristics are predicated on the information and assumptions contained within the report. Any projections of income, expenses and economic conditions utilized in this report are not predictions of the future. Rather, they are estimates of current market expectations of future income and expenses. The achievement of the financial projections will be affected by fluctuating economic conditions and is dependent upon other future occurrences that cannot be assured. Actual results may vary from the projections considered herein. CBRE Limited does not warrant these forecasts will occur. Projections may be affected by circumstances beyond the current realm of knowledge or control of CBRE Limited
12. Unless specifically set forth in the body of the report, nothing contained herein shall be construed to represent any direct or indirect recommendation of CBRE Limited to buy, sell, or hold the properties at the value stated. Such decisions involve substantial investment strategy questions and must be specifically addressed in consultation form.
13. Also, unless otherwise noted in the body of this report, it is assumed that no changes in the present zoning ordinances or regulations governing use, density, or shape are being considered. The property is appraised assuming that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, provincial, nor national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report is based, unless otherwise stated.
14. This study may not be duplicated in whole or in part without the specific written consent of CBRE Limited nor may this report or copies hereof be transmitted to third parties without said consent, which consent CBRE Limited reserves the right to deny. Exempt from this restriction is duplication for the internal use of the client-addressee and/or transmission to attorneys, accountants, or advisors of the client-addressee. Also exempt from this restriction is transmission of the report to any court, governmental authority, or regulatory agency having jurisdiction over the party/parties for whom this opinion was prepared, provided that this report and/or its contents shall not be published, in whole or in part, in any public document without the express written consent of CBRE Limited which consent CBRE Limited reserves the right to deny. Finally, this report shall not be advertised to the public or otherwise used to induce a third party to purchase the property or to make a "sale" or "offer for sale" of any "security". Any third party, not covered by the exemptions herein, who may possess this report, is advised that they should rely on their own independently secured advice for any decision in connection with this property. CBRE Limited shall have no accountability or responsibility to any such third party. This entire paragraph is subject to the points noted in the Intended Use of Report section.
15. Any value estimate provided in the report applies to the entire property, and any pro ration or division of the title into fractional interests will invalidate the value estimate, unless such pro ration or division of interests has been set forth in the report.
16. The distribution of the total valuation in this report between land and improvements applies only under the existing program of utilization. Component values for land and/or buildings are not intended to be used in conjunction with any other property or opinion and are invalid if so used.
17. The maps, plats, sketches, graphs, photographs and exhibits included in this report are for illustration purposes only and are to be utilized only to assist in visualizing matters discussed within this report. Except as specifically stated, data relative to size or area of the subject and comparable properties has been obtained from sources deemed accurate and reliable. None of the exhibits are to be removed, reproduced, or used apart from this report.

18. No opinion is intended to be expressed on matters which may require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate appraisers. Values and opinions expressed presume that environmental and other governmental restrictions/conditions by applicable agencies have been met, including but not limited to seismic hazards, flight patterns, decibel levels/noise envelopes, fire hazards, hillside ordinances, density, allowable uses, building codes, permits, licenses, etc. No survey, engineering study or architectural analysis has been made known to CBRE Limited unless otherwise stated within the body of this report. If the Consultant has not been supplied with a termite inspection, survey or occupancy permit, no responsibility or representation is assumed or made for any costs associated with obtaining same or for any deficiencies discovered before or after they are obtained. No representation or warranty is made concerning obtaining these items. CBRE Limited assumes no responsibility for any costs or consequences arising due to the need, or the lack of need, for flood hazard insurance.
19. Acceptance and/or use of this report constitutes full acceptance of the Contingent and Limiting Conditions and special assumptions set forth in this report. It is the responsibility of the Client, or client's designees, to read in full, comprehend and thus become aware of the aforementioned contingencies and limiting conditions. Neither the Appraiser nor CBRE Limited assumes responsibility for any situation arising out of the Client's failure to become familiar with and understand the same. The Client is advised to retain experts in areas that fall outside the scope of the real estate opinion/consulting profession if so desired.
20. CBRE Limited assumes that the subject property analyzed herein will be under prudent and competent management and ownership; neither inefficient nor super-efficient.
21. It is assumed that there is full compliance with all applicable federal, provincial, and local environmental regulations and laws unless noncompliance is stated, defined and considered in the opinion report.
22. No survey of the boundaries of the property was undertaken. All areas and dimensions furnished are presumed to be correct. It is further assumed that no encroachments to the realty exist.
23. Client shall not indemnify Appraiser or hold Appraiser harmless unless and only to the extent that the Client misrepresents, distorts, or provides incomplete or inaccurate opinion results to others, which acts of the Client proximately result in damage to Appraiser. The Client shall indemnify and hold Appraiser harmless from any claims, expenses, judgments or other items or costs arising as a result of the Client's failure or the failure of any of the Client's agents to provide a complete copy of the opinion report to any third party. In the event of any litigation between the parties, the prevailing party to such litigation shall be entitled to recover from the other reasonable attorney fees and costs.



Addendum "B"
Comparable Sales Transactions

663 King Street West and 54-60 Stewart Street
Toronto, Ontario



Sale Details

Sale Price	\$47,000,000
Adjusted Sale Price	\$47,000,000
Sale Price Per Acre	\$82,746,479
Sale Price Per SF	\$1,900
Sale Price Per Buildable SF	\$196
Closing Date	March-18
Vendor	Main and Main
Purchaser	Timbercreek Asset Management
Broker	CBRE Limited
Interest	100%
Property Rights	Fee Simple
PIN	21240-0059

Physical Details

Property Size (Acres)	0.57
Property Size (SF)	24,742
Topography	Level
Shape	Irregular
Position	Corner
Utilities	Serviced
Official Plan	Regeneration Areas
Zoning	CRE
Frontage	105 feet along King Street West 200 feet along Bathurst Street 145 feet along Stewart Street

Proposed Development

Land Type	High Density Residential
GFA (SF)	239,422
Site Density	9.68
Number of Units	247
Development Status	Appealed to OMB

Sale Commentary

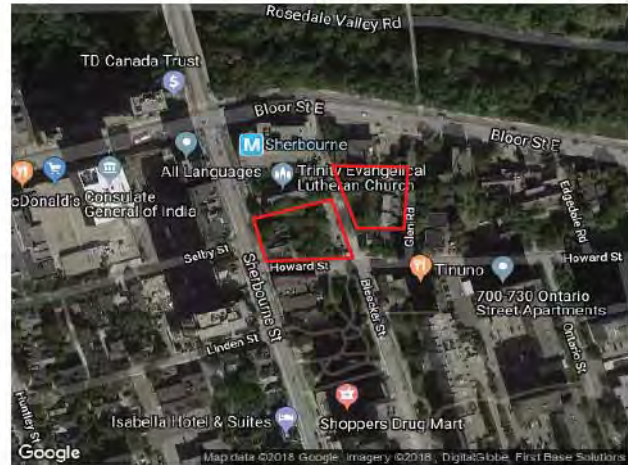
The property is designated as Regeneration Areas in the City of Toronto Official Plan. The zoning designation is CRE a Commercial Residential Employment classification.

At the time of sale, the property was improved with a four storey office building and two semi-detached residential dwellings.

A rezoning application was submitted in December 2016 pertaining to the land in this transaction. The Application proposed the development of 19-storey building containing 247 residential condominium units. The development would have a total gross floor area of 239,422 square feet, including 53,281 square feet of retail space. The existing semi-detached units will be retained.

The proposed development has been appealed to the OMB.

605 Sherbourne Street, 4-6 Howard Street & 6-16 Glen Road
Toronto, Ontario



Sale Details

Sale Price	\$102,400,000
Adjusted Sale Price	\$96,621,575
Sale Price Per Acre	\$82,865,780
Sale Price Per SF	\$1,902
Sale Price Per Buildable SF	\$219

Closing Date	March-18
Vendor	Bloor Parliament Investments Limited
Purchaser	Concert Properties
Broker	CBRE

Interest	100%
Property Rights	Fee Simple
PIN	21086-055, -0060, -0061, -0070, -0082, -0115, -0116, -

Physical Details

Property Size (Acres)	1.17
Property Size (SF)	50,791

Topography	Level
Shape	Irregular
Position	Corner
Utilities	Serviced

Official Plan	Mixed Use Areas
Zoning	R4Z4

Frontage	107 feet along Sherbourne Street
	222 feet along Howard Street
	145 feet along Glen Road

Proposed Development

Land Type	High Density Residential
GFA (SF)	441,858
Site Density	8.70
Number of Units	477
Development Status	Approved

Sale Commentary

This sale represents an assembly of two properties that closed on the same day in March 2018. The vendor was the same for both transactions.

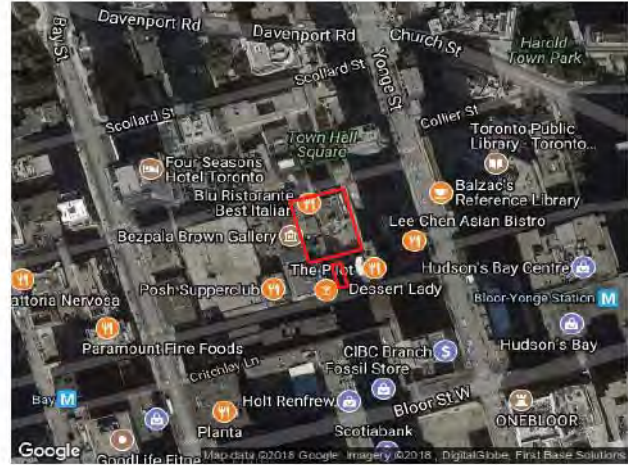
The property is designated as Mixed Use Areas in the City of Toronto Official Plan. The zoning designation is R4Z1 under the former City of Toronto Zoning By-law 438-86, a residential classification.

At the time of sale, Block 1 (consisting of 605 Sherbourne Street and 4-6 Howard Street) was improved with three vacant houses while Block 2 (consisting of 6-16 Glen Road) was improved with six recently renovated semi-detached residential units. The units on Block 2 reportedly produced an annual net operating income of \$231,137.

An Official Plan amendment and a rezoning application were submitted in August 2010 proposing the development of a 50 storey, 470 unit residential condominium tower with retail at grade on Block 1 and seven street-oriented townhomes on Block 2 (in addition to the existing improvements). The total proposed GFA was 441,858 square feet including approximately 11,840 square feet of retail space. The applications were approved in May 2016.

No project had been launched as of the date of sale.

11, 17 and 19 Yorkville Avenue, 18 Cumberland Street
Toronto, Ontario



Sale Details

Sale Price	\$133,365,000
Adjusted Sale Price	\$133,365,000
Sale Price Per Acre	\$166,166,571
Sale Price Per SF	\$3,815
Sale Price Per Buildable SF	\$236
Closing Date	January-18
Vendor	Multiple
Purchaser	Metropia and Bazis International
Broker	Multiple
Interest	100%
Property Rights	Fee Simple
PIN	21197-0142, -0159, -0140, 12744-000, -0002, -0003, -

Physical Details

Property Size (Acres)	0.80
Property Size (SF)	34,961
Topography	Level
Shape	Irregular
Position	Midblock
Utilities	Serviced
Official Plan	Mixed Use Areas
Zoning	CR 3.0 (c1.75; r3.0) SS1 (x2401)
Frontage	130 feet along Yorkville Avenue 20 feet along Cumberland Street

Proposed Development

Land Type	High Density Residential
GFA (SF)	563,997
Site Density	16.13
Number of Units	N/A
Development Status	No application

Sale Commentary

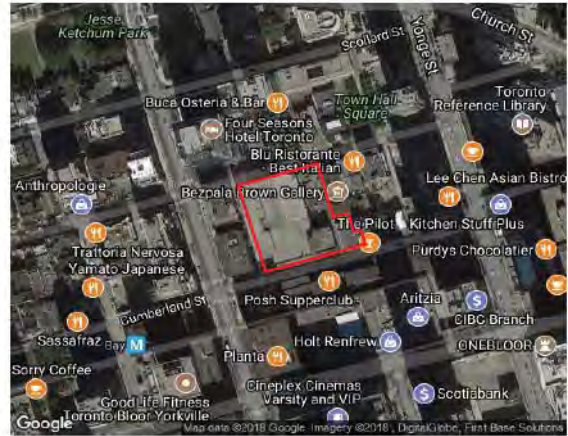
This sale represents an assembly of six properties as follows:
 17 Yorkville Avenue (Units 1, 2, 3, 250) - \$19,095,000 - June 15, 2015
 18 Cumberland Street - \$3,770,000 - June 15, 2015
 11 Yorkville Avenue - \$45,000,000 - August 9, 2017
 17 Yorkville Avenue (Unit 250 B) - \$6,000,000 - September 5, 2017
 19 Yorkville Avenue - reported at \$19,500,000 - January 18, 2018
 16 Cumberland Street - 10,000,000 - January 23, 2018
 21 Yorkville Avenue - \$30,000,000 - January 23, 2018

The property is designated as Mixed Use Areas in the City of Toronto Official Plan. The zoning designation is CR 3.0 (c1.75; r3.0) SS1 (x2401) a commercial residential classification.

At the time of sale, the property was improved with a 9-storey apartment building, two 3 storey commercial buildings and a 2 storey commercial building.

Subsequent to the sale date, a rezoning and site plan application were submitted to the City of Toronto to permit a development comprised of a 62 storey mixed use building on the north portion of

27-37 Yorkville Avenue & 26, 30, 50 Cumberland Street
Toronto, Ontario



Sale Details

Sale Price	\$268,500,000
Adjusted Sale Price	\$328,500,000
Sale Price Per Acre	\$228,760,446
Sale Price Per SF	\$5,252
Sale Price Per Buildable SF	\$334
Closing Date	December-17
Vendor	Kingsett Capital
Purchaser	Cresford
Broker	CBRE Limited & RBC Capital Markets Real Estate Group
Interest	100%
Property Rights	Fee Simple
PIN	21197-0012,-0162,-0308

Physical Details

Property Size (Acres)	1.44
Property Size (SF)	62,552
Topography	Level
Shape	Irregular
Position	Midblock
Utilities	Serviced
Official Plan	Mixed Use Areas
Zoning	CR 3.0 (C1.75; R3.0)
Frontage	285 feet along Cumberland Street 235 feet along Yorkville Avenue

Proposed Development

Land Type	High Density Residential
GFA (SF)	984,579
Site Density	15.74
Number of Units	1,100
Development Status	Approved

Sale Commentary

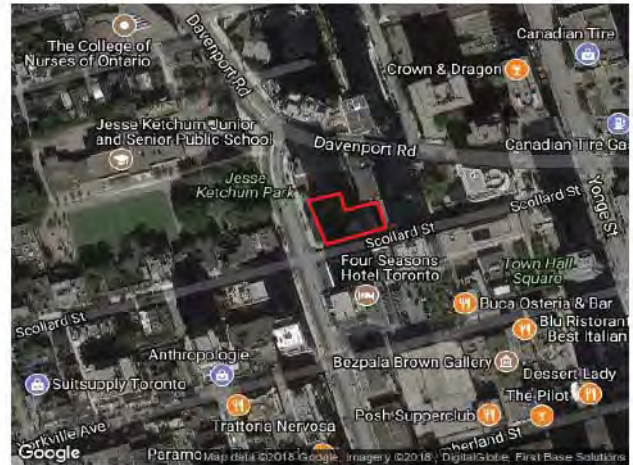
The property is designated as Mixed Use Areas in the City of Toronto Official Plan. The zoning designation is CR 3.0 (C1.75; R3.0) on commercial residential classification under former City of Toronto By-law 438-86.

At the time of sale, the property was improved with two retail buildings and a parking structure.

A rezoning application and Official plan amendment were submitted to the City of Toronto pertaining to the land in this transaction in June 2012 and June 2014 respectively. On September 30, 2015 the applications were approved permitting the construction of two mixed use towers 62 and 40-stories in height. The development would have a total gross floor area of 1,148,725 SF (maximum residential 1,066,736 SF - Residential inclusive of a maximum of 184,472 SF for Replacement Above Grade Parking and 81,989 SF of retail). The developer is required to replace the parking structure at the property previously owned and operated by the Toronto Parking Authority.

At the time the price was negotiated, the purchaser projected the gross floor area breakdown as follows: Residential - 906,009 SF, Retail - 78,570 SF and Above Grade Parking 125,297 SF. For the purpose of calculating the price per buildable square foot, we have excluded the above-grade parking and have adjusted the GFA to 984,579 SF. We note that the above grade parking will include saleable parking stalls for the residential condo owners and that the replacement parking will be located below grade. The developer will incur additional costs of approximately \$60,000,000 in order to replace the Toronto Parking Authority parking structure. As a result, the sale price was adjusted upwards by \$60,000,000.

1315-1323 Bay Street & 50-58 Scollard Street
Toronto, Ontario



Sale Details

Sale Price	\$87,000,000
Adjusted Sale Price	\$87,000,000
Sale Price Per Acre	\$157,668,497
Sale Price Per SF	\$3,620
Sale Price Per Buildable SF	\$379

Closing Date	December-17
Vendor	BRI Realty Limited
Purchaser	Lanterra Developments
Broker	N/A

Interest	100%
Property Rights	Fee Simple
PIN	21195-0055, -0056, -0057, -0058, -0059, -0060, -0061, -

Physical Details

Property Size (Acres)	0.55
Property Size (SF)	24,036
Topography	Level
Shape	Irregular
Position	Corner
Utilities	Serviced
Official Plan	Mixed Use Areas
Zoning	CR T3.0 (C1.75 R3.0)
Frontage	613 feet along Bay Street 570 feet along Scollard Street

Proposed Development

Land Type	High Density Residential
GFA (SF)	229,831
Site Density	9.56
Number of Units	112
Development Status	Approved

Sale Commentary

The property is designated as Mixed Use Areas in the City of Toronto Official Plan. The zoning designation is CR T3.0 (C1.75 R3.0), a mixed commercial/residential classification.

At the time of sale, the property was improved with four vacant heritage buildings and a surface parking lot.

A rezoning application was submitted in November 2015 proposing the development of a 41 storey, 112 unit residential condominium tower with retail uses on the first three floor. In July 2016, a site plan application was submitted for the same build form with a total gross floor area of 229,831 square feet. The rezoning application was approved by municipal council in April 2017; the site plan application was still in circulation as of the date of sale.

40-58 Widmer Street
Toronto, Ontario



Sale Details

Sale Price	\$75,200,000
Adjusted Sale Price	\$75,200,000
Sale Price Per Acre	\$197,894,737
Sale Price Per SF	\$4,569
Sale Price Per Buildable SF	\$257

Closing Date	December-17
Vendor	Hi-Rise Capital
Purchaser	Concord Pacific
Broker	BMO

Interest	100%
Property Rights	Fee Simple
PIN	21412-0033, -0034, -0035, -0036, -0037, -0393

Physical Details

Property Size (Acres)	0.38
Property Size (SF)	16,458
Topography	Level
Shape	Regular
Position	Midblock
Utilities	Serviced
Official Plan	Regeneration Areas
Zoning	RA
Frontage	190 feet along Widmer Street

Proposed Development

Land Type	High Density Residential
GFA (SF)	292,778
Site Density	17.79
Number of Units	426
Development Status	Approved

Sale Commentary

The property is designated as Regeneration Areas in the City of Toronto Official Plan. The zoning designation is RA under the former City of Toronto Zoning By-law 438-86, a reinvestment area classification.

At the time of sale, the property was vacant and unimproved, having previously been home to several older row houses that had been converted to commercial uses. All the structures had been demolished as of the date of sale.

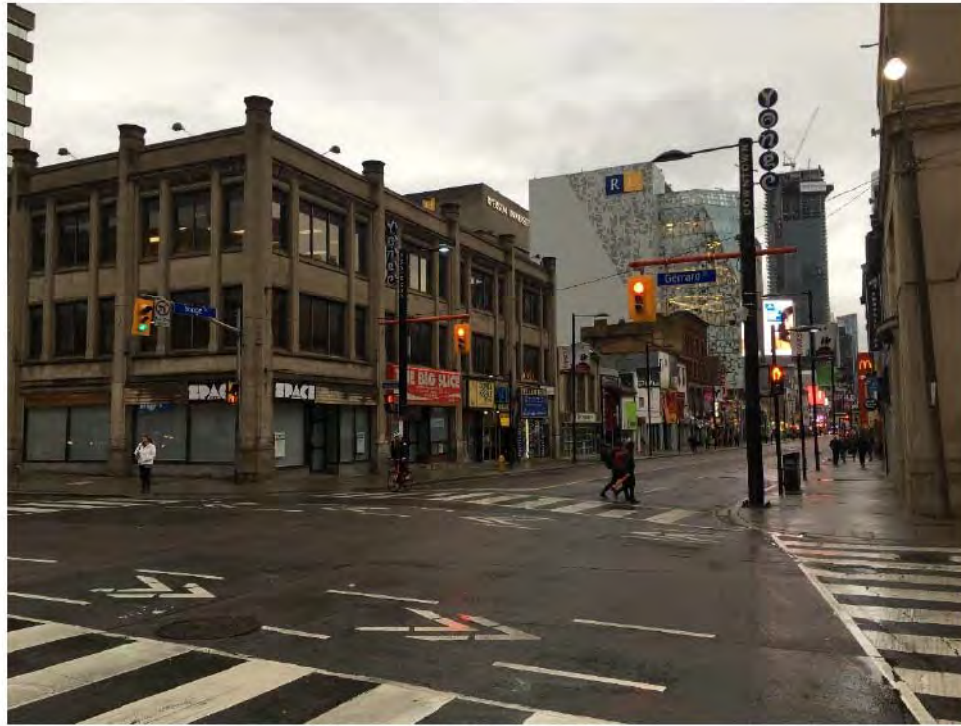
On February 3 and 4 of 2016, the City of Toronto Council approved a zoning by-law amendment to allow for the construction of a 41 storey apartment building and/or structure with a gross floor area of 292,778 square feet containing 426 units.

No project had been launched as of the date of sale.



Addendum "C"
Photos

PHOTOS



View from Yonge Street



View from Yonge Street



View from Gerrard Street



View from Gerrard Street

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3

APPRAISAL REPORT

CBRE File No. :: 18-APPRTOR-0262

363-385 Yonge Street
Toronto, Ontario
Effective Date: April 20, 2018

Prepared for:

Ted Dowbiggin
President
Cresford Developments
170 Merton Street
Toronto, Ontario, M4S 1A1



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CBRE File No. :: 18-APPRTOR-0262

May 7, 2018

Ted Dowbiggin
 President
 Cresford Developments
 170 Merton Street
 Toronto, Ontario, M4S 1A1

RE: 363-385 Yonge Street, Toronto, Ontario

Dear Mr. Dowbiggin:

At your request and authorization, CBRE Limited has completed an investigation and analysis of the above referenced property and is pleased to submit this current narrative appraisal report.

This appraisal report is prepared for the purpose of providing an estimate of market value of the 100% fee simple interest of 363-385 Yonge Street based on an effective date of April 20, 2018. We understand this report will be used by the intended user and any other intended users noted herein to assist in financing.

The market value reported herein is subject to the Extraordinary Assumptions and Limiting Conditions noted within this report on page 6 which are an integral part of this report and are inseparable from this letter. The analyses, opinions and conclusions utilized in this report were developed based on our interpretation of the standards set forth in the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP).

Based on the analysis contained in this report, the market value of the subject property as at April 20, 2018 is:

Two Hundred Seventy Five Million Dollars

\$275,000,000

It has been a pleasure to assist you in this assignment. If you have any questions concerning the analysis, or if CBRE Limited can be of further service, please contact us.

Respectfully submitted,

CBRE LIMITED

Grant Chernenkoff, MBA, AACI
 Director
 Valuation & Advisory Services
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ADDENDA

Addendum "A"

- Terms of Reference
- Assumptions and Limiting Conditions

Addendum "B"

- Comparable Sales Transactions

Addendum "C"

- Photos



363-385 Yonge Street
Effective Date: April 20, 2018



363-385 Yonge Street , Toronto, Ontario



Executive Summary

Investment Summary

Investment Characteristics

Extraordinary Assumptions and Limiting
Conditions

INVESTMENT SUMMARY

Property Address:	363-385 Yonge Street
Interest Appraised:	Fee Simple
Effective Date:	April 20, 2018
Product Type:	Commercial properties with potential for high density mixed-use development.
Land Area:	0.93 acres

VALUATION SUMMARY

Final Value Conclusion:	\$275,000,000
Allowable Building Area (SF):	964,954 (Estimated)
Value PSF Buildable:	\$285

INVESTMENT CHARACTERISTICS

Location

Strengths

- Corner lot with a Yonge Street address.
- Located mid-way between College and Dundas subway stations.
- Close proximity to the Financial Core and Ryerson University.
- Ample and wide range of amenities available in immediate vicinity. Opportunity to create brand new retail in this location enhances the value of the site.
- The location has excellent residential rental appeal which in turn is attractive to investors and which further benefits absorption and development timelines.
- Very successful completion of the Aura condominium development located on the northwest corner of Yonge Street and Gerrard Street East.
- Launch of YC, Teahouse 501 Yonge Condominiums, Clover on Yonge and Halo Residences on Yonge located north of the subject property along Yonge Street speak to the attractiveness of the location.
- The area continues to undergo substantial improvement and intensification with major developments along Yonge Street.

Weaknesses

- Although rapidly gentrifying, Yonge Street retail in this area is still predominately lower end. However, the proposed development would significantly improve the retail mix on this stretch of Yonge Street.

Physical

Strengths

- Significant frontage on Yonge Street.
- Corner positioning.
- Access to the property via O'Keefe Lane.

Weaknesses

- Heritage listed buildings at 363-367 Yonge Street, 381 Yonge Street and 385-391 Yonge Street need to be incorporated into the development.

Development Status

Strengths

- A rezoning application and official plan amendment to allow a mixed-use development at the subject property were originally submitted in April 2015 and September 2015, respectively. The original proposal called for a mixed-use development comprised of a retail, office and residential components. The development would have two towers of 73 and 62 stories connected by a bridge on top of a 9 storey podium. The proposal had a total gross floor area of 1,175,793 square feet and a density of 29.2 times the site size.
- In February 2016, the subject property was purchased by Cresford Developments. On February 24, 2017 the new owner submitted a revised development proposal. The revised proposal took into account comments received from the relevant approving authorities in preparation for a revision of the zoning amendment application.
- The revised proposal also calls for a mixed-use development comprised of a retail, office and residential components. The two towers from the initial proposal have been replaced with a single 98 storey tower extending from a 9 storey podium. The proposed gross floor area of the development is 1,068,855 square feet with an overall density of 26.6 times the site size.
- With the impending changes to the OMB, the application was appealed to the OMB. A hearing has been scheduled for August 2018. However, the Subject property owner has continued to work with the City of Toronto and is in the process of finalizing a settlement to be brought forward for Council approval in June.

Weaknesses

- None noted.

Investment Market/Liquidity

Strengths

- Toronto is one of Canada's strongest investment markets.
- Notwithstanding recent volatility, 10 Year Canada Bond yields are on the rise with the Bank of Canada's interest rate increases. However, yields remain low and Cap Rate to 10-Year GOC spreads continue to remain attractive.

- Against the backdrop of a robust Canadian economy in H1 2017, cap rates continued to compress in 2017.
- Alberta, the weakest component of the Canadian economy in recent years, has re-emerged. With Calgary's GDP on track to increase by 4.6%, it is the fastest growing Canadian city among the major markets.
- Despite recent cooling, Canada led G7 nations in economic growth in 2017.
- Demand for well located, urban sites remains incredibly strong.

Weaknesses

- Liquidity for secondary and tertiary markets is reduced (particularly for retail) as many owners shift their focus to larger markets. With the subject property being located in the centre of a major market, this trend has a positive impact on the site.
- Continued concerns surrounding global geopolitical uncertainty and the sustainability of soaring stock market valuations.
- Three upward moves over the past 12 months by the Bank of Canada together with new mortgage regulations may dampen the housing market.

EXTRAORDINARY ASSUMPTIONS AND LIMITING CONDITIONS

The Assumptions and Limiting Conditions for this report have been included in Addendum "A".



Property Overview

Tenure

Location Description

Site Description

Current Improvements

Site Survey

Proposed Development

Zoning and Planning

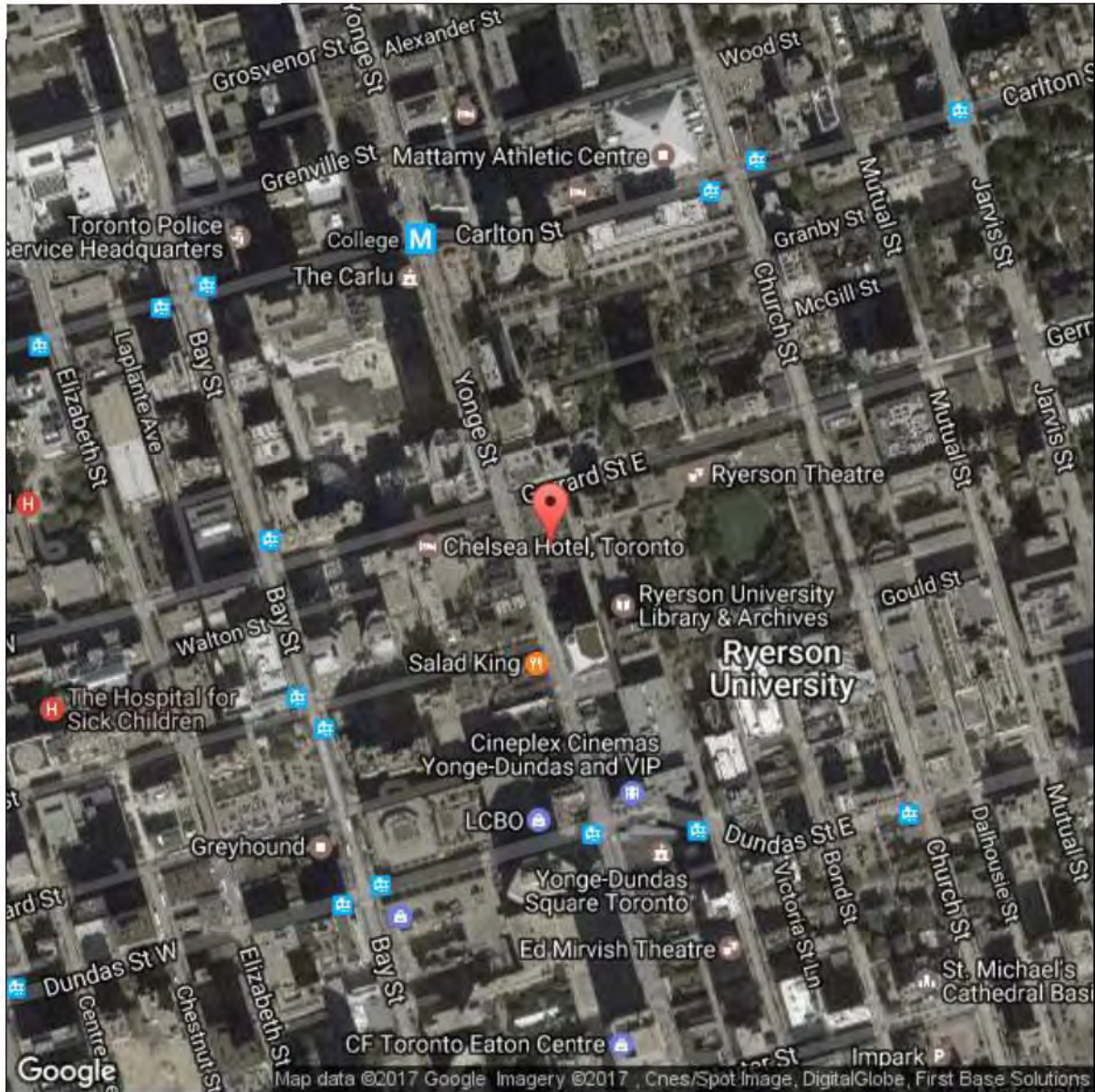
TENURE

The tenure being appraised is as follows:

- 100% fee simple interest

LOCATION DESCRIPTION

The subject property is located in Downtown Toronto. Specifically, the subject is located on the southeast corner of Yonge Street and Gerrard Street East. The subject has the following frontage: 305 feet along Yonge Street and 135 feet along Gerard Street East.



Area Overview

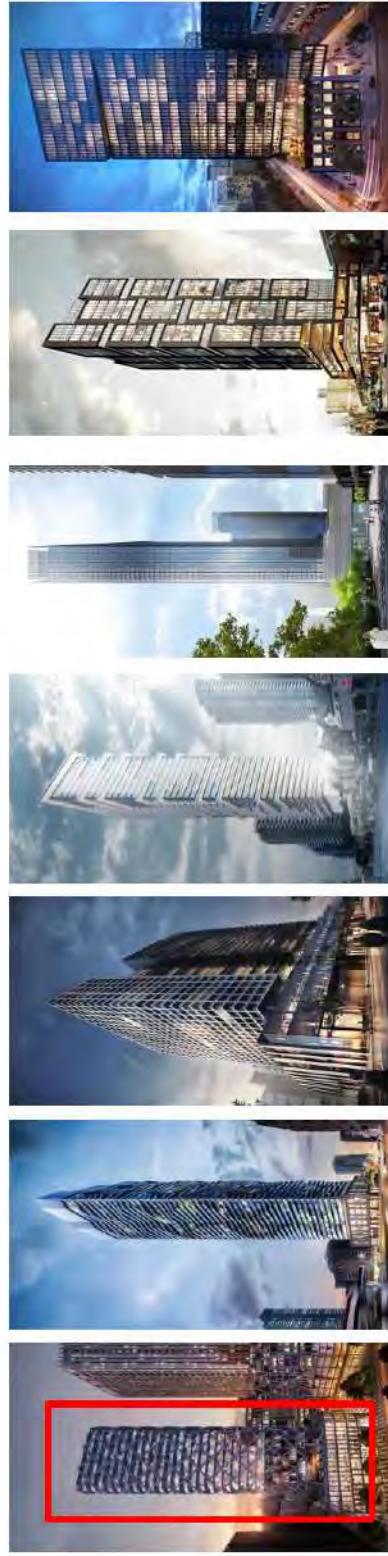
Yonge Street has long been one of the major shopping destinations in the City of Toronto. The opening of the Eaton Centre in 1977 shifted much of the retail focus away from the street and into the new mall. Various efforts have been made over the years in order to revive the street life though few met with much success until the late 1990s. In 1998, the Yonge Street Regeneration Project was launched by Toronto City Council in an attempt to revitalize the area. One of the major components of the Project was municipal acquisition, through market or expropriation means, of the properties on the northeast and southeast corner of the intersection of Yonge Street and Dundas Street. Those on the southeast corner became Yonge-Dundas Square, completed in 2002 while the northeast corner ultimately became 10 Dundas Street East, a multi-use theatre/retail/office complex.

In addition to the Regeneration Project, the Downtown Yonge Business Improvement Association (DYBIA) was formed in 2001 and brought local business and property owners together in an organized structure. Along with the ongoing expansion of Ryerson University, these two initiatives have been quite successful in returning people to the street and have helped spur numerous development projects in the area, as illustrated by the following map provided by the DYBIA:



Area Developments

There are several recent large scale residential and mixed-use developments in the subject area some of which are outlined in the table below.



Name	Artists Alley 2	Social at Church + Dundas	Panda Condominiums	Charles at Church	Residences of 33 Yorkville Tower A/Tower B	Theory Condos	Fleur
Address	234 Simcoe Street	117	20 Edward Street	628 Church Street	33 Yorkville Avenue	203 College Street	60 Shuter Street
Status	Pre-Construction	Pre-Construction	Pre-Construction	Pre-Construction	Pre-Construction	Pre-Construction	Under Construction
Number of Units	318	602	555	369	1,027	243	320
Number of Storeys	36	52	30	47	46/71	30	29
Opening Date	February 2018	November 2017	October 2017	September 2017	September 2017	July 2017	May 2017
First Occupancy Date	October 2022	June 2022	May 2021	November 2021	May 2022	August 2021	April 2020
Currently Available Price PSF	\$1,050	\$939	\$1,243	\$1,048	\$1,906	\$1,095	\$1,200
Achieved Price Range PSF	\$1,006 - \$1,293	\$896 - \$1,039	\$1,160 - \$1,362	\$870 - \$1,081	\$1,153 - \$1,939	\$937 - \$1,181	\$987 - \$1,413
Sold as of March 2018	63%	100%	85%	89%	88%/88%	100%	72%
Sold in first 12 months	63%	100%	85%	89%	88%/88%	100%	72%
Parking Price	\$75,000	\$79,000	\$85,000	\$80,000	\$90,000	\$75,000	N/A
Locker Price	\$5,000	\$8,500	N/A	N/A	N/A	N/A	N/A

In addition to the developments outlined on the previous page, we note that a high density development being marketed as Clover on Yonge (595 Yonge Street) launched a block of suites in March 2018. 23 suites previously held back from the market sold at an average price of \$1,364 PSF with prices ranging from \$1,212 to \$1,489 PSF.

In interest in the immediate area is further substantiated by a submitted rezoning application for the redevelopment of the Chelsea Hotel lands located west of the subject property at 33 Gerard Street West. The proposal calls for construction of three towers (88, 88, and 49 storeys) and one two-storey structure. The development would have residential, hotel, commercial, office and retail components with a total gross floor area of 1,680,892 SF. As of April 2018, the application is under appeal at the Ontario Municipal Board.

Land Use

Current uses in the immediate vicinity of the subject include:

North

- Gerrard Street East
- Mix of retail, residential and office uses along Yonge Street
- Aura, Karma, YC, Teahouse 501 Yonge Condominiums and Halo Residences on Yonge residential condominium developments

South

- Mix of retail, residential and office uses along Yonge Street
- Ryerson Student Learning Centre
- Yonge-Dundas Square

East

- O'Keefe Lane
- Ryerson University

West

- Yonge Street
- Chelsea Hotel (owners are currently considering a major mixed-use re-development of this site)

Access

Regional

- Access to Gardiner Expressway via Yonge Street and Lakeshore Boulevard.
- Access to Don Valley Parkway and 400-series Highways via Yonge Street and Bloor Street.

Local

- Vehicular access provided by Yonge Street, Gerrard Street East and O'Keefe Lane.

Public Transit

- Close proximity to Dundas and College subway stations.
- Close proximity to streetcars running along College/Carlton Street and Dundas Street.

Amenities

Full range amenities available along Yonge Street.

Conclusion

Overall, the location is considered excellent for high density mixed-use development.

SITE DESCRIPTION

Position	Corner
Site Area	0.93 acres as per Geowarehouse
Configuration	Regular
Topography	Level
Access	Ingress and egress from Yonge Street, Gerrard Street East and O'Keefe Lane
Services	The subject lot is fully serviced.

Conclusion

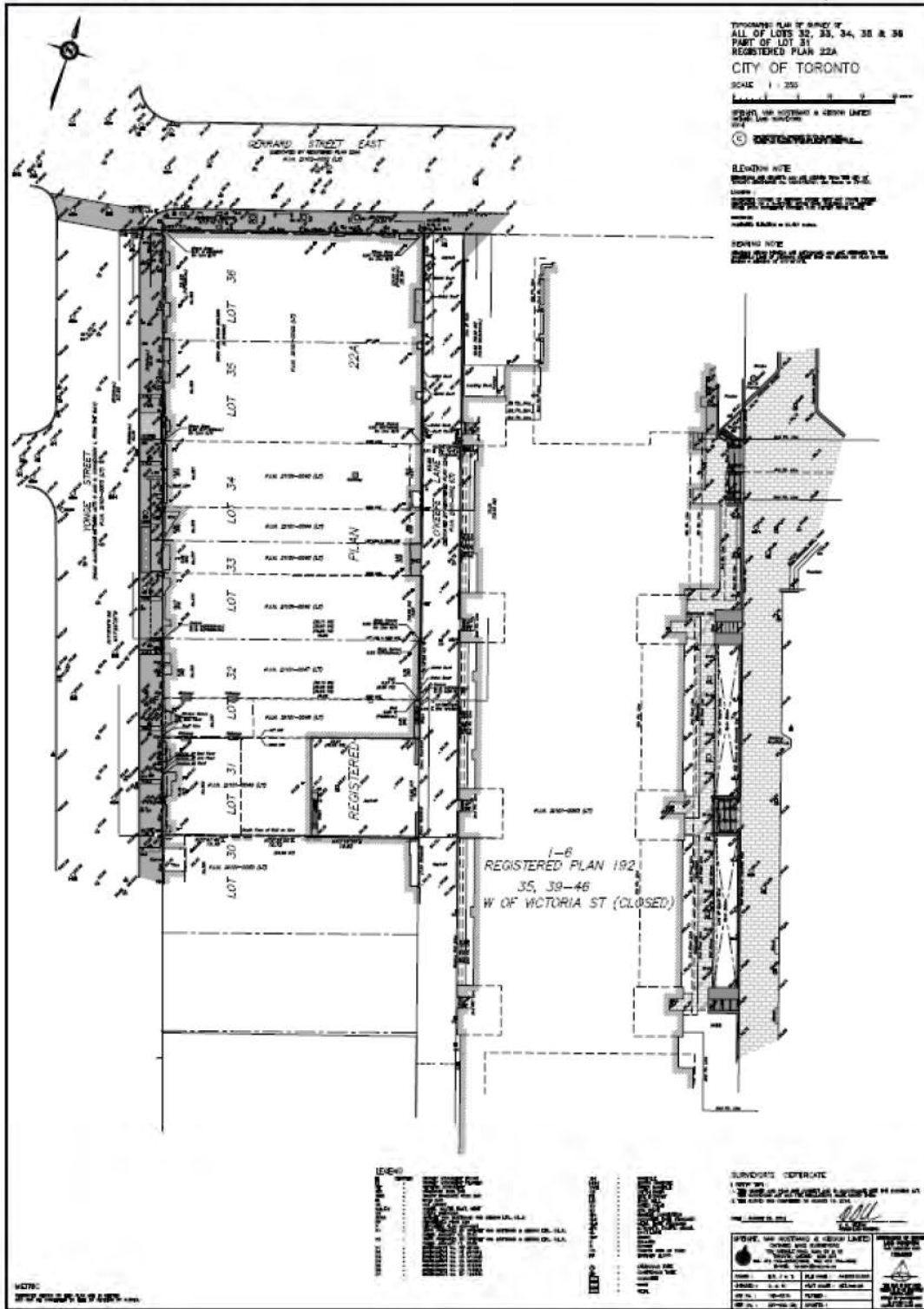
The site appears to support the proposed development of high density mixed-use development.

CURRENT IMPROVEMENTS

The subject property is currently improved with eight 1-4 storey buildings. The buildings are occupied by commercial uses at grade with retail, office and residential uses on the upper floors. The site currently contains four listed heritage buildings at 363-367 Yonge Street, 381 Yonge Street and 385-391 Yonge Street.

SITE SURVEY

The following site survey was provided by the client:



Conclusion

Overall, the subject site is appropriate for high density mixed-use development.

PROPOSED DEVELOPMENT

The initial proposal for redevelopment of the subject property was submitted to the City of Toronto in April 2015. The proposal called for two towers of 73 and 62 stories extending from a podium containing total gross floor area of 1,175,793 square feet, including 101,062 square feet of retail on the first three floors and basement level as well as 186,980 square feet of office space in the building podium. The overall density of the initial proposal was 29.22 times the site area.

In February 2016, the subject property was purchased by Cresford Developments. On February 24, 2017 the new owner submitted a revised development proposal to the City. The revised plans call for a single 98 storey tower extending from a nine storey podium and has been designed by the renowned international firm Kohn Pederson Fox. The redesign contains a retail component located below, at and above-grade, office and/or institutional space on floors 4 to 8, residential units on floors 10-40 and 44-98, with mechanical space at floors 9, 41, 65, 88 and 99.

With the impending changes to the OMB, the owner appealed their zoning application to the OMB however they have continued to work actively with the City to address their comments regarding built form and to eliminate all shadows on Allan Gardens. The City has acknowledged that the site is appropriate for a very tall building.

The property owner is currently working with the City to finalize a settlement that is expected to be brought forward for Council approval in June 2018. Their planner has opined that they have made significant and positive strides to reach a settlement with the City and they are confident a density range of 90,000-92,000 square metres is achievable. The settlement negotiations reflect a conservative gross floor area of 964,954 square feet.

The proposed development has not yet launched pre-sales but is being marketed as YSL (Yonge Street Living) and is expected to launch in the Fall of 2018.



ZONING AND PLANNING

Official Plan

- The subject has been classified as Mixed Use Areas under the City of Toronto's Official Plan.
- This designation permits a range of residential, commercial and institutional uses. The Plan includes criteria that direct the form and quality of development in this land use designation. The criteria state that new buildings: provide a transition between areas of different intensity and scale including a stepping down of heights towards lower scale neighbourhoods; minimize shadow impacts; and provide an attractive, safe and comfortable pedestrian environment.

Site and Area Specific Policy 174 – Yonge Street Between Queen Street and North of Gerrard Street

- The subject property is subject to Site and Area Specific Policy 174, Yonge Street Between Queen Street and North of Gerrard Street.
- The general planning objective of SASP 174 is to provide an overall framework for continued revitalization in the area.
- The key principles of the Policy are for changes to be consistent with and enhance the character of the area, retention of heritage buildings, streetscape improvements, locating business along Yonge Street, to ensure site and massing achieve adequate light, achieving a harmonious relationship to the built form context, to minimize wind and shadow impacts etc.

Zoning

- Existing zoning is CR 4.0 (c4.0; r1.5) – Commercial Residential Area.
- An Official Plan amendment and rezoning application were submitted to the City of Toronto for a redevelopment of the subject on April 24, 2015 with a mixed-use building comprised of retail, office and residential components. The proposal included two towers of 73 and 62 stories extending from a nine storey podium. The application called for a total of approximately 1,175,793 square feet of gross floor area for the redevelopment project, equivalent to a density of 29.2 times the site size.
- On February 24, 2017 a revised application for the subject property was submitted to the City of Toronto. The revised proposal was also for a mixed-use development comprised of retail, office and residential components. The two towers have been replaced with a single 98 storey building extending from a nine storey podium.
- The total gross floor area has been revised to 1,068,855 square feet resulting in a lower density of 26.6 times the site size.
- A Community Consultation meeting pertaining to the revised proposal was held on April 19, 2017 and the comments were generally positive with no concerns about the proposed height.
- With the impending changes to the OMB, the application was appealed to the OMB and a hearing is set for August 2018. However, the owner has continued to work with the City on a settlement that is expected to be brought forward to Council in June 2018 for approval.

- In light of conversations with the City of Toronto and subject property owner's planner, the subject property owner trusts that a gross floor area of 964,954 SF or a density of 23.8 times the site size is achievable. Based on density precedents in the area, this density appears to be reasonable and as a result we have adopted this figure for the purpose of estimating the market value of the subject property.

Conclusion

A review of the Official Plan, Site and Area Specific Policy 174 as well as the large number of recent redevelopment projects in area confirmed that a high density mixed-use development with an emphasis on residential uses is attainable. At the client's request, we have utilized a figure of 964,954 square feet for the total gross floor area which is smaller than the current plans before the OMB.



Market Overview

Canada Economic Overview

Ontario Economic Overview

Toronto Economic Overview

Canada Investment Marketview

Residential Market Overview

CANADA ECONOMIC OVERVIEW

Economic Indicators - Canada

	2014	2015	2016	2017F	2018F	2019F	2020F	2021F
Real GDP Growth at Market Prices (\$2007 millions)	\$1,753,683	\$1,770,196	\$1,796,178	\$1,843,676	\$1,878,769	\$1,913,310	\$1,948,248	\$1,980,857
Annual Growth (%)	2.6%	0.9%	1.5%	2.6%	1.9%	1.8%	1.8%	1.7%
Total Employment (000s)	17,797	17,949	18,083	18,341	18,512	18,697	18,879	19,066
Annual Growth (%)	0.6%	0.9%	0.7%	1.4%	0.9%	1.0%	1.0%	1.0%
Unemployment Rate (%)	6.9%	6.9%	7.0%	6.6%	6.4%	6.3%	6.1%	6.0%
Personal Income per Capita (\$)	\$43,820	\$45,281	\$46,214	\$47,257	\$48,508	\$49,807	\$51,117	\$52,497
Population (000s)	35,496	35,821	36,229	36,646	37,026	37,403	37,776	38,148
Annual Growth (%)	1.1%	0.9%	1.1%	1.2%	1.0%	1.0%	1.0%	1.0%
Retail Sales (\$ millions)	\$510,478	\$523,922	\$550,793	\$582,604	\$596,405	\$609,550	\$623,236	\$636,188
Annual Growth (%)	5.1%	2.6%	5.1%	5.8%	2.4%	2.2%	2.2%	2.1%
CPI Annual Growth (%)	1.9%	1.1%	1.4%	1.9%	2.0%	2.2%	2.1%	2.1%

F = Forecast data.

Source: The Conference Board of Canada, Metropolitan Outlook I, Autumn 2017

Notable highlights regarding Canada's economic environment are provided below and have been sourced from The Conference Board of Canada's Autumn 2017 Metropolitan Outlook I report:

- The Canadian economy performed well in the first half of the year, and even with the moderation expected over the latter half of the year, real GDP is on track to grow by a solid 2.6% in 2017. Economic expansion is likely to decelerate in the coming years with growth falling to 1.9% in 2018 and averaging 1.8% over the following three years.
- In tandem with the economy, a 10-year high of 260,000 jobs are expected to be created this year and slow to 171,000 new jobs in 2018.
- Strong consumer spending and robust residential investment drove much of the economic growth this year. Rising home values contributed to the increase in consumer spending as households spent their newfound wealth. However, weak wage growth, slower employment gains, rising household debt, and cooling home prices will likely lower consumer spending next year. Residential investments will also begin to decline and align more with demographic needs in 2018.
- The rebound in business investments in Q1 2017 was a positive change from the declines seen in the previous quarters. However, the transition away from an energy dominated economy continues to be slow. In addition, a Conference Board survey of business executives found that only 48.7% believed now is a good time to be investing into new plants or equipment. As a result, non-residential business investment is set to decline for the third consecutive year in 2017.
- Exports have been underperforming over the past year and so far into 2017. Only the recovery of energy exports after the Fort McMurray wildfires led to any merchandise export growth at all. The growth was especially poor given the weakness of the Canadian dollar over this period as well. Stronger global economic growth is expected to boost exports in 2018, but the protectionist policies from U.S. remain a risk.
- Increased government spending has boosted Canada's economic growth in recent years and this is expected to continue over the next few years. Given the federal government's commitments outlined in their latest budgets, and that half of the provinces have balanced their budgets and have fiscal capacity to spend, public investment spending is projected to grow by an average 4.6% per year in 2017 and 2018.

- With the economy's excess capacity being absorbed much faster than anticipated, the Bank of Canada increased interest rates twice, once in July and again in September. This completely reversed the 50 basis point cuts the central bank implemented after the oil price crash in late 2014. The Bank of Canada is expected to continue to raise interest rates in 2018, however, at a gradual pace to accommodate the highly indebted households.

ONTARIO ECONOMIC OVERVIEW

Economic Indicators - Ontario								
	2014	2015	2016	2017F	2018F	2019F	2020F	2021F
Real GDP Growth at Market Prices (\$2007 millions)	\$602,010	\$617,457	\$632,209	\$650,337	\$664,388	\$677,837	\$691,447	\$705,631
Annual Growth (%)	2.6%	2.6%	2.4%	2.9%	2.2%	2.0%	2.0%	2.1%
Total Employment (000s)	6,877	6,924	7,000	7,075	7,130	7,220	7,308	7,422
Annual Growth (%)	0.8%	0.7%	1.1%	1.1%	0.8%	1.3%	1.2%	1.6%
Unemployment Rate (%)	7.3%	6.8%	6.6%	6.4%	6.6%	6.5%	6.3%	6.0%
Personal Income per Capita (\$)	\$43,262	\$44,936	\$46,234	\$47,256	\$48,548	\$50,028	\$51,449	\$53,026
Population (000s)	13,671	13,786	13,961	14,155	14,305	14,446	14,584	14,721
Annual Growth (%)	1.0%	0.8%	1.3%	1.4%	1.1%	1.0%	1.0%	0.9%
Retail Sales (\$ millions)	\$179,100	\$188,893	\$202,235	\$214,683	\$219,747	\$225,569	\$231,140	\$236,902
Annual Growth (%)	5.8%	5.5%	7.1%	6.2%	2.4%	2.6%	2.5%	2.5%
CPI Annual Growth (%)	2.3%	1.2%	1.8%	1.6%	1.8%	2.2%	2.1%	2.1%

F = Forecast data.
Source: The Conference Board of Canada, Metropolitan Outlook I, Autumn 2017

Notable highlights regarding Ontario's economic environment are provided below and have been sourced from The Conference Board of Canada's Autumn 2017 Metropolitan Outlook I report:

- The economy in Ontario is expected to remain healthy, but also to moderate, over the near term with real GDP growth of 2.9% in 2017 before slowing to 2.2% in 2018. Household consumption, infrastructure spending, and business investments will be the key drivers of growth. However, high household debt combined with rising interest rates will slow consumer spending in 2018.
- Over 130,000 new jobs are projected in Ontario over the next two years which will support steady wage and salary increases in the province.
- Despite burgeoning debt levels, household spending is still on track to increase by 3.0% in 2017 but slow to 2.0% in 2018. A solid employment market has supported increased spending on durable goods, but the Conference Board's Index of Consumer Confidence suggest spending will slow in 2018. Only 28% of households believe now is the time for a big-ticket purchase and a projected decline in housing starts translates to slower demand for appliances and furniture.
- Public sector spending will continue to drive growth in Ontario, with both the federal and provincial governments committing about \$15 billion in infrastructure spending over the current fiscal year of 2017-18.
- Business investments are set to grow at a robust 4.1% in 2017, largely due to the GTA's hot housing market. Provincial and federal government measures aimed at cooling the housing market are expected to see residential investments decline by 1.7% in 2018. However, overall business investment will still remain positive in 2018, stemming from stronger non-residential structure and machinery & equipment investment.
- Due to the weakened global economy, trade in Ontario is expected to be soft in 2017 with growth of only 0.4%. In 2018, exports are forecast to pick up and expand by 2.7% as the global economy recovers and the Canadian dollar remains below par with the U.S. The renegotiation of NAFTA, however, does cloud the outlook for Ontario's export-oriented manufacturing industries.

TORONTO ECONOMIC OVERVIEW

Economic Indicators - Toronto

	2014	2015	2016	2017F	2018F	2019F	2020F	2021F
Real GDP Growth at Market Prices (\$2007 millions)	\$307,781	\$319,090	\$329,678	\$341,751	\$350,305	\$358,927	\$367,781	\$376,577
Annual Growth (%)	3.5%	3.7%	3.3%	3.7%	2.5%	2.5%	2.5%	2.4%
Total Employment (000s)	3,086	3,178	3,216	3,262	3,296	3,361	3,422	3,492
Annual Growth (%)	-0.1%	3.0%	1.2%	1.4%	1.1%	2.0%	1.8%	2.0%
Unemployment Rate (%)	8.0%	7.1%	7.0%	6.9%	6.7%	6.6%	6.4%	6.1%
Personal Income per Capita (\$)	\$44,545	\$46,544	\$47,110	\$47,979	\$49,266	\$50,742	\$52,163	\$53,670
Population (000s)	6,055	6,124	6,242	6,361	6,457	6,550	6,643	6,737
Annual Growth (%)	1.5%	1.1%	1.9%	1.9%	1.5%	1.4%	1.4%	1.4%
Retail Sales (\$ millions)	\$73,656	\$77,470	\$83,068	\$88,830	\$91,230	\$94,046	\$96,800	\$99,543
Annual Growth (%)	6.6%	5.2%	7.2%	6.9%	2.7%	3.1%	2.9%	2.8%
CPI Annual Growth (%)	2.5%	1.6%	2.0%	2.2%	2.0%	2.2%	2.1%	2.1%

F = Forecast data.

Source: The Conference Board of Canada, Metropolitan Outlook I, Autumn 2017

Notable highlights regarding Toronto's economic environment are provided below and have been sourced from The Conference Board of Canada's Autumn 2017 Metropolitan Outlook I report:

- Toronto's economy remains vigorous, with 2017 growth forecast to be 3.7%, the fourth consecutive year of above-3.0% growth. In 2018, growth is expected to moderate but still post a decent 2.5% expansion. Services, specifically the wholesale & retail trade and FIRE sectors, will continue to lead the economy.
- The labour market in Toronto has been robust in recent years with 253,100 jobs created since 2013 and another 80,300 net new jobs expected over 2017-18. The unemployment rate is therefore expected to fall to 6.7% in 2018.
- Demographically, Toronto's population is forecast to increase by 1.9% in 2017 and 1.5% in 2018 as the city remains the top destination of choice for immigrants.
- The wholesale and retail trade sector is poised to be the fastest growing sector in 2017 at 7.2%, supported by solid employment and wage increases. Personal disposable income per capita is projected to grow by 2.3% per year between 2017 to 2021 and will lead to retail sales growth of 3.7% per year. An additional boost to consumer spending arises from the province's new Fair Hydro Plan, which lowered residential electricity bills by an average of 25%.
- The FIRE and business services sectors are set to be strong performers in 2017, posting gains of 4.8% and 3.6%, respectively. Both sectors are expected to moderate with the overall economy in 2018, but will still see decent growth of 3.1% and 2.9% respectively.
- Residential construction activity in Toronto had a sweltering start to the year, but is expected to fall in the latter half of 2017 and into 2018 due to the provincial government's interventions and rising mortgage rates. However, public infrastructure spending is expected to take up the slack as Toronto undergoes major upgrades to its transit network. Transit projects include the \$5.3 billion Eglinton Crosstown LRT line, the \$3.2 billion Toronto-York Spadina subway extension, the \$1.5 billion Finch West LRT line, and the widening of multiple highways around Toronto.
- Over the last few years, Toronto's manufacturing sector has grown at an average rate of 2.5% per year, benefitting from a healthy U.S. economy, a weak Canadian dollar, and increased demand for new vehicles

in the U.S. However, vehicle sales in the U.S. appear to have peaked which are forecast to slow Toronto's manufacturing sector to just 0.9% growth in 2017 and 1.4% in 2018. Manufacturing employment is also expected to trend downward as gains in production efficiencies outpace growth in output.

CANADA INVESTMENT MARKETVIEW



Figure 1: Historical National Commercial Real Estate Investment Volume | 2008 to 2017



- Canada set a second consecutive full-year commercial real estate investment record in 2017 with 7,074 transactions totalling \$43.1 billion. This represented year-over-year growth of 24% over the previous record \$34.7 billion of total investment from 2016.
- The two largest asset classes by volume in 2017 were the Office and Retail sectors which had full-year investment volumes of \$10.2 billion and \$9.2 billion. Landlord confidence continues to remain high amid curbing supply of lease and sale availabilities.
- The most active asset class this quarter was the retail sector which saw investments total just under \$2.2 billion in Q4 2017.
- The majority of investment activity in 2017 was centred in Toronto and Vancouver. Acquisitions in these two markets totalled \$15.7 billion and \$11.8 billion on the year, accounting for 65% of all investment activity.
- The largest transaction in Q4 2017 was the sale of the Sheraton Centre Hotel in Toronto to Brookfield for \$335.0 million.
- Private Canadian Investors were the largest buyer group in 2017, accounting for 34% of the market, followed by Pension Fund/Advisors who accounted for 22% of the market.

Supply

Canadian commercial real estate investment markets continued their strong performance, building off the robust results from the past several periods to set records for investment volume and transaction velocity in 2017. Fourth quarter activity was slightly behind the pace set over the first three quarters of the year with acquisitions totalling \$10.1 billion. These fourth quarter results pushed full-year national investment volumes to an unprecedented \$43.1 billion, the largest full-year total on record, surpassing the previous record of \$34.7 billion, set just last year, by 24%.

Investment Breakdown By Asset Class

The record levels of investment activity observed in 2017 were driven by robust capital flows across all sectors. The most active areas of the market in 2017 were the office and retail asset classes which saw total investment volumes of \$10.2 billion and \$9.2 billion, respectively. These two sectors were followed by the industrial, ICI land, and multifamily sectors which saw investment volumes total \$7.4 billion, \$7.0 billion, and \$6.3 billion on the year. Overall,

each asset class outperformed their ten year average for investment volume by considerable margins, all falling between 50% and 103%. Solid real estate fundamentals, a strong Canadian economy, a burgeoning tourism industry, and strong consumer spending suggest that the abundant liquidity observed in 2017 should continue into 2018 as investors continue to allocate more capital to both real estate and Canada.

Retail was the most active sector over the last quarter of the year with acquisitions totaling just under \$2.2 billion. Several high profile properties traded hands over the period including the podium of 1 Bloor Street East in Toronto which sold for \$192 million and Marine Way Market in Vancouver which traded for \$174 million. The most sought-after retail properties continue to be urban assets located along transit routes and properties offering future re-development opportunities.

Capital flows into the ICI land, multifamily, and industrial sectors were also robust in Q4 2017 with investment volumes totaling \$2.1 billion, \$2.0 billion, and \$1.9 billion, respectively. Each of these asset classes outperformed the pace set over the first three months of the year to post strong Q4 2017 investment figures.

While the office sector led the nation in terms of full-year investment volume in 2017, fourth quarter investment totals finished just under \$1.3 billion. Investor interest in the asset class remains strong as 198 trades took place in Q4 2017. While this was the highest number of transactions that took place in any quarter in 2017, a lack of core downtown offerings limited overall investment volume. Strong property fundamentals and a solid national economy should ensure that liquidity for this property class will continue into 2018.

Driven by all time high top and bottom line performance for the industry, the hotels sector also had a strong end to 2017. Hotel investment in Q4 2017 totaled just under \$700 million. This was due in large part to the landmark sale of the Sheraton Centre in downtown Toronto which was purchase by Brookfield for \$335 million. This was the largest commercial real estate transaction across all asset classes in Q4 2017 and certainly marks the overall strength of the sector.

Figure 2: Investment Volume by Asset Class | FY 2017



Source: CBRE Research, RealNet Canada Inc., RealTrack, Collette Plante, JLR Land Titles Solutions, Q4 2017.

Figure 3: Investment Volume by Asset Class | Q4 2017



Source: CBRE Research, RealNet Canada Inc., RealTrack, Collette Plante, JLR Land Titles Solutions, Q4 2017.

Investment Breakdown By Market

Much like 2016, investment activity in 2017 was centered primarily in Toronto and Vancouver where full-year investment volumes totaled \$15.7 billion and \$11.8 billion, respectively. These two markets accounted for 65% of all national investment activity on the year. While headlines in these cities were punctuated by several blockbuster deals, including the sale of 50% of Scotia Plaza in Toronto and the sale of a 50% stake in Cadillac Fairview's entire Vancouver portfolio, each city also set records for deal velocity in 2017. It is clear that both markets have taken a leap in global prominence and are now seen as two of the premier markets in North America.

While Toronto and Vancouver may have stolen many of the headlines in 2017, the story for the rest of the country was also outwardly positive. Investment activity in Montreal was consistently strong all year as acquisition totals ended just under \$4.9 billion. Ottawa achieved record levels of investment volume in 2017 topping the \$2.0 billion mark for the first time on record. Even the three smallest markets in the country by acquisition volume, Waterloo, Halifax, and London, each had impressive years when compared to historical market performance. These cities recorded year-over-year investment growth rates of 64%, 72%, and 35% in 2017. Interest in Waterloo especially has grown significantly in recent years and the \$1.8 billion invested in 2017 puts the Southern Western Ontario hub in line with other mid-tier markets across the country. Finally, the Alberta markets also had a strong 2017, as capital flows fell within 10% of figures from 2016. Real estate fundamentals in these markets continue to stabilize as the regional economy attempts to climb back to normalcy post recession. Investment results over the last two years may be suggesting that investor interest is finally starting to return.

These full-year trends were mirrored in Q4 2017 as Toronto and Vancouver posted the largest investment totals at \$3.7 billion and \$2.2 billion, followed by Montreal at \$1.4 billion, then Calgary and Edmonton at \$820 million and \$582 million, respectively.

Figure 4: Notable Transactions | Q4 2017

Sector	Market	Price (millions)	Property/Address	Size (sf / units / acres / rooms)	Purchaser	Purchaser Type
Hotel	Toronto	\$335.0	Sheraton Centre Hotel	1,372	Brockfield	Institutional
Retail	Toronto	\$192.4	1 Bloor St E – Podium	86,000	First Capital Realty	REIT/REOC
Retail	Vancouver	\$174.0	Marine Way Market	270,000	GWL Realty Advisors	Institutional
Industrial	Montreal	\$121.9	3500 F-X Tessier St	215,000	Tare Canada Investments	Foreign Investor
Office	Vancouver	\$116.9	Solo District Office	230,000	Bentall Kennedy	Pension Fund/Advisor
Multifamily	Halifax	\$113.0	Highfield Park Dr – Portfolio	1,354	Westdale Properties	Private Equity
Office	Calgary	\$98.0	37, 49, 109 Quarry Park Blvd SE	311,000	Bentall Kennedy	Pension Fund/Advisor
Multifamily	Vancouver	\$90.8	Novare	282	Realstar Group	Private Equity

Source: CBRE Research, RealNet Canada Inc., RealTrac, Colliers Plante, JLLand Titles Solutions, Q4 2017

Figure 5: Investment Volume by Market | 2017



Source: CBRE Research, RealNet Canada Inc., RealTrac, Colliers Plante, JLLand Titles Solutions, Q4 2017

Purchaser Profile

The investor landscape shifted significantly in 2017 as the commercial real estate industry as a whole continues to be flooded with institutional capital. While the largest purchaser group in 2017 remained Private Canadian Investors, accounting for just under 35% of the market, the next two largest groups were Pension Fund/Advisors and Private Equity firms, accounting for 22% and 14% of the market, respectively. Combined with Institutional buyers (which includes life insurance companies and other financial institutions) these three groups accounted for over 40% of the market on the year. This comes amid a surge of sell-offs by REIT/REOCs looking to refocus their portfolios and a slight softening of institutional capital flows from foreign sources in the face of tightening currency regulations in China. These two groups accounted for 10% and 13% of the market respectively in 2017

Figure 6: Purchaser Profile | 2008 to 2017

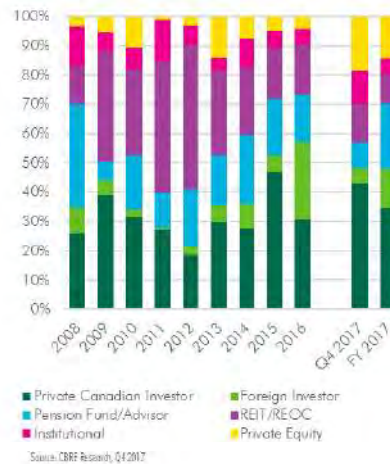


Figure 7: Investment Volume by Market (\$ Millions) | Q4 2017

Sector	Vancouver	Calgary	Edmonton	London	Waterloo	Toronto	Ottawa	Montreal	Halifax	National Q4 2017	National FY 2017
Office	237.6	187.3	75.0	0.8	30.7	456.4	39.9	138.2	89.2	1,255.0	10,194.9
Industrial	414.3	126.0	94.3	5.7	76.0	837.2	37.0	318.2	7.9	1,916.5	7,406.8
Retail	506.8	156.0	118.6	11.2	124.2	870.1	84.5	279.8	43.2	2,194.4	9,233.2
Multifamily	296.6	159.5	116.8	18.9	189.7	492.6	117.1	455.5	164.7	2,011.4	6,285.1
ICI Land	684.4	177.0	135.4	1.7	74.3	651.5	122.0	207.9	5.6	2,059.8	7,035.9
Hotels	102.7	16.2	41.5	-	-	446.2	-	-	58.0	664.6	2,960.7
Q4 2017	2,242.4	822.1	581.6	38.2	494.8	3,754.0	400.5	1,399.5	368.6	10,101.7	
FY 2017	11,750.5	2,891.5	2,364.4	252.8	1,774.4	15,706.1	2,025.5	4,866.9	777.5		43,116.8

Source: CBRE Research, RealNet Canada Inc., RealTrack, Collette Plante, JLR Land Titles Solutions, Q4 2017.

RESIDENTIAL MARKET OVERVIEW

The following are excerpts from the CMHC Fall 2017 Housing Market Outlook Canada Edition, the Fall 2017 Ontario Region Highlights, the Fall 2017 Greater Toronto Area outlook and Altus Data Solutions' Downtown Core New Homes High Rise Submarket Report for March 2018.

Canadian Housing Market

- National housing starts are expected to show strong numbers in 2017 with over 200,000 units projected (an inner range of 206,300 – 214,900). Starts are expected to slowly decline in 2018 and 2019 as there is projected to be less stimulative economic activity and gradually increasing mortgage rates.
- Single-detached home starts have been increasing since the first quarter of 2016, driven by strong demand and low unsold inventories for this type of product. Starts for single-detached homes are projected to be 75,900 – 77,100 units for 2017 compared to 74,100 units in 2016. A decline to approximately 66,000 – 68,500 units is projected for 2018 and 2019.
- Multi-unit starts have shown strong growth recently and are expected to increase in 2017 and 2018 and level off by 2019, remaining above the historical average over the forecast horizon. The pool of potential young buyers aged 24-34 is expected to shrink somewhat, but it is expected that this will be at least partially offset by an aging population that may look to downsize from traditional single family homes. The projected figures for 2017 are 128,800 – 139,400 units while 2018 and 2019 are forecast at 124,400 – 136,200 and 123,200 – 137,800 units, respectively.
- Resale transactions set records in 2016 and are projected to be slightly lower in 2017 with 2018 and 2019 forecast to be more in line with projected economic conditions. A modest decrease in international migration and the expected slow growth in mortgage rates are expected to be the primary contributing factors to this decline.

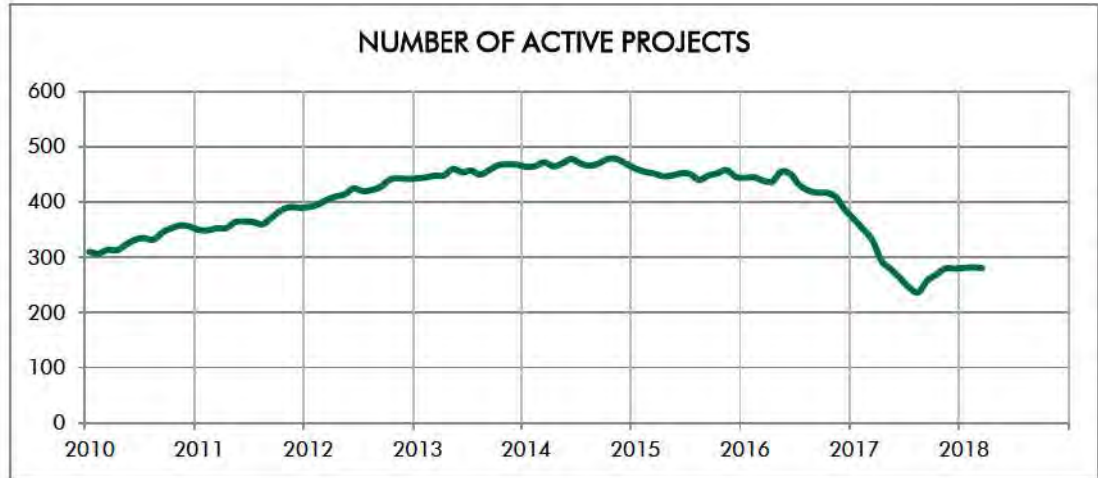
Ontario Housing Market

- The Ontario economy is expected to lose some steam relative to the rest of the country. After reaching recent highs of 77,400 – 79,300 units in 2017, the total number of new housing starts in Ontario is expected to cool somewhat to 66,300 – 68,700 in 2018 and 67,700 – 71,100 in 2019.
- Multi-family housing starts are expected to continue to outpace single-family starts for the foreseeable future with forecasts of between 48,900 and 50,700 units in 2017 and between 48,500 and 50,900 units in 2018. The demand for rental accommodations, both primary (purpose-built) and secondary (privately-owned units), is expected to continue to grow across the province. Rental vacancy rates could drop even further if ownership affordability erodes faster than expected and/or if the supply of new rental buildings slows due to new rent control legislation.
- Resale activity cooled somewhat in the second and third quarters of 2017 as the Ontario Fair Housing Plan contributed to a dampening of price expectations. The adjustment in sales was more pronounced in the GTA than other centres, especially those in eastern and southwestern Ontario. Total resales are forecast at 213,200 – 216,400 in 2017, down from 242,724 in 2016. Resales for 2018 and 2019 are forecast to be largely in-line with those for 2017.
- Average resale prices are forecast to increase in 2017, albeit at a slower pace than in previous years. The average for 2017 is forecast at \$572,500 - \$584,900, and this is expected to drop modestly to \$561,900 - \$575,100 in 2018 and \$568,300 - \$594,100 in 2019.

GTA Housing Market

- The GTA market is expected to see minimal changes over the forecast period extending to 2019. Total housing starts in the GTA are expected to range between 38,600 and 41,300 in 2017 and are expected to slow down slightly in 2018 and 2019 to between 36,300 and 40,200 units and 37,400 and 42,200 units respectively.
- Single detached home starts are expected to range between 9,500 and 10,500 units in 2017, a decrease from 11,884 in 2016. Starts are expected to drop sharply in 2018 and 2019 to 4,400 – 5,800 and 5,200 – 6,900, respectively, as land constraints, servicing delays and labour constraints will lead to higher costs.
- Multi-unit starts are expected to continue outpacing the single detached starts over the next two years. Starts in 2017 are expected to be outpace 2016 levels with current estimates ranging from 29,100 to 30,900 units. The pace is expected to increase slightly in 2018 and 2019 where forecast ranges are 31,900 to 35,000 and 31,900 to 36,300 respectively.
- The existing home market fell off slightly in 2017 with total sales projected at 93,100 – 96,900 compared to 113,725 in 2016. This downward trend is expected to continue over the next two years with forecasts of 90,200 to 97,800 in 2018 and 88,700 to 97,300 in 2019. Notwithstanding the slowdown in volume, average pricing continued to climb to \$790,300 – \$819,700 in 2017.
- Demand for rental units in the GTA is expected to grow faster than historical averages over the next few years, driven in large part by strong immigration inflows, high price levels and rising interest rates. These factors are expected to contribute to an average vacancy rate for rental apartments of around 1.0% for 2017 and 2018. Only a slight easing is expected by 2019 (up to 1.2%) as the private rental apartment supply is expected to grow at its fastest pace since the early 1990s.
- The Greater Toronto Area high rise condominium market continues to perform strongly. The number of projects has leveled off since peaking in November 2014, at 478 projects with a total of 114,997 units. The amount of unsold inventory has decreased significantly since peaking at 23,699 in November 2013.
- As of March 2018, there were 281 active projects with a total of 71,258 units. The unsold inventory has generally been on a declining trend over the last three years and stood at 8,756 as of March 2018.

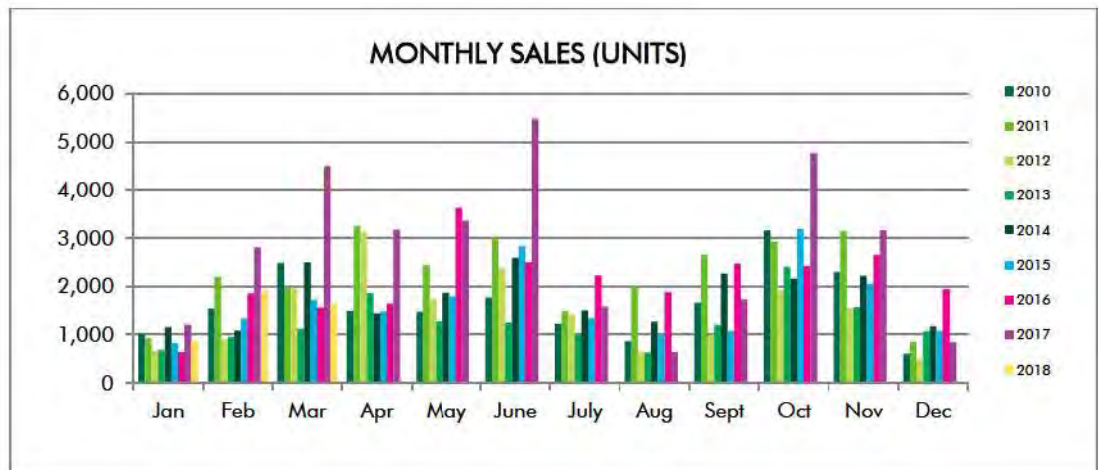




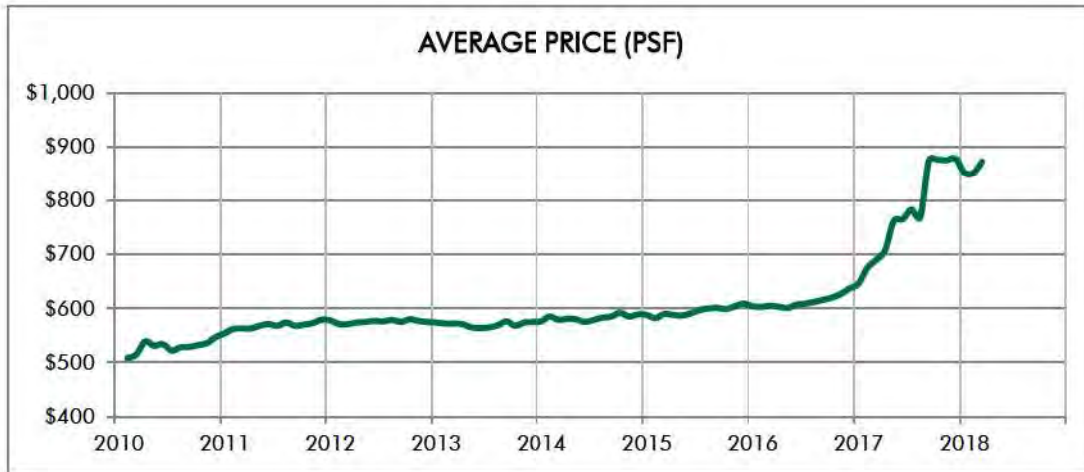
- 2017 was the highest year in terms of sales volume with 33,237 units sold. This is 60% higher than the previous seven-year average. A total of 4,430 units sold in the first three months of 2018.



- Since 2010, sales volumes were the highest in October followed by June and November with January, December and August being the slowest months on average.



- Average sale prices per square foot in GTA have steadily increased from 2010 to 2016. Prices have skyrocketed from mid-2016 to the end of 2017 and have slightly dropped off in early 2018. Average condo prices in for March 2018 were \$872 PSF representing a 26% increase over the last 12 months and the then record \$690 PSF.



- Average unit prices across the city declined from 2011 to 2013 and remained relatively stable up to the end of 2016 even declining in some months. This is mainly due to the average unit size shrinking from 2010 to 2016. The unit sizes across the city have declined by approximately 100 square feet during this period. However, average unit sizes have increased over the last two years climbing back to 2010 levels. As a result, increases in the price per square foot have been even more pronounced. The average unit price as of March 2018 was approximately \$794,000 slightly lower than the record \$800,000 recorded in December 2017.



- The subject property is located in Downtown Core, an active condominium submarket.
- The Downtown Core area has 9 of the 281 total active projects in the GTA market. The total number of units in the active projects is 3,747 with 95% of these units sold as of March 2018.
- The average selling prices range from \$711 PSF in the case of Vox, to \$1,136 PSF in the case of 50 at Wellesley Station. The average price per square foot in the area is \$1,096 with an average total unit price of \$984,271 compared to the GTA averages of \$872 PSF and \$794,509

- The average unit size of 898 SF is lower than the GTA average of 911 SF as of March 2018.



Highest and Best Use

HIGHEST AND BEST USE

The term "Highest and Best Use" is generally considered to be that use which will result in the greatest net return over a given period of time. The "Highest and Best Use" is also known as the optimal use. A thorough Highest and Best Use analysis involves assessing the subject both as vacant and as improved and was beyond the scope of this mandate. In valuation practice, the concept of highest and best use represents the premise upon which value is based.

The four criteria the Highest and Best Use must meet are:

- legal permissibility;
- physical possibility;
- financial feasibility; and
- maximum profitability.

As Vacant

- The subject site is zoned CR 4.0 (c4.0; r1.5).
- The Official Plan designates the subject site as Mixed Use Area.
- Several high density residential developments have been approved along Yonge Street in the subject area.
- The original application to develop the subject property with a high density mixed-use development was submitted to the City of Toronto in April 2015. A revised application for development of the subject property with a mixed-use development has been submitted to the City in February 2017.
- The subject property owner continues to have discussions with the City of Toronto and is modifying the proposed development to meet the City's requirements.
- With the impending changes to the OMB, the application was appealed to the OMB and a hearing is set for August 2018. The subject property owner has continued to work with the City on a settlement that is expected to be brought forward to Council in June 2018 for approval.

Based on the above, it is concluded that the Highest and Best Use of the subject site, "As Vacant" is for high density mixed-use development.

As Improved

- The subject property is improved with eight two-four storey mixed-use buildings.
- In order for the existing use to be the highest and best use, the value of the site as improved would have to exceed the value of the site as if vacant.
- The scale of the proposed development is such that it outweighs the value and income potential of the current improvements.

Based on the above, it is concluded that the Highest and Best Use of the subject site, "As Improved", is for the development of a high density mixed-use project.



Valuation Methodology

VALUATION METHODOLOGY

There are six approaches to the valuation of vacant land.

- Direct Comparison Approach
- Allocation
- Extraction
- Subdivision Development
- Land Residual
- Ground Rent Capitalization

In practice, an approach to value is included or omitted based on its applicability to the property type being valued and the quality and quantity of information available.

Direct Comparison Approach

The Direct Comparison Approach utilizes sales of comparable properties, adjusting for differences to estimate a value for the subject property. This approach is developed in a simplified method to establish a range of unit prices for market comparable sales.

Allocation Method

This technique is based on the principle of balance. A logical relationship or typical ratios of land value to improvement value are analyzed for specific categories of real estate in specific locations.

Extraction Method

This technique deducts the depreciated cost of the improvements on the improved property from the sale price to estimate the sale price of the underlying land. It is a similar procedure to Allocation in that the contribution of the improvements is deducted from the total property value.

Subdivision Development Method

This technique is used to value vacant land when the highest and best use of the land is to be used for subdivision and development. The future selling price of the subdivided lots then have the costs of development subtracted to estimate the current value of the land.

Land Residual Method

This technique arrives at a land value by subtracting the costs of an actual or hypothetical improvement and allowance for developer's profit from the capitalized value of the income the improved property could generate.

Ground Rent Capitalization Method

This technique is used to value lands when the ground rent corresponds to the value of the landowner's interest in the property and market-derived capitalization rates are available to convert the ground rent into an indication of market value.

Conclusion

In the case of the subject, we have placed most reliance on the Direct Comparison Approach which is considered the most recognized and in this instance is also the most applicable approach to value the subject property. We have identified six land sales over the last six months in the subject area and comparable Downtown locations. We believe this is a sufficient number of transactions to warrant use of the Direct Comparison Approach.

In addition to the Direct Comparison Approach, we have utilized the Land Residual Method. However, given that the Land Residual Method is highly sensitive to changes in the input assumptions, we have relied on it as a reasonability check to the conclusions reached via the Direct Comparison Approach.



Direct Comparison Approach

DIRECT COMPARISON APPROACH

Major Differences

Differences between the transactions and the subject property are identified and the appropriate effect on the prices paid is noted in order to make a direct comparison.

We have identified eight important differences upon which to assess each transaction:

Time of Sale

- The sale date, particularly the negotiated sale date, is an important factor to consider as well as the prevailing marketing conditions at the time the sale was negotiated.

Financing

- Financing terms provided by a vendor can have an impact on the purchase price. For example, more favourable financing that might include a Vendor Take Back mortgage at a lower than market interest rate tends to have a positive influence on the price.

Location

- Location is also a major factor affecting value, primarily due to its influence on land use, development timing and exposure/views.

Scale

- As there is generally an inverse size/rate relationship, larger scale parcels typically trade at a lower rate and vice versa. Smaller development sites are generally considered more attractive given the reduced exposure to market risk, and the smaller amount of required capital.

Topography

- Topographical features tend to vary widely, particularly amongst large land tracts, with extreme topographical features such as valley lands and environmentally sensitive areas, having a negative impact on achievable development yields overall. Sales of lands with significantly higher proportionate areas affected by irregular topographical features tend to result in lower gross unit values. This factor is more applicable to greenfield parcels, as opposed to urban properties.

Planning Status

- Land use designations and planning status are clearly important. Properties lacking requisite planning approvals are not likely to achieve as high a price as sites with advanced planning, primarily attributable to associated risk levels.

Development Timing

- Development timing clearly affects value. Properties with imminent development prospects due to phasing policies and/or servicing allocation are favoured by developers and typically trade at a higher price. Furthermore, properties in locales with relatively rapid absorption rates allow for shorter development time horizons, translating into higher values due to mitigated risk relative to those that are slower.

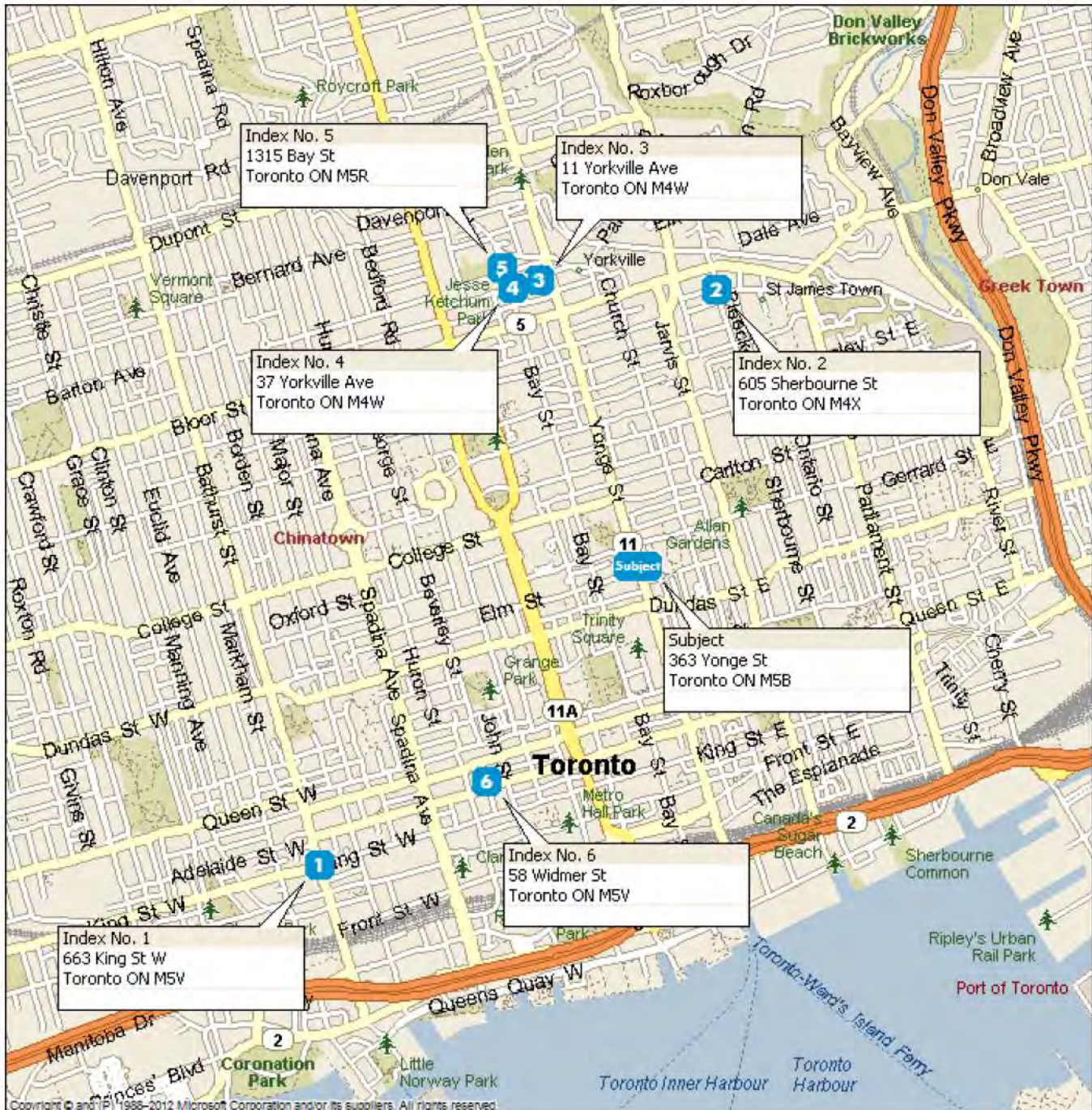
Site Character

- Intrinsic features of each property are recognized such as: configuration and site conditions affecting the construction cost, street and highway access, the nature of adjoining properties, important views to and from the potential buildings being built, and market demographics.

COMPARABLE SALES ANALYSIS

CBRE conducted a survey of land transactions within the vicinity of the subject. The map below and the table on the next page summarize the results of this survey and represent the comparables considered in the valuation of the subject.

The price per buildable square foot was used as the unit of comparison. A brief description of each comparable is found after the table and more detailed information can be found in Addendum B.



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Index No.	Address City Province	Closing Date Price (100%)	Zoning Size (Acres) Size (SF)	Allowable Building Area Density Development Status	Price PSF Price PSF Buildable
1	663 King Street West and 54-60 Stewart Street Toronto Ontario	March-18 \$47,000,000	CRE 0.57 24,742	239,422 9.68 Appealed to OMB	\$1,900 \$196
2	605 Sherbourne Street, 4-6 Howard Street & 6-16 Glen Road Toronto Ontario	March-18 \$102,400,000	R4Z4 1.17 50,791	441,858 8.70 Approved	\$2,016 \$232
3	11, 17 and 19 Yorkville Avenue, 18 Cumberland Street Toronto Ontario	January-18 \$133,365,000	CR 3.0 (c1.75; r3.0) S51 (x2401) 0.80 34,961	563,997 16.13 No application	\$3,815 \$236
4	27-37 Yorkville Avenue & 26, 30, 50 Cumberland Street Toronto Ontario	December-17 \$268,500,000	CR 3.0 (C1.75; R3.0) 1.44 62,552	984,579 15.74 Approved	\$5,252 \$334
5	1315-1323 Bay Street & 50-58 Scollard Street Toronto Ontario	December-17 \$87,000,000	CR T3.0 (C1.75 R3.0) 0.55 24,036	229,831 9.56 Approved	\$3,620 \$379
6	40-58 Widmer Street Toronto Ontario	December-17 \$75,200,000	RA 0.38 16,458	292,778 17.79 Approved	\$4,569 \$257
Subject 363-385 Yonge Street					
Toronto					
Ontario					
CR 4.0 (c4.0; r1.5)					
964,954					
23.81					
Appealed to OMB					

Index No. 1 – 663 King Street West and 54-60 Stewart Street (\$196 PSFB) – March 27, 2018

- Located on the southeast corner of King Street West and Bathurst Street.
- The property transacted in a portfolio of seven properties across the City of Toronto.
- At the time of sale, the property was improved with a four storey office building and two semi-detached residential dwellings.
- In December 2016, a rezoning application was submitted proposing the development of 19-storey building containing 247 residential condominium units.
- The development would have a total gross floor area of 239,422 square feet, including 53,281 square feet of retail space.
- The proposed development has been appealed to the OMB.
- No project launched as of the effective date of this report.

Index No. 2 – 605 Sherbourne Street, 4-6 Howard Street & 6-16 Glen Road (\$232 PSFB) – March 19, 2018

- Located on Sherbourne Street just south of Bloor Street West.
- At the time of sale the property was improved with three vacant houses and six recently renovated semi-detached residential units generating an annual net operating income of \$231,137.
- An Official Plan amendment and a rezoning application were submitted in August 2010 proposing the development of a 50 storey, 470 unit residential condominium tower with retail at grade on Block 1 and seven street-oriented townhomes on Block 2 (in addition to the existing improvements). The total proposed GFA was 441,858 square feet including approximately 11,840 square feet of retail space.
- The applications were approved in May 2016.
- No project launched as of the effective date of this report.

Index No. 3 – 11, 17 and 19 Yorkville Avenue, 18 Cumberland Street (\$236 PSFB) – January 23, 2018

- This sale represents an assembly of six properties located along Yorkville Avenue and Cumberland Street, just east of Yonge Street.
- At the time of sale, no application had been submitted to the City of Toronto for the development of the property. Subsequently, a rezoning and site plan application were submitted to the City of Toronto to permit a development comprised of a 62 storey mixed use building including 716 residential condominium units including 81 rental replacement units.
- The mixed-use building would have a total gross floor of approximately 553,728 square feet.
- Additionally, a 2-storey commercial building would be built on the southern portion of the property totaling approximately 10,269 square feet.

Index No. 4 – 27-37 Yorkville Avenue & 26, 30, 50 Cumberland Street (\$334 PSFB) – December 20, 2017

- Located midblock east of Bay Street with frontages along Yorkville Avenue and Cumberland Street.
- The initial proposal for redevelopment (excluding 26-32 Cumberland Street) was submitted to the City of Toronto on June 12, 2012. The proposed development was subsequently revised to include 26-32 Cumberland Street. The revised development was to be comprised of a 40 and 62 storey tower extending from a 2, 7 and 10 storey base building with a gross floor area of 1,148,628 and a total of 1,100 residential units. On August 25, 2014, the City of Toronto Council Adopted the rezoning and official plan amendment application.
- The proposed development has evolved further. As of June 20, 2017, the proposal included a 66 and a 42 storey tower with a gross floor area of 1,132,912 square feet broken down as follows: 887,280 square feet – Residential; 73,873 square feet – Retail; and 171,763 square feet – above grade parking.
- A development marketed as 33 Yorkville launched in September 2017.
- All units made available for sale (907 units) sold on the launch day. The price being achieved ranges from \$1,153 PSF to \$1,939 PSF with the bulk of the sales falling in the \$1,200 to \$1,550 PSF range.

Index No. 5 – 1315-1323 Bay Street & 50-58 Scollard Street (\$379 PSFB) – December 20, 2017

- Located on the northeast corner of Bay Street and Scollard Street.
- At the time of sale, the property was improved with four vacant heritage buildings and surface parking lot.
- A rezoning application was submitted in November 2015 proposing the development of a 41 storey, 112 unit residential condominium tower with retail uses at grade. Subsequently a site plan application was submitted in July 2016 outlining the same built form. The rezoning application was approved in April 2017, though the site plan application was still in circulation as of the date of sale.
- The development will have a total gross floor area of 229,831 square feet.
- No project has been launched as of the date of this report.

Index No. 6 – 40-58 Widmer Street (\$257 PSFB) – December 19, 2017

- Located midblock on the west side of Widmer Street just south of Richmond Street West.
- At the time of sale, the property was vacant and unimproved.
- An initial application to permit a 40 storey high density development comprised of 390 units was submitted to the City of Toronto on June 7, 2012. The original application evolved and on February 3, 2016 the City of Toronto Council approved a zoning by-law amendment to allow for the construction of a 41 storey apartment building with a gross floor area of 292,778 square feet with 426 units.
- No project has been launched as of the date of this report.

Comparable Sales Discussion

We have the following comments regarding the above-noted sales:

- The sales reflect a range of \$196 to \$ 379 PSF buildable.
- Index No. 1 at \$196 PSFB represents the most recent high-density land transaction in Toronto's Downtown West. Like the subject property the proposed development had been appealed to the OMB as of the sale date. The subject location is considered superior given its proximity to the universities, financial core and the subway line. We further note that this transaction is part of a portfolio sale and as a result is not directly comparable. However, it is the most recent comparable high density land transaction in Downtown Toronto and is illustrative of the increasingly high prices being paid for well-located sites. Overall, a higher value PSFB is expected at the subject.
- Index No. 2 transacted at \$232 PSFB. The location of this property is considered inferior to that of the subject. We further note that while the overall sale price of this property was \$102,400,000, there are some adjustments that need to be considered. First, the sale price includes six recently renovated residential units that reportedly generated an annual NOI of approximately \$231,000 which were slated to remain as is. This means that the value of these improvements needs to be deducted from the overall sale price. Applying a cap rate of 4% to the NOI, results in a value of approximately \$5.78 million dollars. Second, there is to be no parkland dedication or cash-in-lieu payment due to an agreement with the neighbouring land owner who is also developing a major project. Third, there is a pre-determined Section 37 contribution which again has been negotiated in conjunction with the neighbouring land owner. The latter two issues are difficult to precisely quantify, but would result in an upward adjustment to the sale price. Despite the in-place approvals, given the superior location of the subject property, a higher value PSFB would be expected at the subject.
- Index No. 3 transacted at \$236 PSFB but represents an assembly of six properties that took place over two and a half years, resulting in lower dollar cost averaging. It is our understanding that an additional \$8,400,000 was spent on lease buyouts to tie up the land resulting in an increase to \$251 PSF. Additionally, there are no development approvals in place for this property. Despite the superior Yorkville location, given the longer time to development and the time it took to complete the assembly, a higher price per buildable square foot would be expected for the subject.
- Index No. 4 is located just east of Bay Street between Cumberland Street and Yorkville Avenue and transacted for an adjusted unit rate of \$334 PSFB. This amount is reflective of a \$60,000,000 adjustment to the overall sale price for the estimated increase in costs associated with replacing the existing parking garage owned and operated by the Toronto Parking Authority. While the increased costs are a very real issue, the presence of a large public parking facility should provide a net benefit to the projected retail component on the lower levels of proposed development. Overall, we would expect a unit rate for the subject to be lower given the longer time to develop and inferior location.
- The high end of the range is represented by Index No. 5 at \$379 PSFB. This property is located on a prominent corner in the Yorkville neighbourhood across the street from the Four Seasons hotel. At the time of sale, the proposed development was approved. We also note that the proposed development at this location is a considerably smaller boutique building where units are expected to sell for a very high average price. As a result, a lower value PSFB is expected at the subject.
- Index No. 6 at \$257 PSFB represents a Downtown West transaction. When determining the purchase price, the purchaser underwrote the transaction assuming residential units would sell at \$1,200 PSF. We believe that the subject property could achieve higher pricing for residential units. This is somewhat offset given the large office component at the subject. Overall, we would expect a higher value PSFB at the subject property.

Based on the foregoing, we would estimate the market value as at April 20, 2018 as follows:

PSF Buildable	GFA	Total
\$280	964,954	\$270,187,120
\$290	964,954	\$279,836,660
Indicated Value		\$275,011,890
Rounded		\$275,000,000



Land Residual Method

LAND RESIDUAL METHOD

Methodology

In order to determine the market value of the property using the Land Residual Method, expenses and developer's profit are subtracted from the value of the development as if complete. There are three main components to the proposed development at the subject: an office component, a retail component, and a traditional residential condominium component.

We were provided a summary pro forma prepared by the client for the proposed project which we reviewed for reasonability and adopted or adjusted as appropriate into our analysis.

The notes contained below are based on our review of the development pro forma and outline our assumptions and findings with respect to this document.

Revenue

The following notes pertain to our calculation of the revenue side of the development pro forma:

Residential Condominiums

- The client pro forma indicated expected average prices of \$1,500 PSF for the residential condominium component. There have been no recent condominium projects in the subject area to which these prices can be benchmarked. The subject property is located on a prominent corner in close proximity to the Eaton Centre, Ryerson University and University of Toronto as well as walking distance to the Financial Core. We further note that there are no competing projects in the area scheduled to launch in 2018. Projects outlined in the Area Developments section of this report suggest a lower price PSF for the subject property. As a result, we have adjusted the client pro forma to \$1,400 PSF which we believe to be achievable.
- Parking spaces and storage lockers have been projected at \$90,000 and \$5,000 each. Based on our research of other new condominium projects in the Downtown Core market, we have adjusted the parking projection to \$80,000 per spot and have adopted the storage locker pricing in our pro forma.
- A deduction for the HST payable and the addition of recovery adjustments, including development charges, Tarion enrollment fees, meter and utility connections and closing credits has been reviewed for reasonableness, and adjusted to reflect our pricing adjustments.

Commercial

- There are two primary commercial components to the proposed development: retail and office.
- The pro forma provided by the client assumed the following rental rate breakdown for the retail component:

Retail	Area (SF)	Net Rent (PSF)
Below Grade	27,022	\$25.00
Ground	15,392	\$150.00
Second	27,964	\$37.50
Third	20,038	\$25.00

- There are almost no directly comparable retail properties in the subject area since the proposed project would represent a significant amount of newly build retail space at the base of a high rise mixed-use building. The existing retail on the Yonge Street strip does not represent comparable product as most of it is in older buildings. We had discussions with retail leasing agents and have adjusted the projected rental rates in the proposed development as follows:

Retail	Area (SF)	Net Rent (PSF)
Below Grade	27,022	\$20.00
Ground	15,392	\$125.00
Second	27,964	\$35.00
Third	20,038	\$25.00

- The pro forma completed by the client did not include a rate for additional rent (common area maintenance and realty taxes). We have utilized a figure of \$20.00 per square foot which is typical for newly constructed retail space.
- We estimate the stabilized vacancy and bad debt allowance at 3% of potential gross revenue which is considered reasonable for this type of retail product.
- Although significantly larger at 90,416 SF, we feel that recent transactions for retail space at the base of condominium buildings and recently constructed retail buildings represent the best benchmark for the subject property. The following chart outlines the most recent comparable sale transactions.

Index No.	Address City	Closing Date Price (100%)	Type Year Built	Size (SF) Vacancy (%)	Capitalization Rate Price PSF
1	1986 Queen Street East Toronto	April-18 \$13,150,000	Single Tenant 2014	8,767 0%	3.80% \$1,500
2	700 King Street West Toronto	March-18 \$14,000,000	Multi Tenant 2000	7,746 0%	3.90% \$1,807
2	1990 Bloor Street West Toronto	September-17 \$3,850,000	Single Tenant 2017	3,620 100%	4.70% \$1,064
3	3018 Yonge Street Toronto	September-17 \$1,980,000	Single Tenant 2015	1,820 0%	4.00% \$1,088
4	297-301 College Street Toronto	August-17 \$28,000,000	Multi Tenant 2014	30,429 0%	4.40% \$920
5	373 King Street West Toronto	August-17 \$8,300,000	Multi Tenant 2012	16,046 0%	4.70% \$517
6	8 Mercer Street Toronto	July-17 \$9,550,000	Multi Tenant 2015	8,748 0%	4.50% \$1,092

- In addition to the sales outlined above, we note that the three storey 86,000 SF retail portion of the One Bloor development (1 Bloor Street East) transacted in November 2017 for \$2,237 PSF. The transaction was negotiated in August 2016. At the time the transaction was negotiated only one tenancy was confirmed. Applying market rental rates to the balance of the retail component resulted in a capitalization rate of approximately 4.0%.

- We also note that CBRE's Q4 2017 Canadian Cap Rate Survey for Urban Streetfront retail properties in Toronto indicates a range from 3.75% to 4.50%.
- Given the foregoing, we feel that a capitalization rate of 4.25% is appropriate for the subject property. We note that his results in a value of \$981 PSF which is slightly lower but broadly within the range of the comparable properties outlined above. This is not surprising given its multi level nature and lower overall net rental rate per square foot.
- The client pro forma assumed value of \$750 PSF for the office component at the subject property. The space is envisioned as office condominium space. The following chart outlines some of the comparable office condo projects in downtown Toronto and most recent pricing:

Index No.	Address	Sales Price (PSF)	Transaction Year
1	1133 Yonge Street	\$566 - \$919	2018
2	7 St. Thomas Street	\$963 - \$1,150	2017
3	59 Hayden Street	\$775 - \$800	2018*
4	477 Richmond Street West	\$622	2018
5	334 Adelaide Street West	\$744 - \$899	2017 and 2018
6	4789 Yonge Street	\$566 - \$692	2017
7	4665 Yonge Street	\$650	2018
8	2828 Bathurst Street	\$697	2018
9	117 Peter Street	\$507 - \$764	2017

* Transactions in the final stages of being closed

- As with the retail space, there are no comparable condominium office properties in the immediate area. We had discussions with leasing agents familiar with the area who have indicated that \$750 should be achievable for new office space in the area. Given the foregoing, we have accepted the projected pricing of \$750 PSF in our calculation.

Expenses / Construction Costs

- The construction costs in the pro forma calculation have been estimated by the client. We have vetted the costs relative to other recent mixed-use projects and while at the high end of the range, they appear to be reasonable.
- We have included a developer's profit equal to 15% of the expenses, which is considered typical for new construction projects.

Pro Forma

The following is CBRE's adjusted pro forma reflecting the estimated revenue and expenses for the subject property and the resulting underlying land value:

Land Residual Calculation						
Revenues:						
Residential						
	Units	Saleable Area	Price (PSF/space)			
Unsold Condominiums		665,022	\$1,400			\$931,030,520
Unsold Parking	293		\$80,000			\$23,440,000
Unsold Lockers	438		\$5,000			\$2,190,000
HST						-\$91,187,201.97
Recoveries						
Development Charges						\$23,526,535
Subtotal - Residential						\$888,999,853
Commercial						
	Area (SF)	Net Rent (PSF)	Additional Rent (PSF)	Vacancy	Capitalization Rate	
Retail	90,416	\$43.62	\$20.00	3.00%	4.25%	\$88,742,506
Office	104,563	\$750				\$78,422,250
Subtotal - Retail						\$167,164,756
Total Revenue						\$1,056,164,609
Expenses:						
		PSF				
LIT/DCs/Permits		\$87				\$83,610,299
Construction		\$311				\$299,655,383
Marketing		\$98				\$94,839,073
Finance/Legal/Admin		\$174				\$168,343,808
Contingency		\$11				\$10,736,160
Occupancy Fees		-\$14				-\$13,530,732
Total Expenses		\$667				\$643,653,991
Gross Income						\$412,510,618
Less: Developer's Profit				15.00%		-\$96,548,099
Land Value + Land Profit						\$315,962,519
Less: Land Profit				15.00%		-\$41,212,503
Land Residual						\$274,750,017
Final Value (Rounded)						\$274,800,000
Per Square Foot Buildable						\$285

Land Residual Method Conclusions

Utilizing the revenues and expenses as analyzed above, a land value as high as \$285 PSFB is supported via the Land Residual Method. However, we note that this methodology is highly sensitive to changes in the input assumptions. Changes in overall costs, price level of residential units, rental rates for the commercial component and profit projections can have a significant impact on the Land Residual Value.

Given the inherent sensitivity of the Land Residual Method, we have conducted a sensitivity analysis to see what effect changes in condominium prices have on land values.

Average Condominium Selling Price (PSF)	\$1,300	\$1,350	\$1,400	\$1,450	\$1,500
Residual Land Value (PSF)	\$230	\$258	\$285	\$312	\$339

As outlined in the table above, residual land values are highly sensitive to the achievable condominium prices. A \$50 PSF price difference in sale prices results in a delta of approximately \$27 PSFB. While we believe the estimated price level of \$1,400 PSF at the subject property is achievable we recognize that a relatively small change in pricing can have a considerable impact on the underlying land value. We therefore consider the Land Residual Method to be supportive of the value reached via the Direct Comparison Approach but do not place much weight on the methodology in our final value conclusions.



Reconciliation of Value

RECONCILIATION OF VALUE

Based on the information contained within this appraisal, it is our professional opinion that the market value of the 100% fee simple interest in the subject property, subject to the extraordinary assumptions and limiting conditions contained herein, as at the valuation date is as follows:

PSF Buildable	GFA	Total
\$280	964,954	\$270,187,120
\$290	964,954	\$279,836,660
Indicated Value		\$275,011,890
Rounded		\$275,000,000



Certification

CERTIFICATION OF THE APPRAISAL

363-385 Yonge Street , Toronto, Ontario

We certify to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and represents our personal, unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in the property that is the subject of this report and have no personal interest or bias with respect to the parties involved.
4. Our compensation is not contingent upon the reporting of a predetermined value or direction in value that favours the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event, such as the approval of a loan.
5. This appraisal assignment was not based upon a requested minimum valuation, a specific valuation or the approval of a loan.
6. Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Canadian Uniform Standards of Professional Appraisal Practice of The Appraisal Institute of Canada and the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice
7. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
8. Grant Chernenkoff and Vid Stambolovic have completed the requirements of the continuing education program of the Appraisal Institute.
9. Vid Stambolovic made a personal inspection of the property on April 20, 2018. The inspection was considered to be sufficient to describe the subject property, develop an opinion of highest and best use and compare the subject property with recent market leasing and investment data.
10. No one has provided professional assistance to the persons signing this report.
11. Grant Chernenkoff and Vid Stambolovic have extensive experience in the appraisal of similar property types.
12. Grant Chernenkoff and Vid Stambolovic are currently certified in the Province where the subject is located.
13. Valuation and Advisory Services Group operates as an independent economic entity within CBRE Limited. Although other employees of CBRE Limited divisions may be contacted as a part of our routine market research investigations, absolute client confidentiality and privacy are maintained at all times with regard to this assignment without conflict of interest.

It is our professional opinion that the market value of the 100% fee simple interest in the subject property, subject to the extraordinary assumptions and limiting conditions noted on page 6, as at April 20, 2018 is: \$275,000,000.



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May 7, 2018

Addendum "A"

Terms of Reference
Assumptions and Limiting Conditions



TERMS OF REFERENCE

Property Identification

The subject, 363-385 Yonge Street, is a parcel of land currently improved with eight 1-4 storey mixed-use buildings with commercial, office and retail uses. The site contains approximately 0.93 acres or 40,522 square feet according to Geowarehouse. The property is located on the southeast corner of Yonge Street and Gerrard Street East.

The subject is legally described as:

LT 35 E/S YONGE ST, 36 E/S YONGE ST PL 22A TORONTO;
PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN OT46105;
PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN CT497024;
PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA310343;
PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA540937;
PT LT 32 E/S YONGE ST PL 22A TORONTO AS IN CA472341;
PT LT 31 E/S YONGE ST, 32 E/S YONGE ST PL 22A TORONTO AS IN CA761626;
PT LT 31 E/S YONGE ST PL 22A TORONTO AS IN EP126440

The subject is more fully described within the enclosed report.

Ownership and Property History

The current ownership is held by 2502295 Ontario Inc. According to Geowarehouse, the subject property transacted on February 16, 2016 for \$157,500,000 and is currently not listed for sale.

Purpose of the Appraisal

The appraisal estimates the current Market Value of the subject property, subject to the *Critical Assumptions* included herein. The report is a Narrative Appraisal and has been prepared in accordance with the standards set forth by the Appraisal Institute of Canada.

Definition of Market Value

Market value is defined as follows:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their own best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in Canadian dollars or in terms of financial arrangements comparable thereto;
and

5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale

Intended Use and User of Report

The appraisal report, including the market value conclusion therein, will be used to assist Cresford Developments in financing.

Scope of Work

The following steps were completed by CBRE, Limited for this assignment:

- Inspected the property
- Location analysis
- Review of surrounding land uses
- Land use regulation review

Survey Work

- Comparable sales transaction analysis

Report Format

- Narrative report format

Critical Assumptions

A formal title search was beyond the scope of this assignment. Except as described herein, CBRE Limited has no knowledge of any easements or encroachments. It is recommended that the client/reader obtain a detailed title search outlining all easements and encroachments on the property, if any, prior to making a business decision.

To our knowledge, there are no known covenants, conditions and restrictions impacting the site, which are considered to affect the marketability or highest and best use, other than zoning restrictions.

CBRE Limited, or the consultant(s) has not observed, yet is not qualified to detect, the existence of potentially hazardous material or underground storage tanks, which may be present on or near the site. It should also be noted that the existence of hazardous materials or underground storage tanks might have an effect on the value of the property.

Exposure Time

Exposure time is not intended to be a prediction of a date of sale. Instead, it is an integral part of the opinion analysis and is based on one or more of the following:

- Statistical information about days on the market
- Information gathered through sales verification
- Interviews with market participants

The reasonable exposure time is a function of price, time, and use. It is not an isolated estimate of time alone. Exposure time is different for various types of real estate and under various market conditions.

Exposure time is the estimated length of time the property would have been offered prior to a hypothetical market value sale on the effective date of opinion. It is a retrospective estimate based on an analysis of recent past events, assuming a competitive and open market. It assumes not only adequate, sufficient, and reasonable time but also adequate, sufficient, and reasonable marketing effort. Exposure and marketing time is therefore interrelated with opinion conclusion of value.

Based on the foregoing analysis, an exposure time of three - six months is reasonable. CBRE Limited assumes the subject would have been competitively priced and aggressively promoted nationally and internationally.

ASSUMPTIONS AND LIMITING CONDITIONS

1. Unless otherwise specifically noted in the body of the report, it is assumed that title to the property or properties appraised is clear and marketable and that there are no recorded or unrecorded matters or exceptions to total that would adversely affect marketability or value. CBRE Limited is not aware of any title defects nor has it been advised of any unless such is specifically noted in the report. CBRE Limited, however, has not examined title and makes no representations relative to the condition thereof. Documents dealing with liens, encumbrances, easements, deed restrictions, clouds and other conditions that may affect the quality of title have not been reviewed. Insurance against financial loss resulting in claims that may arise out of defects in the subject property's title should be sought from a qualified title company that issues or insures title to real property.
2. Unless otherwise specifically noted in the body of this report, it is assumed: that the existing improvements on the property or properties being appraised are structurally sound, seismically safe and code conforming; that all building systems (mechanical/electrical, HVAC, elevator, plumbing, etc.) are in good working order with no major deferred maintenance or repair required; that the roof and exterior are in good condition and free from intrusion by the elements; that the property or properties have been engineered in such a manner that the improvements, as currently constituted, conform to all applicable local, provincial, and federal building codes and ordinances. CBRE Limited professionals are not engineers and are not competent to judge matters of an engineering nature. CBRE Limited has not retained independent structural, mechanical, electrical, or civil engineers in connection with this opinion and, therefore, makes no representations relative to the condition of improvements. Unless otherwise specifically noted in the body of the report: no problems were brought to the attention of CBRE Limited by ownership or management; CBRE Limited inspected less than 100% of the entire interior and exterior portions of the improvements; and CBRE Limited was not furnished any engineering studies by the owners or by the party requesting this opinion. If questions in these areas are critical to the decision process of the reader, the advice of competent engineering consultants should be obtained and relied upon. It is specifically assumed that any knowledgeable and prudent purchaser would, as a precondition to closing a sale, obtain a satisfactory engineering report relative to the structural integrity of the property and the integrity of building systems. Structural problems and/or building system problems may not be visually detectable. If engineering consultants retained should report negative factors of a material nature, or if such are later discovered, relative to the condition of improvements, such information could have a substantial negative impact on the conclusions reported in this opinion. Accordingly, if negative findings are reported by engineering consultants, CBRE Limited reserves the right to amend the opinion conclusions reported herein.
3. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraisers. CBRE Limited has no knowledge of the existence of such materials on or in the property. CBRE Limited, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea formaldehyde foam insulation, contaminated groundwater or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

We have inspected, as thoroughly as possible by observation, the land; however, it was impossible to personally inspect conditions beneath the soil. Therefore, no representation is made as to these matters unless specifically considered in the opinion.

4. All furnishings, equipment and business operations, except as specifically stated and typically considered as part of real property, have been disregarded with only real property being considered in the report unless otherwise stated. Any existing or proposed improvements, on or off-site, as well as any alterations or repairs considered, are assumed to be completed in a workmanlike manner according to standard practices based upon the information submitted to CBRE Limited. This report may be subject to amendment upon re-inspection of the subject property subsequent to repairs, modifications, alterations and completed new construction. Any estimate of Market Value is as of the date indicated; based upon the information, conditions and projected levels of operation.
5. It is assumed that all factual data furnished by the client, property owner, owner's representative, or persons designated by the client or owner to supply said data are accurate and correct unless otherwise specifically noted in the opinion report. Unless otherwise specifically noted in the opinion report, CBRE Limited has no reason to believe that any of the data furnished contain any material error. Information and data referred to in this paragraph include, without being limited to, numerical street addresses, lot and block numbers, land dimensions, square footage area of the land, dimensions of the improvements, gross building areas, net rentable areas, usable areas, unit count, room count, rent schedules, income data, historical operating expenses, budgets, and related data. Any material error in any of the above data could have a substantial impact on the conclusions reported. Thus, CBRE Limited reserves the right to amend conclusions reported if made aware of any such error. Accordingly, the client-addressee should carefully review all assumptions, data, relevant calculations, and conclusions within 30 days after the date of delivery of this report and should immediately notify CBRE Limited of any questions or errors.

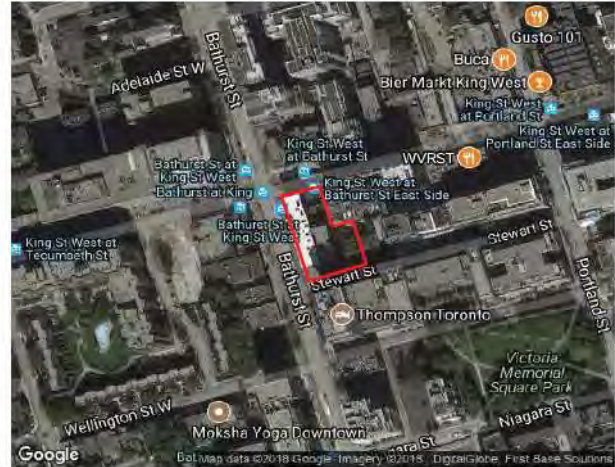
6. The date of value to which any of the conclusions and opinions expressed in this report apply, is set forth in the Letter of Transmittal. Further, that the dollar amount of any value opinion herein rendered is based upon the purchasing power of the Canadian Dollar on that date. This opinion is based on market conditions existing as of the date of this opinion. Under the terms of the engagement, we will have no obligation to revise this report to reflect events or conditions which occur subsequent to the date of the opinion. However, CBRE Limited will be available to discuss the necessity for revision resulting from changes in economic or market factors affecting the subject.
7. CBRE Limited assumes no private deed restrictions, limiting the use of the subject property in any way.
8. Unless otherwise noted in the body of the report, it is assumed that there are no mineral deposit or subsurface rights of value involved in this opinion, whether they be gas, liquid, or solid. Nor are the rights associated with extraction or exploration of such elements considered unless otherwise stated in this opinion report. Unless otherwise stated it is also assumed that there are no air or development rights of value that may be transferred.
9. CBRE Limited is not aware of any contemplated public initiatives, governmental development controls, or rent controls that would significantly affect the value of the subject.
10. The estimate of Market Value, which may be defined within the body of this report, is subject to change with market fluctuations over time. Market value is highly related to exposure, time promotion effort, terms, motivation, and conclusions surrounding the offering. The value estimate(s) consider the productivity and relative attractiveness of the property, both physically and economically, on the open market.
11. Any cash flows included in the analysis are forecasts of estimated future operating characteristics are predicated on the information and assumptions contained within the report. Any projections of income, expenses and economic conditions utilized in this report are not predictions of the future. Rather, they are estimates of current market expectations of future income and expenses. The achievement of the financial projections will be affected by fluctuating economic conditions and is dependent upon other future occurrences that cannot be assured. Actual results may vary from the projections considered herein. CBRE Limited does not warrant these forecasts will occur. Projections may be affected by circumstances beyond the current realm of knowledge or control of CBRE Limited
12. Unless specifically set forth in the body of the report, nothing contained herein shall be construed to represent any direct or indirect recommendation of CBRE Limited to buy, sell, or hold the properties at the value stated. Such decisions involve substantial investment strategy questions and must be specifically addressed in consultation form.
13. Also, unless otherwise noted in the body of this report, it is assumed that no changes in the present zoning ordinances or regulations governing use, density, or shape are being considered. The property is appraised assuming that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, provincial, nor national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report is based, unless otherwise stated.
14. This study may not be duplicated in whole or in part without the specific written consent of CBRE Limited nor may this report or copies hereof be transmitted to third parties without said consent, which consent CBRE Limited reserves the right to deny. Exempt from this restriction is duplication for the internal use of the client-addressee and/or transmission to attorneys, accountants, or advisors of the client-addressee. Also exempt from this restriction is transmission of the report to any court, governmental authority, or regulatory agency having jurisdiction over the party/parties for whom this opinion was prepared, provided that this report and/or its contents shall not be published, in whole or in part, in any public document without the express written consent of CBRE Limited which consent CBRE Limited reserves the right to deny. Finally, this report shall not be advertised to the public or otherwise used to induce a third party to purchase the property or to make a "sale" or "offer for sale" of any "security". Any third party, not covered by the exemptions herein, who may possess this report, is advised that they should rely on their own independently secured advice for any decision in connection with this property. CBRE Limited shall have no accountability or responsibility to any such third party. This entire paragraph is subject to the points noted in the Intended Use of Report section.
15. Any value estimate provided in the report applies to the entire property, and any pro ration or division of the title into fractional interests will invalidate the value estimate, unless such pro ration or division of interests has been set forth in the report.
16. The distribution of the total valuation in this report between land and improvements applies only under the existing program of utilization. Component values for land and/or buildings are not intended to be used in conjunction with any other property or opinion and are invalid if so used.
17. The maps, plats, sketches, graphs, photographs and exhibits included in this report are for illustration purposes only and are to be utilized only to assist in visualizing matters discussed within this report. Except as specifically stated, data relative to size or area of the subject and comparable properties has been obtained from sources deemed accurate and reliable. None of the exhibits are to be removed, reproduced, or used apart from this report.

18. No opinion is intended to be expressed on matters which may require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate appraisers. Values and opinions expressed presume that environmental and other governmental restrictions/conditions by applicable agencies have been met, including but not limited to seismic hazards, flight patterns, decibel levels/noise envelopes, fire hazards, hillside ordinances, density, allowable uses, building codes, permits, licenses, etc. No survey, engineering study or architectural analysis has been made known to CBRE Limited unless otherwise stated within the body of this report. If the Consultant has not been supplied with a termite inspection, survey or occupancy permit, no responsibility or representation is assumed or made for any costs associated with obtaining same or for any deficiencies discovered before or after they are obtained. No representation or warranty is made concerning obtaining these items. CBRE Limited assumes no responsibility for any costs or consequences arising due to the need, or the lack of need, for flood hazard insurance.
19. Acceptance and/or use of this report constitutes full acceptance of the Contingent and Limiting Conditions and special assumptions set forth in this report. It is the responsibility of the Client, or client's designees, to read in full, comprehend and thus become aware of the aforementioned contingencies and limiting conditions. Neither the Appraiser nor CBRE Limited assumes responsibility for any situation arising out of the Client's failure to become familiar with and understand the same. The Client is advised to retain experts in areas that fall outside the scope of the real estate opinion/consulting profession if so desired.
20. CBRE Limited assumes that the subject property analyzed herein will be under prudent and competent management and ownership; neither inefficient nor super-efficient.
21. It is assumed that there is full compliance with all applicable federal, provincial, and local environmental regulations and laws unless noncompliance is stated, defined and considered in the opinion report.
22. No survey of the boundaries of the property was undertaken. All areas and dimensions furnished are presumed to be correct. It is further assumed that no encroachments to the realty exist.
23. Client shall not indemnify Appraiser or hold Appraiser harmless unless and only to the extent that the Client misrepresents, distorts, or provides incomplete or inaccurate opinion results to others, which acts of the Client proximately result in damage to Appraiser. The Client shall indemnify and hold Appraiser harmless from any claims, expenses, judgments or other items or costs arising as a result of the Client's failure or the failure of any of the Client's agents to provide a complete copy of the opinion report to any third party. In the event of any litigation between the parties, the prevailing party to such litigation shall be entitled to recover from the other reasonable attorney fees and costs.



Addendum "B"
Comparable Sales Transactions

663 King Street West and 54-60 Stewart Street
Toronto, Ontario



Sale Details

Sale Price	\$47,000,000
Adjusted Sale Price	\$47,000,000
Sale Price Per Acre	\$82,746,479
Sale Price Per SF	\$1,900
Sale Price Per Buildable SF	\$196
Closing Date	March-18
Vendor	Main and Main
Purchaser	Timbercreek Asset Management
Broker	CBRE Limited
Interest	100%
Property Rights	Fee Simple
PIN	21240-0059

Physical Details

Property Size (Acres)	0.57
Property Size (SF)	24,742
Topography	Level
Shape	Irregular
Position	Corner
Utilities	Serviced
Official Plan	Regeneration Areas
Zoning	CRE
Frontage	105 feet along King Street West 200 feet along Bathurst Street 145 feet along Stewart Street

Proposed Development

Land Type	High Density Residential
GFA (SF)	239,422
Site Density	9.68
Number of Units	247
Development Status	Appealed to OMB

Sale Commentary

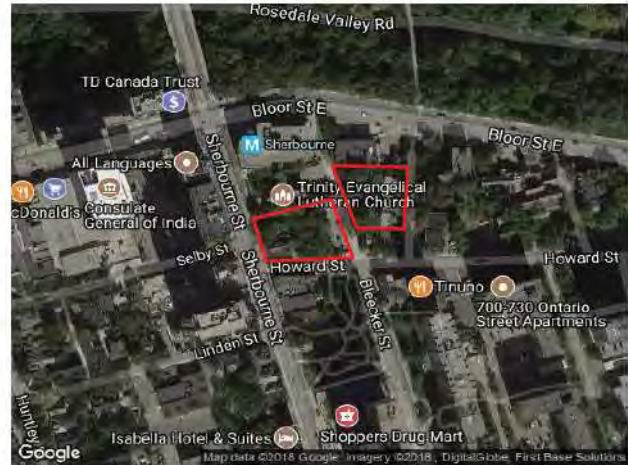
The property is designated as Regeneration Areas in the City of Toronto Official Plan. The zoning designation is CRE a Commercial Residential Employment classification.

At the time of sale, the property was improved with a four storey office building and two semi-detached residential dwellings.

A rezoning application was submitted in December 2016 pertaining to the land in this transaction. The Application proposed the development of 19-storey building containing 247 residential condominium units. The development would have a total gross floor area of 239,422 square feet, including 53,281 square feet of retail space. The existing semi-detached units will be retained.

The proposed development has been appealed to the OMB.

605 Sherbourne Street, 4-6 Howard Street & 6-16 Glen Road
Toronto, Ontario



Sale Details

Sale Price	\$102,400,000
Adjusted Sale Price	\$102,400,000
Sale Price Per Acre	\$87,821,543
Sale Price Per SF	\$2,016
Sale Price Per Buildable SF	\$232
Closing Date	March-18
Vendor	Bloor Parliament Investments Limited
Purchaser	Concert Properties
Broker	CBRE
Interest	100%
Property Rights	Fee Simple
PIN	21086-055, -0060, -0061, -0070, -0082, -0115, -0116, -

Physical Details

Property Size (Acres)	1.17
Property Size (SF)	50,791
Topography	Level
Shape	Irregular
Position	Corner
Utilities	Serviced
Official Plan	Mixed Use Areas
Zoning	R4Z4
Frontage	107 feet along Sherbourne Street 222 feet along Howard Street 145 feet along Glen Road

Proposed Development

Land Type	High Density Residential
GFA (SF)	441,858
Site Density	8.70
Number of Units	477
Development Status	Approved

Sale Commentary

This sale represents an assembly of two properties that closed on the same day in March 2018. The vendor was the same for both transactions.

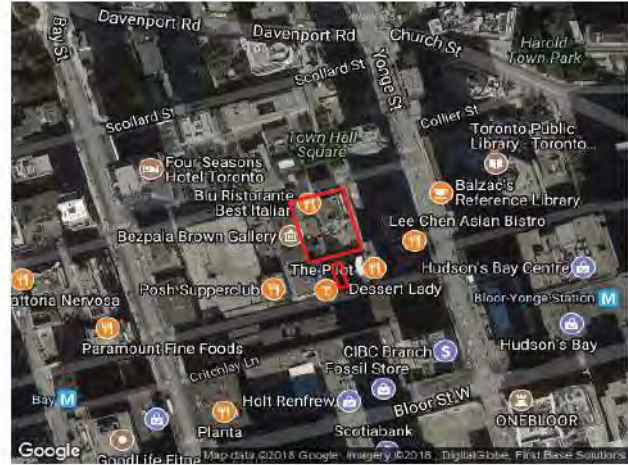
The property is designated as Mixed Use Areas in the City of Toronto Official Plan. The zoning designation is R4Z1 under the former City of Toronto Zoning By-law 438-86, a residential classification.

At the time of sale, Block 1 (consisting of 605 Sherbourne Street and 4-6 Howard Street) was improved with three vacant houses while Block 2 (consisting of 6-16 Glen Road) was improved with six recently renovated semi-detached residential units. The units on Block 2 reportedly produced an annual net operating income of \$231,137.

An Official Plan amendment and a rezoning application were submitted in August 2010 proposing the development of a 50 storey, 470 unit residential condominium tower with retail at grade on Block 1 and seven street-oriented townhomes on Block 2 (in addition to the existing improvements). The total proposed GFA was 441,858 square feet including approximately 11,840 square feet of retail space. The applications were approved in May 2016.

No project had been launched as of the date of sale.

11, 17 and 19 Yorkville Avenue, 18 Cumberland Street
Toronto, Ontario



Sale Details

Sale Price	\$133,365,000
Adjusted Sale Price	\$133,365,000
Sale Price Per Acre	\$166,166,571
Sale Price Per SF	\$3,815
Sale Price Per Buildable SF	\$236
Closing Date	January-18
Vendor	Multiple
Purchaser	Metropia and Bazis International
Broker	Multiple
Interest	100%
Property Rights	Fee Simple
PIN	21197-0142, -0159, -0140, 12744-000, -0002, -0003, -

Physical Details

Property Size (Acres)	0.80
Property Size (SF)	34,961
Topography	Level
Shape	Irregular
Position	Midblock
Utilities	Serviced
Official Plan	Mixed Use Areas
Zoning	CR 3.0 (c1.75; r3.0) SS1 (x2401)
Frontage	130 feet along Yorkville Avenue 20 feet along Cumberland Street

Proposed Development

Land Type	High Density Residential
GFA (SF)	563,997
Site Density	16.13
Number of Units	N/A
Development Status	No application

Sale Commentary

This sale represents an assembly of six properties as follows:
 17 Yorkville Avenue (Units 1, 2, 3, 250) - \$19,095,000 - June 15, 2015
 18 Cumberland Street - \$3,770,000 - June 15, 2015
 11 Yorkville Avenue - \$45,000,000 - August 9, 2017
 17 Yorkville Avenue (Unit 250 B) - \$6,000,000 - September 5, 2017
 19 Yorkville Avenue - reported at \$19,500,000 - January 18, 2018
 16 Cumberland Street - 10,000,000 - January 23, 2018
 21 Yorkville Avenue - \$30,000,000 - January 23, 2018

The property is designated as Mixed Use Areas in the City of Toronto Official Plan. The zoning designation is CR 3.0 (c1.75; r3.0) SS1 (x2401) a commercial residential classification.

At the time of sale, the property was improved with a 9-storey apartment building, two 3 storey commercial buildings and a 2 storey commercial building.

Subsequent to the sale date, a rezoning and site plan application were submitted to the City of Toronto to permit a development comprised of a 62 storey mixed use building on the north portion of

27-37 Yorkville Avenue & 26, 30, 50 Cumberland Street
Toronto, Ontario



Sale Details

Sale Price	\$268,500,000
Adjusted Sale Price	\$328,500,000
Sale Price Per Acre	\$228,760,446
Sale Price Per SF	\$5,252
Sale Price Per Buildable SF	\$334
Closing Date	December-17
Vendor	Kingsett Capital
Purchaser	Cresford
Broker	CBRE Limited & RBC Capital Markets Real Estate Group
Interest	100%
Property Rights	Fee Simple
PIN	21197-0012,-0162,-0308

Physical Details

Property Size (Acres)	1.44
Property Size (SF)	62,552
Topography	Level
Shape	Irregular
Position	Midblock
Utilities	Serviced
Official Plan	Mixed Use Areas
Zoning	CR 3.0 (C1.75; R3.0)
Frontage	285 feet along Cumberland Street 235 feet along Yorkville Avenue

Proposed Development

Land Type	High Density Residential
GFA (SF)	984,579
Site Density	15.74
Number of Units	1,100
Development Status	Approved

Sale Commentary

The property is designated as Mixed Use Areas in the City of Toronto Official Plan. The zoning designation is CR 3.0 (C1.75; R3.0) on a commercial residential classification under former City of Toronto By-law 438-86.

At the time of sale, the property was improved with two retail buildings and a parking structure.

A rezoning application and Official plan amendment were submitted to the City of Toronto pertaining to the land in this transaction in June 2012 and June 2014 respectively. On September 30, 2015 the applications were approved permitting the construction of two mixed use towers 62 and 40-stories in height. The development would have a total gross floor area of 1,148,725 SF (maximum residential 1,066,736 SF - Residential inclusive of a maximum of 184,472 SF for Replacement Above Grade Parking and 81,989 SF of retail). The developer is required to replace the parking structure at the property previously owned and operated by the Toronto Parking Authority.

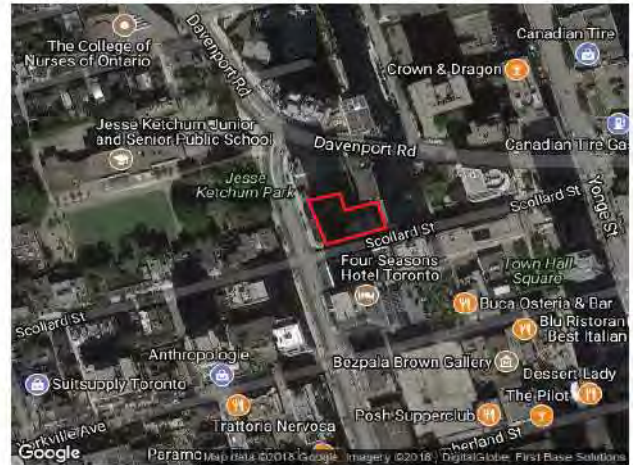
At the time the price was negotiated, the purchaser projected the gross floor area breakdown as follows: Residential - 906,009 SF, Retail - 78,570 SF and Above Grade Parking 125,297 SF. For the purpose of calculating the price per buildable square foot, we have excluded the above-grade parking and have adjusted the GFA to 984,579 SF. We note that the above grade parking will include saleable parking stalls for the residential condo owners and that the replacement parking will be located below grade. The developer will incur additional costs of approximately \$60,000,000 in order to replace the Toronto Parking Authority parking structure. As a result, the sale price was adjusted upwards by \$60,000,000.

VALUATION & ADVISORY SERVICES

The disclaimer that applies to CBRE Limited, Brokerage, and to all other divisions of the Corporation ("CBRE"). The information set out herein (the "Information") has not been verified by CBRE and CBRE does not represent, warrant or guarantee the accuracy, completeness and completeness of the Information. CBRE does not accept or assume any responsibility, liability, or other consequential, for the Information or the recipient's reliance upon the Information. The recipient of the Information should take such steps as the recipient may deem necessary to verify the Information prior to placing any reliance upon the Information.

CBRE

1315-1323 Bay Street & 50-58 Scollard Street
Toronto, Ontario



Sale Details

Sale Price	\$87,000,000
Adjusted Sale Price	\$87,000,000
Sale Price Per Acre	\$157,668,497
Sale Price Per SF	\$3,620
Sale Price Per Buildable SF	\$379

Closing Date	December-17
Vendor	BRI Realty Limited
Purchaser	Lanterra Developments
Broker	N/A

Interest	100%
Property Rights	Fee Simple
PIN	21195-0055, -0056, -0057, -0058, -0059, -0060, -0061, -

Physical Details

Property Size (Acres)	0.55
Property Size (SF)	24,036
Topography	Level
Shape	Irregular
Position	Corner
Utilities	Serviced
Official Plan	Mixed Use Areas
Zoning	CR T3.0 (C1.75 R3.0)
Frontage	613 feet along Bay Street 570 feet along Scollard Street

Proposed Development

Land Type	High Density Residential
GFA (SF)	229,831
Site Density	9.56
Number of Units	112
Development Status	Approved

Sale Commentary

The property is designated as Mixed Use Areas in the City of Toronto Official Plan. The zoning designation is CR T3.0 (C1.75 R3.0), a mixed commercial/residential classification.

At the time of sale, the property was improved with four vacant heritage buildings and a surface parking lot.

A rezoning application was submitted in November 2015 proposing the development of a 41 storey, 112 unit residential condominium tower with retail uses on the first three floor. In July 2016, a site plan application was submitted for the same build form with a total gross floor area of 229,831 square feet. The rezoning application was approved by municipal council in April 2017; the site plan application was still in circulation as of the date of sale.

40-58 Widmer Street
Toronto, Ontario



Sale Details

Sale Price	\$75,200,000
Adjusted Sale Price	\$75,200,000
Sale Price Per Acre	\$197,894,737
Sale Price Per SF	\$4,569
Sale Price Per Buildable SF	\$257

Closing Date	December-17
Vendor	Hi-Rise Capital
Purchaser	Concord Pacific
Broker	BMO

Interest	100%
Property Rights	Fee Simple
PIN	21412-0033, -0034, -0035, -0036, -0037, -0393

Physical Details

Property Size (Acres)	0.38
Property Size (SF)	16,458
Topography	Level
Shape	Regular
Position	Midblock
Utilities	Serviced
Official Plan	Regeneration Areas
Zoning	RA
Frontage	190 feet along Widmer Street

Proposed Development

Land Type	High Density Residential
GFA (SF)	292,778
Site Density	17.79
Number of Units	426
Development Status	Approved

Sale Commentary

The property is designated as Regeneration Areas in the City of Toronto Official Plan. The zoning designation is RA under the former City of Toronto Zoning By-law 438-86, a reinvestment area classification.

At the time of sale, the property was vacant and unimproved, having previously been home to several older row houses that had been converted to commercial uses. All the structures had been demolished as of the date of sale.

On February 3 and 4 of 2016, the City of Toronto Council approved a zoning by-law amendment to allow for the construction of a 41 storey apartment building and/or structure with a gross floor area of 292,778 square feet containing 426 units.

No project had been launched as of the date of sale.



Addendum "C"
Photos

PHOTOS



View from Yonge Street looking south



View from Gerrard Street East and Yonge Street intersection



View from Yonge Street



View from Gerrard Street East just east of Yonge Street

CBRE

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APPRAISAL REPORT

CBRE File No. :: A16.061

363-385 Yonge Street
Toronto, Ontario
Effective Date: February 1, 2016

Prepared for:

Ian Scott
Vice President, Finance
Cresford Developments
170 Merton Street
Toronto, Ontario, M4S 1A1



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CBRE File No. :: A16.061

February 5, 2016

Ian Scott
 Vice President, Finance
 Cresford Developments
 170 Merton Street
 Toronto, Ontario, M4S 1A1

RE: 363-385 Yonge Street, Toronto, Ontario

Dear Mr. Scott:

At your request and authorization, CBRE Limited has completed an investigation and analysis of the above referenced property and is pleased to submit this current narrative appraisal report.

This appraisal report is prepared for the purpose of providing an estimate of market value of the 100% fee simple interest of 363-385 Yonge Street based on an effective date of February 1, 2016. We understand this report will be used by the intended user and any other intended users noted herein to assist in financing purposes.

The market value reported herein is subject to the Extraordinary Assumptions and Limiting Conditions noted within this report on page 5 which are an integral part of this report and are inseparable from this letter. The analyses, opinions and conclusions utilized in this report were developed based on our interpretation of the standards set forth in the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP).

Based on the analysis contained in this report, the market value of the subject property as at February 1, 2016 is:

One Hundred Fifty Eight Million Seven Hundred Thousand Dollars

\$158,700,000

It has been a pleasure to assist you in this assignment. If you have any questions concerning the analysis, or if CBRE Limited can be of further service, please contact us.

Respectfully submitted,

CBRE LIMITED

Paul Morassutti, AACI, MRICS
 Executive VP & Executive Managing Director
 Valuation & Advisory Services
 Phone: 416.495.6235

Vid Stambolovic, MBA, (Candidate Member AIC)
 Consultant
 Valuation & Advisory Services
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ADDENDA

Addendum "A"

- Terms of Reference
- Assumptions and Limiting Conditions

Addendum "B"

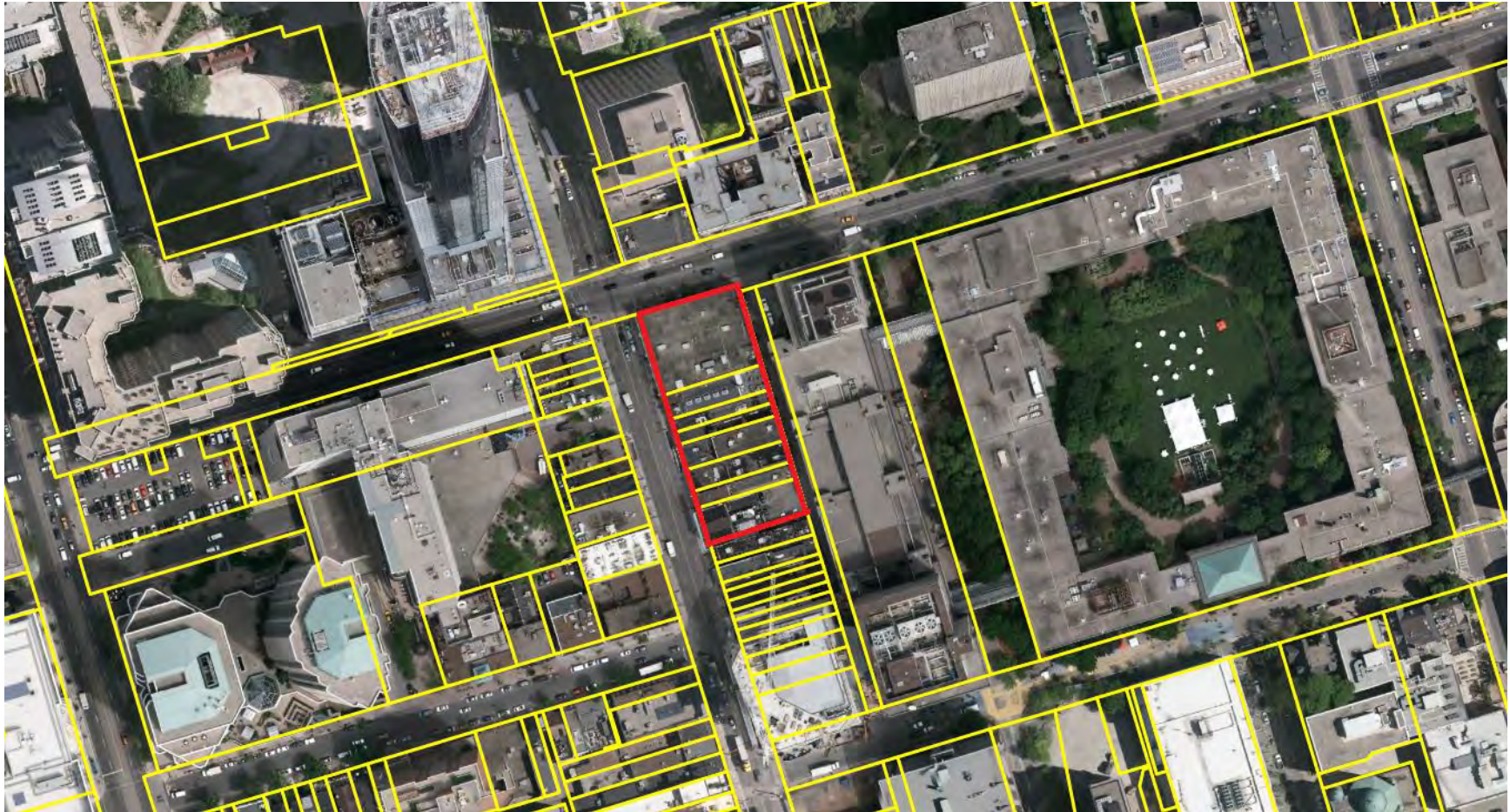
- Comparable Sales Transactions

Addendum "C"

- Photos



363-385 Yonge Street
Effective Date: February 1, 2016



363-385 Yonge Street, Toronto, Ontario



Executive Summary

Investment Summary

Investment Characteristics

Extraordinary Assumptions and Limiting
Conditions

INVESTMENT SUMMARY

Property Address:	363-385 Yonge Street
Interest Appraised:	Fee Simple
Effective Date:	February 1, 2016
Product Type:	High density residential site
Land Area:	0.92 acres

VALUATION SUMMARY

Final Value Conclusion:	\$158,700,000
Allowable Building Area (SF):	1,175,793 (Estimated)
Value PSF Buildable:	\$135

INVESTMENT CHARACTERISTICS

Location

Strengths

- Corner lot with a Yonge Street address.
- Located mid-way between College and Dundas subway stations.
- Close proximity to the Financial Core, Ryerson University (notably the newly constructed Ryerson Learning Centre) and University of Toronto.
- Ample and wide range of amenities available in immediate vicinity. Opportunity to create brand new retail in this location enhances the value of the site.
- The location has excellent residential rental appeal which in turn is attractive to investors and which further benefits absorption and development timelines.
- Very successful completion of the Aura (Canderel) and recent launch of Canderel's YC project to the north speaks to the attractiveness of the location.
- The area continues to undergo substantial improvement and intensification with major developments along Yonge Street.

Weaknesses

- Although rapidly gentrifying, Yonge Street retail in this area is still predominately lower end.

Physical

Strengths

- Significant frontage on Yonge Street.
- Corner positioning.
- Existing buildings provide interim holding income.

- Potential to phase a development if required.

Weaknesses

- Heritage listed buildings at 363-365 Yonge Street and 385-391 Yonge Street need to be incorporated into the development.
- Office component is considered to have less appeal than residential or retail.

Investment Market/Liquidity

Strengths

- Toronto is one of Canada's strongest investment markets.
- Despite early year consensus that cap rates couldn't get much lower, we have witnessed evidence of further tightening of cap rates for select asset classes, most notably: CBD office, grocery-anchored retail and multi-family.
- Against a backdrop of economic volatility, purchasers are clearly prepared to pay a premium for perceived safety and security. This applies both to domestic buyers and, increasingly, foreign capital entering Canada.
- As expected, deal flow in Alberta has been sharply curtailed however outside of the Office sector, liquidity is arguably better than most think.
- Overall REIT performance in 2015 has been lackluster and even though REIT's are in good shape by most measures, they remain a somewhat diminished buying force. Private buyers, pension funds and private equity all remain hungry and active.
- Strong recent job growth in the US. Consensus is strong US economic growth for the balance of 2015.
- 10 Year Canada Bond yields remain close to record lows.
- Demand for well located, urban sites remains incredibly strong.

Weaknesses

- Liquidity for secondary assets or for assets displaying leasing risk has been reduced since mid-2013.
- The sharp slowdown in the oil and gas sector has had a negative impact on overall Canadian growth with Western Canada and Newfoundland the most directly impacted.
- Fallout from lower oil prices is expected to be felt most in the office sector but contagion to other sectors remains a risk.
- Economic growth forecast for Canada in 2015/16 is expected to be modest.
- Continued concerns surrounding the global economy including the slowdown in China, Russia, Europe, the BRICS nations and continued instability in the Middle East.

EXTRAORDINARY ASSUMPTIONS AND LIMITING CONDITIONS

The Assumptions and Limiting Conditions for this reported have been included in Addendum "A".



Property Overview

Tenure

Location Description

Site Description

Site Survey

Current Improvements

Proposed Development

Zoning and Planning

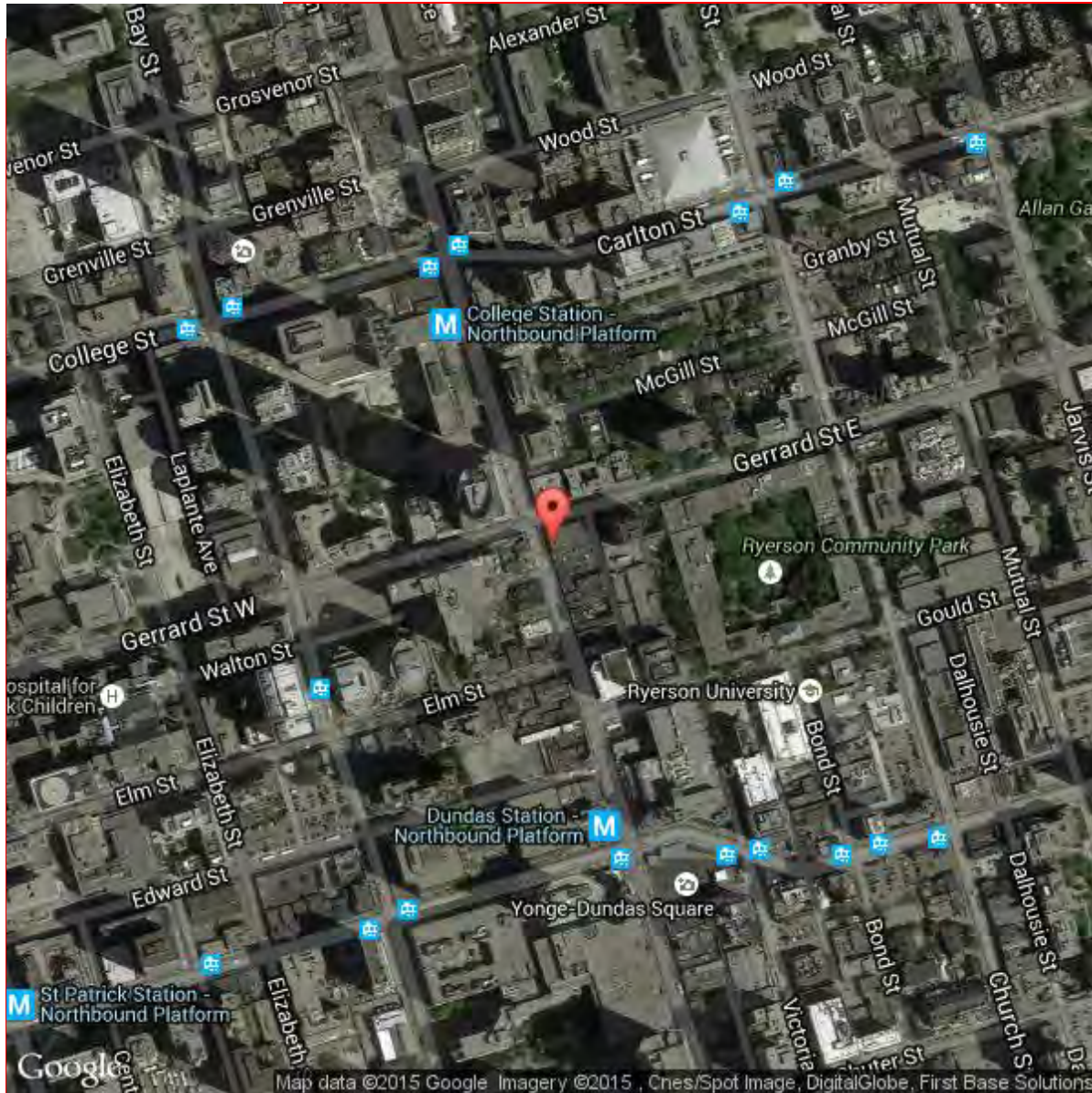
TENURE

The tenure being appraised is as follows:

- 100% fee simple interest

LOCATION DESCRIPTION

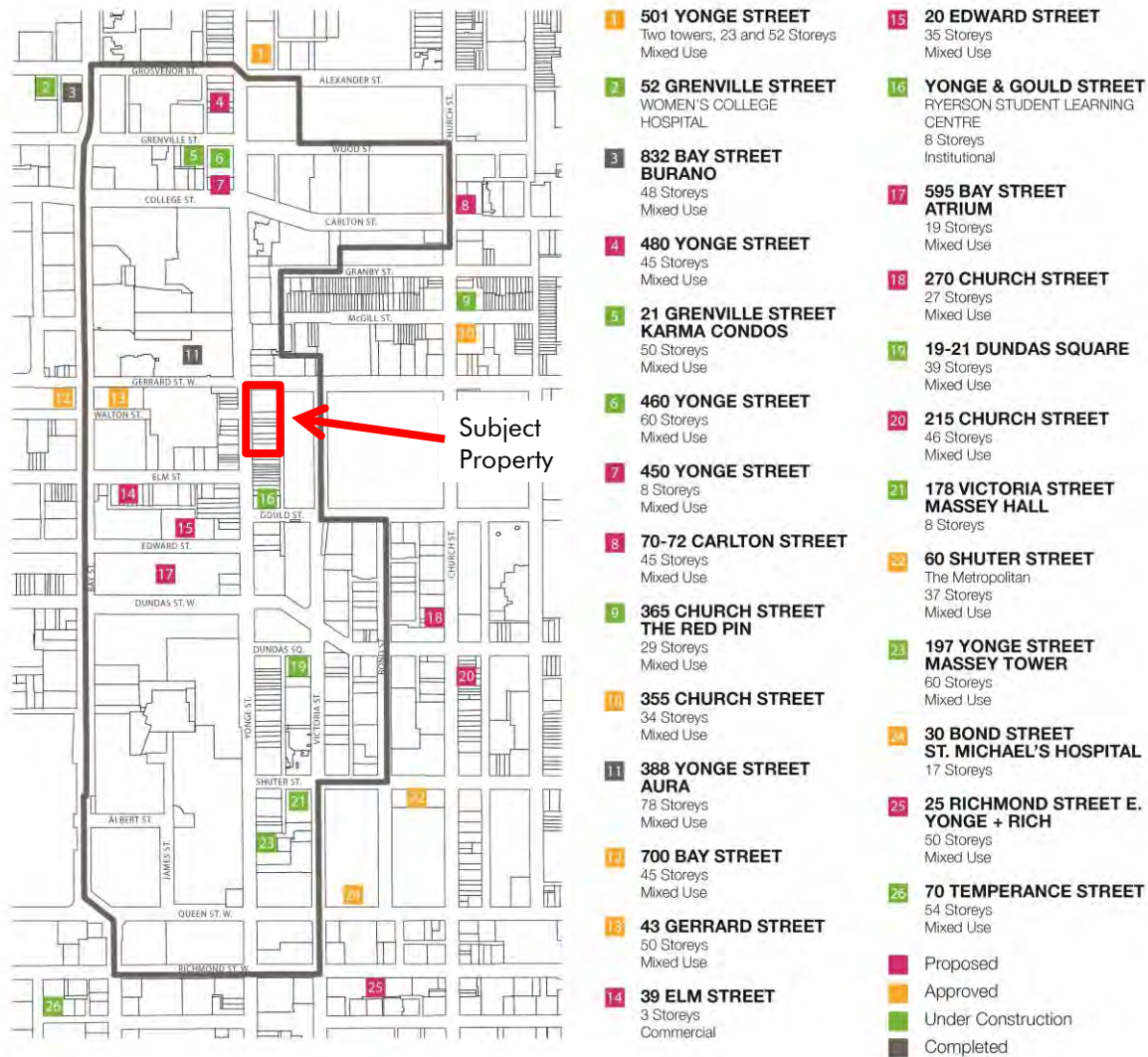
The subject property is located in Downtown Toronto. Specifically, the subject is located on the south east corner of Yonge Street and Gerrard Street East. The subject has the following frontage: 307 feet along Yonge Street and 134 feet along Gerard Street East.



Area Overview

Yonge Street has long been one of the major shopping destinations in the City of Toronto. The opening of the Eaton Centre in 1977 shifted much of the retail focus away from the street and into the new mall. Various efforts have been made over the years in order to revive the street life though few met with much success until the late 1990s. In 1998, the Yonge Street Regeneration Project was launched by Toronto City Council in an attempt to revitalize the area. One of the major components of the Project was municipal acquisition, through market or expropriation means, of the properties on the northeast and southeast corner of the intersection of Yonge Street and Dundas Street. Those on the southeast corner became Yonge-Dundas Square, completed in 2002 while the northeast corner ultimately became 10 Dundas Street East, a multi-use theatre/retail/office complex.

In addition to the Regeneration Project, the Downtown Yonge Business Improvement Association (DYBIA) was formed in 2001 and brought local business and property owners together in an organized structure. Along with the ongoing expansion of Ryerson University, these two initiatives have been quite successful in returning people to the street and have helped spur numerous development projects in the area, as illustrated by the following map provided by the DYBIA:



Of the 26 developments illustrated above, three are of particular interest as they relate to the subject property.

The first, advertised as YC (Yonge at College) is located at 460 Yonge Street, located two blocks north of the subject property. The 60 storey 634 unit mixed use building is currently under construction. The final approved density of this development was 25.8 times the site area. Approvals are in place for 490,296 square feet with 24,391 square feet of retail on the first two floors. The building is scheduled to be completed in October 2017 and is sold out. The project launched in March 2014 and was 99% sold within the first 12 months achieving prices ranging from \$620 to \$911 per square foot.



YC - 460 Yonge Street

The second project is also located two blocks north of the subject property just west of Yonge Street at 21 Grenville Street. The project being marketed as Karma is a 50 storey residential tower with 495 units. The approved density for this development is 24 times the site area. The City approved a gross floor area of approximately 349,849 square feet including 4,596 square feet of retail. The project launched in October 2011 and was sold out by September 2012. Completion of the building is scheduled for October 2016. The development achieved prices ranging from \$712 to \$794 per square foot.



Karma – 21 Grenville Street

The third project is Aura, located on the opposite, northwest corner of Yonge Street and Gerrard Street. This mixed-use building was recently completed and is the tallest primarily residential tower in Canada with 994 residential units on 78 floors. The approved density on the site was 16.3 times the site size. The approved gross floor area of the development is 1,185,962 square feet including a 208,562 retail component. The building launched in March 2008 and was over 93% sold within the first 12 months. The development is nearly sold out with three available units as of December 2015. The three available units are penthouses and are currently priced at \$1,188. Since launching in March 2008 the development achieved prices ranging from \$738 to \$1,230 per square foot.



Aura – 382-388 Yonge Street

The three developments provide precedents for high density residential developments with strong pre-sale levels and good market acceptance.

In addition to the developments described above, interest in the immediate area is substantiated by the recently submitted rezoning application for the redevelopment of the Chelsea Hotel lands located west of the subject property at 33 Gerard Street West. The proposal calls for construction of four towers (80, 74, 50 and 46 storeys) and one six-storey mid-rise structure. The development would have residential, hotel, commercial, office and retail components with a total gross floor area of 1,768,575 SF. The density of the proposed development is 17.5 times the site size.

Land Use

Current uses in the immediate vicinity of the subject include:

North

- Gerrard Street East
- YC, Karma and Aura residential condominium developments

South

- Grenville Street
- Ryerson Student Learning Centre
- Yonge-Dundas Square

East

- Ryerson University
- O'Keefe Lane

West

- Yonge Street
- Chelsea Hotel (owners are currently considering a major mixed-use re-development of this site)

Access

Regional

- Access to Gardiner Expressway via Yonge Street and Lakeshore Boulevard.
- Access to Don Valley Parkway and 400-series Highways via Yonge Street and Bloor Street.

Local

- Vehicular access provided by Yonge Street, Gerrard Street East and O'Keefe Lane.

Public Transit

- Close proximity to Dundas and College subway stations.
- Close proximity to streetcars running along College/Carlton Street and Dundas Street.

Amenities

Full range amenities available along Yonge Street.

Conclusion

Overall, the location is considered excellent for high density residential development.

SITE DESCRIPTION

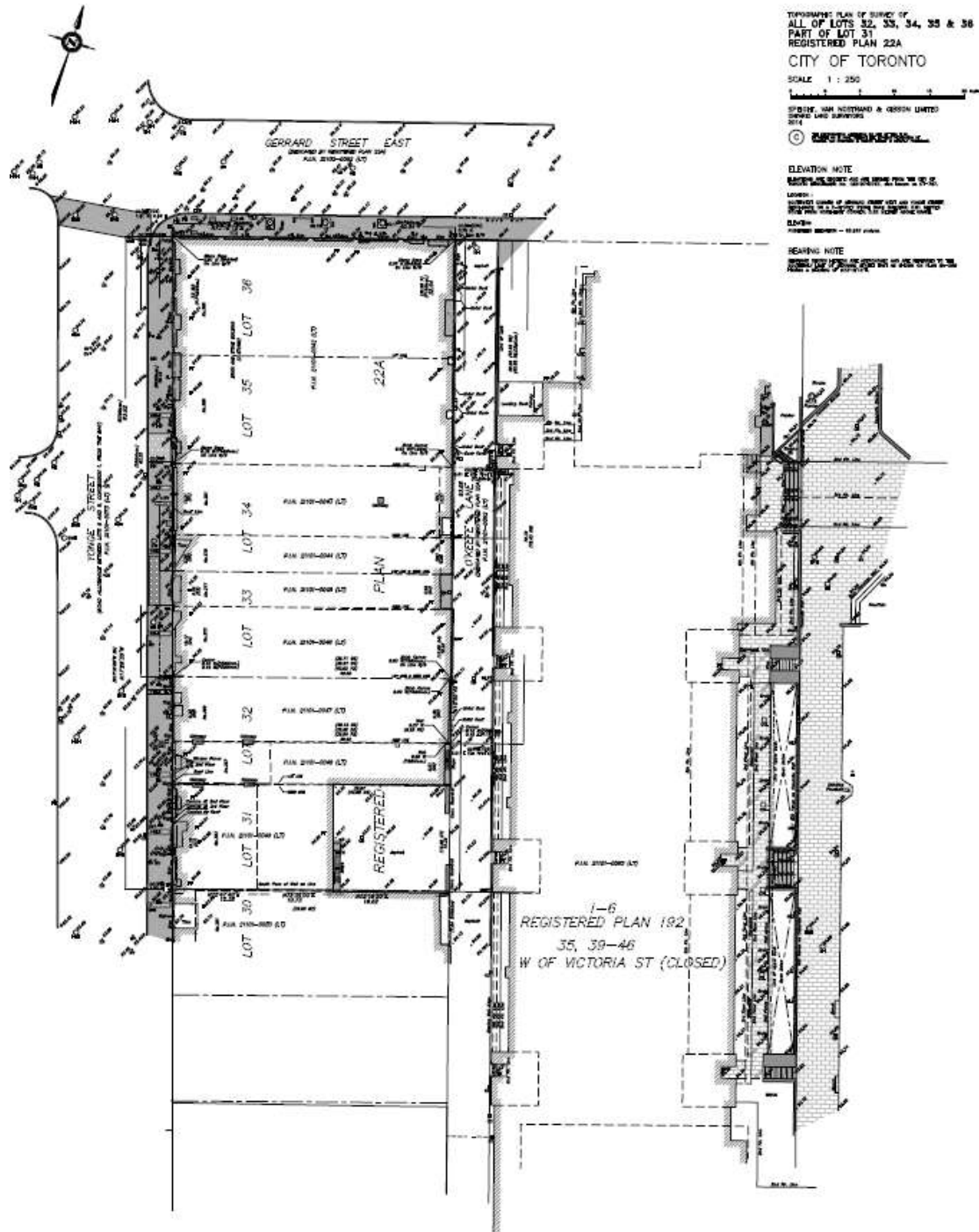
Position	Corner
Site Area	0.92 acres as per Geowarehouse
Configuration	Regular
Topography	Level
Access	Ingress and egress from Yonge Street, Gerrard Street East and O'Keefe Lane.
Services	Utilities are present at the subject lot line.

Conclusion

The site appears to support the proposed development of high density residential.

SITE SURVEY

The following site survey was provided by the client:



Conclusion

Overall, the subject is appropriate for high density residential development.

CURRENT IMPROVEMENTS

The subject property is currently improved with eight 1-4 storey buildings. The buildings are occupied by commercial uses at grade with retail, office and residential uses on the upper floors. The site currently contains two listed heritage buildings at 363-365 Yonge Street and 385-391 Yonge Street.

PROPOSED DEVELOPMENT

After holding two pre-application consultation meetings, a mixed use residential, office and retail was proposed on April 24, 2015. The development would contain two towers of 73 and 62 stories connected by a bridge on top of an 11 storey podium. A total gross floor area of 1,175,793 square feet, including 101,062 square feet of retail on the first three floors and basement level as well as 186,980 square feet of office space in the building podium, results in an overall site density of 29.2 times the site area. The development would have 1,106 residential units and a below grade parking with 289 spaces. The facades of the two heritage buildings would be preserved and incorporated.



ZONING AND PLANNING

Official Plan

- The subject has been classified as Mixed Use Areas under the City of Toronto's Official Plan.
- This designation permits a range of residential, commercial and institutional uses. The Plan includes criteria that direct the form and quality of development in this land use designation. The criteria state that new buildings: provide a transition between areas of different intensity and scale including a stepping down of heights towards lower scale neighbourhoods; minimize shadow impacts; and provide an attractive, safe and comfortable pedestrian environment.

Site and Area Specific Policy 174 – Yonge Street Between Queen Street and North of Gerrard Street

- The subject property is subject to Site and Area Specific Policy 174, Yonge Street Between Queen Street and North of Gerrard Street
- The general planning objective of SASP 174 is to provide an overall framework for continued revitalization in the area.
- The key principles of the Policy are for changes to be consistent with and enhance the character of the area, retention of heritage buildings, streetscape improvements, locating business along Yonge Street, to ensure site and massing achieve adequate light, achieving a harmonious relationship to the built form context, to minimize wind and shadow impacts etc.

Zoning

- Existing zoning is CR 4.0 – Commercial Residential Area
- An Official Plan Rezoning application was submitted to the City of Toronto for a redevelopment of the subject site on April 24, 2015. The proposal requests an increase in the permitted height at the subject property. As of the date of this report, the application was still under review.
- The application called for a total of approximately 1,175,793 square feet of gross floor area for the redevelopment project, equivalent to a density of 29.2 times the site size.

Issues to be Resolved

- Standard list of development issues including massing, streetscape, height, onsite parking, traffic, etc. Specific to this site, we note the following:
 - Confirmation that the building height does not interfere with the Hospital for Sick Kids and St. Michael's Hospital helicopter flight paths
 - Adequacy of community services and parkland in the area including the impact on Yonge Street Mission

Limitations

- For the purposes of this appraisal CBRE has assumed the information obtained is correct and that the subject property is a conforming or at least a legal non-conforming use.

Conclusion

A review of the Official Plan, Site and Area Specific Policy 174 as well as the large number of recent redevelopment projects in area confirmed that a high density residential development is attainable. For the purpose of estimating

the market value of the subject property, CBRE adopted the gross floor area included in the rezoning application which, based on density precedents in the area, appears to be reasonable.



Market Overview

Canada Economic Overview

Ontario Economic Overview

Toronto Economic Overview

Canadian Investment Marketview

Residential Market Overview

CANADA ECONOMIC OVERVIEW

CANADA ECONOMIC INDICATORS

	2012	2013	2014	2015F	2016F	2017F	2018F	2019F
Real GDP Growth at Basic Price (\$2007)	1.9%	2.0%	2.4%	1.6%	2.1%	2.2%	2.2%	2.0%
Population (Thousands)	34,699	35,100	35,492	35,850	36,253	36,664	37,081	37,496
Annual % Change	1.2%	1.2%	1.1%	1.0%	1.1%	1.1%	1.1%	1.1%
Employment (Thousands)	17,444	17,868	17,796	17,947	18,139	18,378	18,597	18,805
Annual % Change	1.3%	1.4%	0.6%	0.8%	1.1%	1.3%	1.2%	1.1%
Unemployment Rate	7.3%	7.1%	6.9%	6.9%	6.9%	6.7%	6.3%	6.0%
Personal Income Per Capita (\$)	\$39,382	\$40,446	\$41,424	\$42,474	\$43,463	\$44,630	\$45,885	\$47,180
Retail Sales (\$ millions)	\$468,127	\$482,998	\$505,008	\$516,342	\$535,785	\$550,720	\$567,593	\$584,795
Annual % Change	2.5%	3.2%	4.6%	2.2%	3.8%	2.8%	3.1%	3.0%
CPI (Annual Change)	1.5%	0.9%	1.9%	1.5%	2.3%	2.1%	2.1%	2.1%

Source: Conference Board of Canada, Autumn 2015

Notable highlights regarding Canada's economic environment are provided below and have been sourced from the Conference Board of Canada, Autumn 2015 Outlook:

- Canada's provincial economic outlook can best be characterized by a national bifurcation between oil producers and oil consumers. Economic data since the oil plunge of mid-2014 has confirmed the severe impact the lowered commodity price would have on energy-centric markets in Alberta, Saskatchewan, Newfoundland, and Labrador. By corollary, these same market conditions in addition to a weak domestic currency and strengthening U.S. economy have opened up prospects for growth, albeit at a slower pace than anticipated, in energy consuming and export-dependent provinces of Ontario, Manitoba, Quebec, and British Columbia.
- Canada's weak start to the year evidenced by contracting real GDP throughout the first 5 months of 2015 can be largely attributed to the chain reaction initiated by the oil price plunge and further exacerbated by external market turbulence within the global economy, such as the Greek debt Crisis and recent volatility in the Chinese stock market. As a result, real GDP growth is forecast to reach just 1.6% in 2015, representing the country's worst economic performance since 2009.
- Business investment will likely be hardest hit as a result of the sustained oil price embargo and represents the weakest part of the Canadian economic forecast set to decline by 7% in 2015, with uplift in 2016 forecast at a mere 0.9% articulating continued anticipated hesitation within capital and investment markets. Specifically, investment in Canadian energy structures and exploration are expected to drop by a whopping 30% over 2015, clearly representing the foci for cuts within the larger business investment landscape.
- While savings at the pump and Federal tax cuts were expected to generate increases in consumer spending and thus in part offset large investment declines, a soft labor market characterized by fairly weak employment and wage growth, in addition to high levels of household debt have served rather to ease household consumption which is set to decrease 2.1% in 2015 down from 2.7% in 2014. For similar reasons, household demand is also expected to decrease from 189,300 housing starts in 2014 down to 182,100 and 177,800 unit starts in 2015 and 2016 respectively. Despite the fall in housing demand, residential investment is slated to grow by 3.1% this year before falling to 2.8% in 2016.

- The squeeze resulting from low oil prices on provincial and federal budgets combined with weaker than expected growth further slashing alternative revenue streams means another round of spending cuts is anticipated in order to keep rising deficits under control. The outlook for real public consumption and investment spending can be characterized by one of fiscal restraint, set to grow by less than 1% in 2015 and 2016 respectively.
- Despite some larger than expected bumps on the road in 2015, the outlook is not entirely negative with the trade sector representing the bright spot in the Canadian Economy. While trade numbers were delayed in terms of hitting anticipated targets during the first half of 2015 underperforming in relation to the offsetting gains that were expected in oil-consuming provinces manufacturing sectors, the strengthening US economy in tandem with the weaker Canadian dollar has bode well for Canada's trade performance over the last half of the year. In sum, the trade sector is expected to actualize solid growth at 3.1% in 2015, up to 3.6% in 2016.

Overall, the Canadian economy is expected to grow by 1.6% in 2015. This is the 4th consecutive year where growth has been less than 2.5%.

ONTARIO ECONOMIC OVERVIEW

ONTARIO ECONOMIC INDICATORS

	2012	2013	2014	2015F	2016F	2017F	2018F	2019F
Real GDP Growth at Basic Price (\$2007)	1.6%	1.2%	2.3%	2.0%	2.3%	1.9%	2.2%	2.2%
Population (Thousands)	13,393	13,533	13,666	13,801	13,980	14,142	14,309	14,476
Annual % Change	1.1%	1.0%	1.0%	1.0%	1.3%	1.2%	1.2%	1.2%
Employment (Thousands)	6,704	6,822	6,877	6,931	7,014	7,094	7,184	7,296
Annual % Change	0.7%	1.8%	0.8%	0.8%	1.2%	1.1%	1.3%	1.6%
Unemployment Rate	7.9%	7.6%	7.3%	6.8%	6.8%	6.8%	6.3%	5.8%
Personal Income Per Capita (\$)	\$39,260	\$40,037	\$41,028	\$42,247	\$43,167	\$44,199	\$45,345	\$46,664
Retail Sales (\$ millions)	\$164,503	\$168,253	\$176,719	\$183,470	\$190,720	\$194,321	\$199,370	\$205,850
Annual % Change	1.6%	2.3%	5.0%	3.8%	4.0%	1.9%	2.6%	3.3%
CPI (Annual Change)	1.4%	1.1%	2.3%	1.3%	2.3%	2.1%	2.1%	2.1%

Source: Conference Board of Canada, Autumn 2015

Notable highlights regarding Ontario's economic environment are provided below and have been sourced from the Conference Board of Canada, Autumn 2015 Outlook:

- Household consumption is expected to continue driving positive growth in Ontario's economy throughout the balance of 2015 with forecasts pegging growth in the magnitude of 2.9% this year with the outlook continuing solidly into 2016 forecast at 2.4% growth. The sector is supported in part by the anticipated 4.8% uplift in durable good consumption forecast for 2015 in tandem with continued and unprecedented growth from motor vehicle sales already up 5.4% in the first five months of 2015 following a record setting year in 2014. Deviating from the path slightly, albeit still maintaining positive trajectory, are retail sales which posted a difficult-to-match 5.0% growth increase in 2014, projected to increase another 3.8% through 2015.
- In addition to elevated household consumption, growth in domestic demand will be further encouraged by still heavy housing demand driving substantial residential investment with housing starts projected to increase by 8.5% in 2015. Consecutive interest rate cuts by the Bank of Canada mean the residential housing market is even more attractive in 2015. Weak demand from the U.S. however discounts the need for improved productive capacity meaning there will be weak business investment in non-residential or export oriented sectors this year.
- Entering into the latter half of 2015, exports are expected to improve moderately. Despite the Bank of Canada's interest rate cut bringing the Loonie to decade lows, real exports fell by an estimated 2.5% during the first half of the year. Major factors at fault include lower commodity prices combined with a stagnating Chinese economy, slowing U.S. energy investment, weakening global demand, and labour disputes at west coast ports. Export growth is expected to accelerate to 4.2% in 2016.
- In contrast to sputtering export activity, tourism has seen the benefit of a lower Loonie manifesting in the form of a 7.5% increase year-over-year in tourist level entry to the province. Overnight visits to Ontario from the U.S. and overseas are also expected to outperform recent years, with projected growth of 4.5% and 5.7%, respectively. It should be noted that extraordinary sporting events such as the FIFA Women's

World Cup and the Pan Am Games boosted 2015, and therefore a moderation in tourism activity is expected for 2016.

Overall, the Ontario economy is expected to grow by 2.0% in 2015, driven mainly by household consumption. The outlook is positive with real GDP expected to jump to 2.3% the following year.

TORONTO ECONOMIC OVERVIEW

TORONTO ECONOMIC INDICATORS								
	2012	2013	2014	2015F	2016F	2017F	2018F	2019F
Real GDP Growth at Basic Price (\$2007)	2.1%	1.9%	3.1%	2.6%	2.8%	2.6%	2.7%	2.8%
Population (Thousands)	5,869	5,966	6,056	6,151	6,259	6,370	6,485	6,603
Annual % Change	1.7%	1.7%	1.5%	1.6%	1.7%	1.8%	1.8%	1.8%
Employment (Thousands)	2,960	3,091	3,087	3,166	3,226	3,282	3,344	3,417
Annual % Change	1.3%	4.4%	-0.1%	2.6%	1.9%	1.8%	1.9%	2.2%
Unemployment Rate	8.7%	8.2%	8.0%	7.0%	7.0%	7.0%	6.5%	6.1%
Personal Income Per Capita (\$)	\$40,556	\$41,000	\$42,259	\$43,560	\$44,647	\$45,801	\$46,985	\$48,360
Retail Sales (\$ millions)	\$67,536	\$68,832	\$73,083	\$75,446	\$78,804	\$80,882	\$83,406	\$86,600
Annual % Change	1.0%	1.9%	6.2%	3.2%	4.5%	2.6%	3.1%	3.8%
CPI (Annual Change)	1.5%	1.2%	2.5%	1.7%	2.3%	2.1%	2.1%	2.1%

Source: Conference Board of Canada, Autumn 2015

Notable highlights regarding Toronto's economic environment are provided below and have been sourced from the Conference Board of Canada, Autumn 2015 Outlook:

- Toronto's manufacturing sector continues to recover from a 30% decline in output and employment suffered throughout the past decade. The recovery has been aided through a depreciated loonie, low interest rates, falling energy and other input costs, as well as strengthening U.S. economy. Output in 2014 rebound to 4.1% growth, and is expected to expand by a further 1.9% in 2015 followed by a forecast 3.9% increase in 2016. Positive growth figures paint a comparatively optimistic picture for the centrally located metropolis particularly when viewed alongside recent gains in labor productivity enabled through improved technological utilization. Such gains should however be realized within the juxtaposing context of decreased labor usage and contracting overall employment in manufacturing, traditionally representing Toronto's economic bread and butter. Major layoffs have been realized and the threat of more job cuts continue to loom from the likes of major private employers inclusive of Premium Brands Holdings Corporation, Bombardier, and Wrigley Canada.
- Despite a struggling manufacturing-specific labor market, domestic demand remains positive in Toronto overall. Housing starts have been off to an exceptional start during the first half of 2015, after falling consecutively during the previous two year period (2014 saw only 29,000 residential construction starts). A respectable 34,700 new homes are expected to begin construction this year on the back of an improving economic outlook, moderate population growth, and falling mortgage interest rates.
- Non-residential construction activity also started on a strong note in Toronto with the completion of the Bay Adelaide Centre East and the One York Street project in the Downtown district slated for early 2016. The Toronto Transit Commission has also undertaken massive investment into both new subway rail tracks and light-rail transit routes in both the York and Eglinton regions.
- Moderate 2015 growth of 2.6% is expected in Toronto's overall service sector, slightly down from 3.0% in 2014. Interest rate cuts have proven to benefit not only overall investment expenditure, but also off-shoot industries servicing this investment. In particular, fire, insurance, and real estate services, as well as

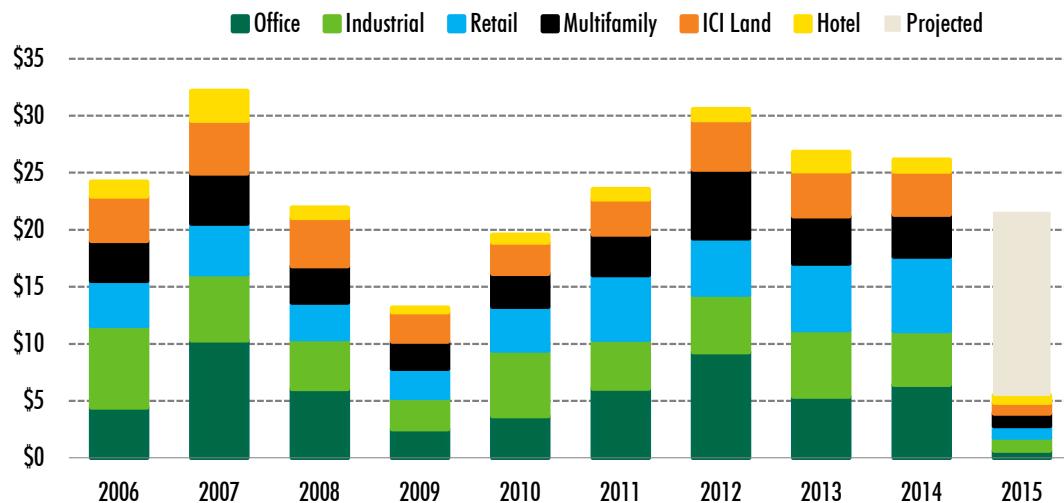
personal services, will peak at 4.1% and 4.0%, respectively this year, boosted by growing housing and tourism demand.

Overall, the Toronto economy is expected to grow by 2.6% in 2015 and 2.8% in 2016. Keys to success include a 1.0% decline in the unemployment rate to 7.0% in 2015, and a strengthening construction industry.

CANADIAN INVESTMENT MARKETVIEW

Investment Volume Falls as Investors Move Temporarily to the Sidelines

Investment Volume Comparison (\$ billions)



Source: RealNet Canada Inc., RealTrac, Collette Plante, IIR Land Titles Solutions, CRRE Research, Q1 2015

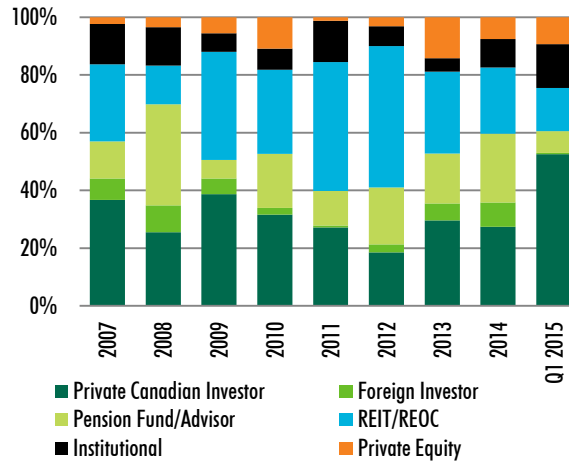
As the Canadian economy weathered the volatility in the commodity markets and experienced softer economic growth, spillovers in the real estate investment market were inevitably felt across the country. Investment volume slowed in Q1 2015 with the total value of acquisitions decelerating from \$7.7 billion in Q4 2014 to \$5.5 billion. This drop was most pronounced in the office sector, which is traditionally the most sought-after asset class, as investors turned more cautious following softer leasing conditions. On the upside, investment activity in hotels, industrial, and multifamily assets fared well, facing significant interest from private buyers as well as REITs and REOCs. In addition, there was a noticeable pickup in off-market transactions.

The total transaction volume in Canada reached \$5.5 billion in Q1 2015, down both quarter-over-quarter and year-over-year by 28.5% and 18.3%, respectively. Despite registering lower volumes in early 2015, activity is only modestly below the 5-year quarterly average of \$5.8 billion. Investment volumes declined nationwide from Q1 2014, with the exception of Vancouver and Edmonton.

Investment activity in Vancouver rose 80.7% year-over-year, with an influx of private and pension capital into land and industrial assets. This was also primarily skewed by two significant deals completed above \$100.0 million. On the other hand, Toronto and Montreal experienced a significant drop in investment, with volumes down by 37.9%, and 33.0%, respectively.

Investment volumes bore the brunt of the slowdown in activity in the first three months of 2015 as investors waited on the sidelines to get some clarity on economic conditions. Activity in Q1 2015 was particularly muted when considering it was already bolstered by the carry over of year-end 2014 deals into 2015. Nonetheless, with the first quarter drop behind us, activity is forecasted to pick up steam for the remainder of 2015 on the back of higher appetite for risk, more product coming on the market and ample liquidity.

Q1 2015 Purchaser Activity for deals above \$10 million



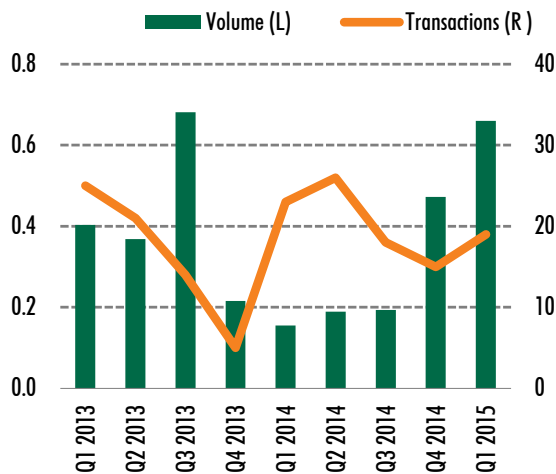
Source: RealNet Canada Inc., RealTrack, Collette Plante, JLR Land Titles Solutions, CBRE Research Q1 2015

Purchaser Profile

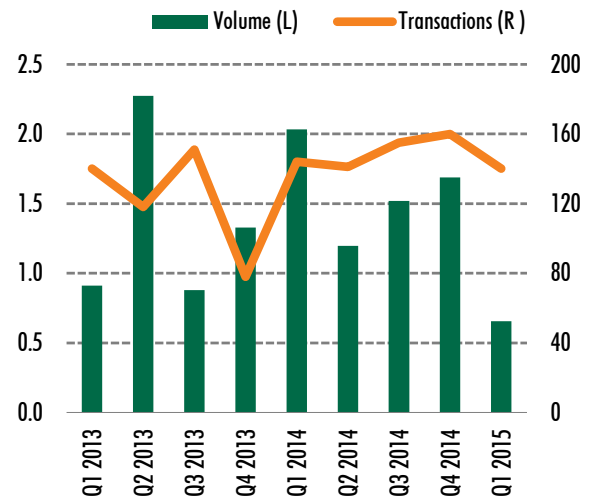
Acquisitions by Private Canadian investors continued to drive market activity, accounting for an unusually high 52.5% of overall investment volumes. Institutional buyers became increasingly active in Q1 2015, accounting for 15.2% of deals, up from 7.9% in Q1 2014. They transacted \$361.0 million worth of office and retail assets this quarter. Pension fund/advisors' percentage share of activity plummeted from 45.7% to 7.5% year-over-year, as they sought to deploy their capital abroad in search for high quality assets. In Canada, the majority of pension capital flowed into the multifamily and industrial sectors.

Investment Activity by Asset Class

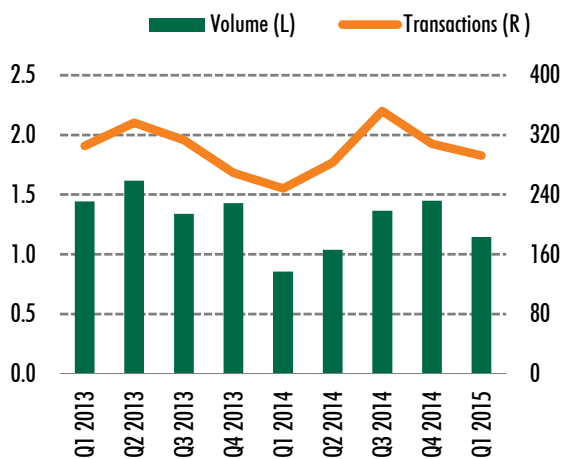
Hotel Trade Activity



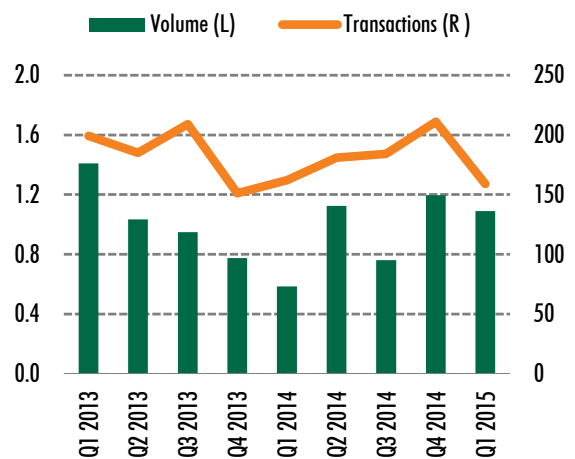
Office Trade Activity



Industrial Trade Activity



Multifamily Trade Activity



Source: RealNet Canada Inc., RealTrack, Collette Plante, IIR Land Title Solutions, CRPE Research Q1 2015

Investment in the office sector slowed significantly in Q1 2015, contracting to its lowest quarterly level in five years, at \$655.0 million. This lackluster activity can be partially explained by the lack of quality assets available for sale, but it is also due to the caution amongst both purchasers and vendors. Despite this caution, there remains strong interest from all types of buyers for core product, and although the current lack of available product has dampened activity, more product is expected to become available as the year progresses.

Hotel investments in Canada reached \$660.1 million in Q1 2015, the highest quarterly volume since Q3 2013. Significant transactions include the dispositions of the two Fairmont hotels. The outlook for hotels is bullish for the remainder of 2015 as occupancy levels remain high and fundamentals exhibit strength.

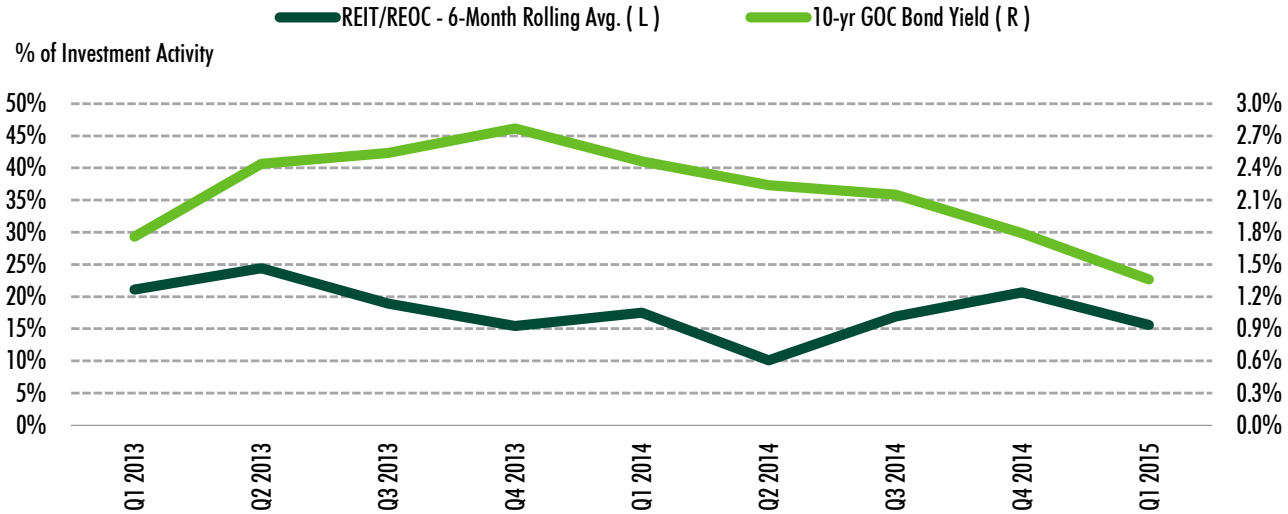
The industrial sector has been the flavour of the quarter, accounting for 21.0% of total volume

and noticed significant appetite from REIT and REOCs as well as mid-size institutional buyers across Canada, particularly in Toronto and Montreal. As institutional buyers look to increase their exposure to speculative development projects and distribution warehouses, we expect industrial investment to pick up steam in H2 2015.

The multifamily asset class remained fairly active, underpinned by a flow of transactions amounting to \$1.1 billion in Q1 2015. Notable deals include the acquisition of Langara Gardens by Concert Properties Ltd. for \$101.9 million in Vancouver and Airdrie Place apartments for \$64.3 million by a private buyer in Calgary.

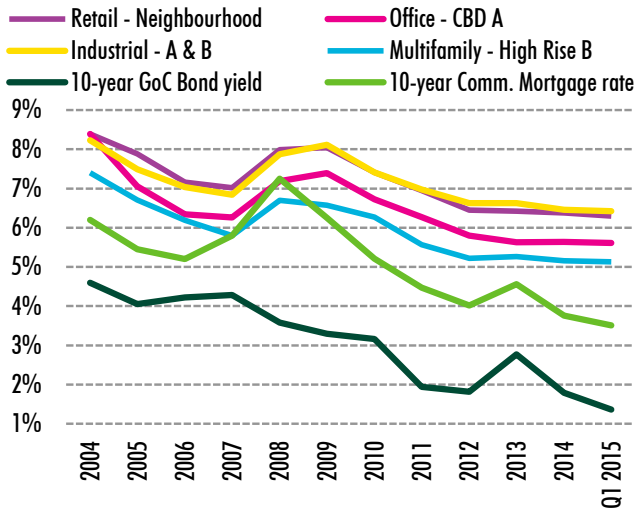
Capital Markets and Commercial Real Estate Performance

REIT/REOC Activity vs. GoC Bond Yields



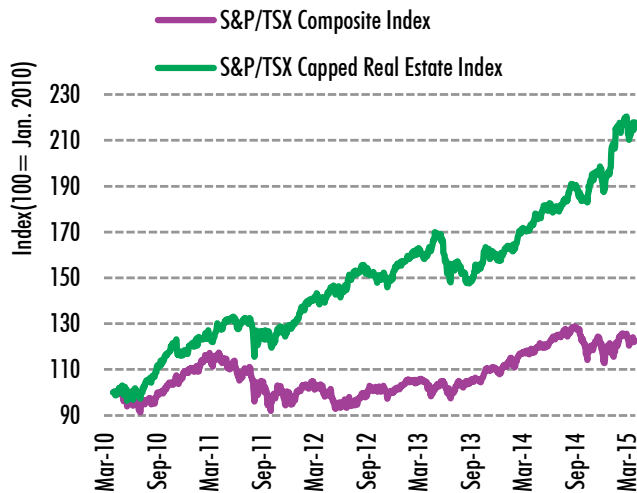
Source: Bank of Canada, RealNet Canada Inc., RealTrack, Collette Plante, IIR Land Titles Solutions, CBRE Research Q1 2015

Investment Yields and Cap Rates by Sector



Source: Bank of Canada, CBRE Research Q1 2015

Capital Markets and CRE Performance



Source: Thomson Reuters, Q1 2015

After a furious pace of REIT and REOC activity to close out Q4 2014, the start of 2015 had been markedly subdued as a result of continued stagnation in the global economy. The surprise 25 basis point (bps) cut to the key overnight rate by the Bank of Canada (BoC) at the end of January reverberated throughout the capital markets, sending Government of Canada (GoC) bond yields tumbling to historical lows. The BoC's move left REITs and REOCs looking to adjust their pricing fundamentals appropriately, which accounts for the decline in activity when compared to the same period of 2014.

Cap rates for all asset classes were stable, and provided continuity for both buyers and sellers of commercial real estate. The spreads between cap rates and 10-yr GoC bond yields continued to widen further than the previous quarter, a low yield environment that provided commercial real estate investors with a positive outlook going forward in 2015.

Equity market volatility did not deter investors from leaving the stability of real estate investments as the TSX Real Estate Index continued to outperform the TSX Composite Index by the widest margin in five years. Savvy investors understand the simple and stable fundamentals of real estate, clearly choosing an asset class that can endure the majority of economic shocks when compared to other more complex and riskier equity investments.

RESIDENTIAL MARKET OVERVIEW

The following are excerpts from the CMHC Housing Market Outlook Canada Edition, the Canada Highlights Edition, the Ontario Region Highlights, the Greater Toronto Area outlook and RealNet's New Homes Monthly Market Report for the Downtown Core Report for December 2015.

Canadian Housing Market

- The full impact of the decline in oil prices and a low interest rate environment results in uncertainty in the overall Canadian Real estate market. As a result, CMHC presented its forecast in the form of a range. The lower and upper ends of this range reflect the downside and upside risks to the outlook, respectively. Housing starts are expected to range from 166,450 to 188,580 units in 2015 and 162,840 to 190,830 in 2016. The lower end of the range represents a decline in housing starts of 4.1% in 2015.
- Single-detached homes are expected to drive the overall decline in housing starts with a moderate decline expected in the multi-family sector. Total multi-family starts are expected to be range between 100,630 and 114,330 units in 2015 and between 98,510 and 115,800 units in 2016.
- Resale transactions are expected to range from \$402,139 and \$439,589 in 2015 with projections from \$398,191 to \$457,200. A slower rate of price growth is partly due to the composition of sales with an increased number of moderately priced and a reduction in more expensive resale units.

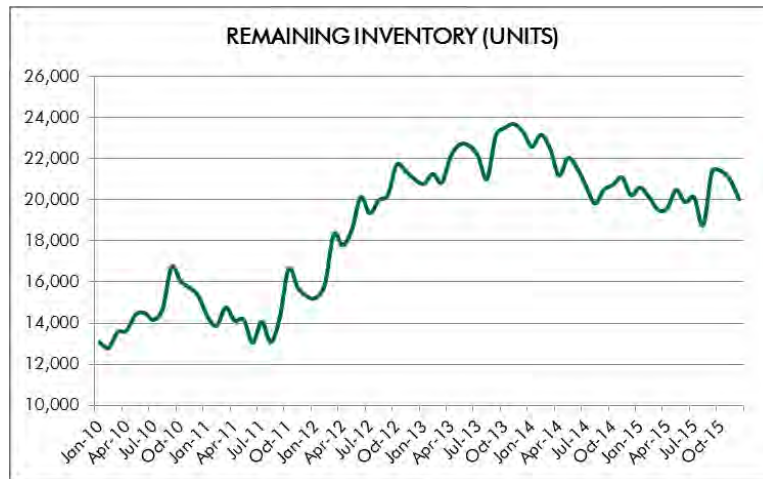
Ontario Housing Market

- Ontario housing demand peaked during 2012 with a correction in 2013. New home starts are expected to remain relatively stable with a forecast from 56,800 to 64,200 units in 2015 and from 54,500 to 63,600 units in 2016.
- Multi-family housing starts are expected to continue to outpace single-family starts through 2016. Condominium demand will continue to be supported by rising mortgage carrying costs due largely to rising prices.
- Demand for resale homes is expected to hold up better when compared to new construction demand over the forecast horizon.
- Modest job growth and increasing home prices are expected to result in increased demand for less expensive resale homes.

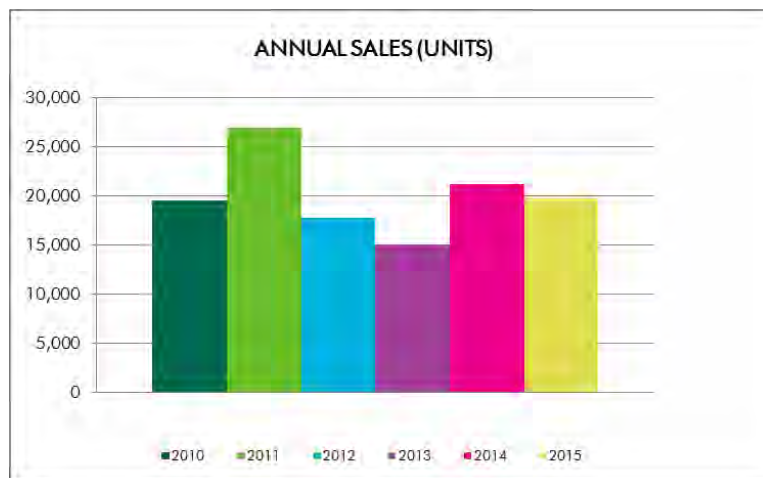
GTA Housing Market

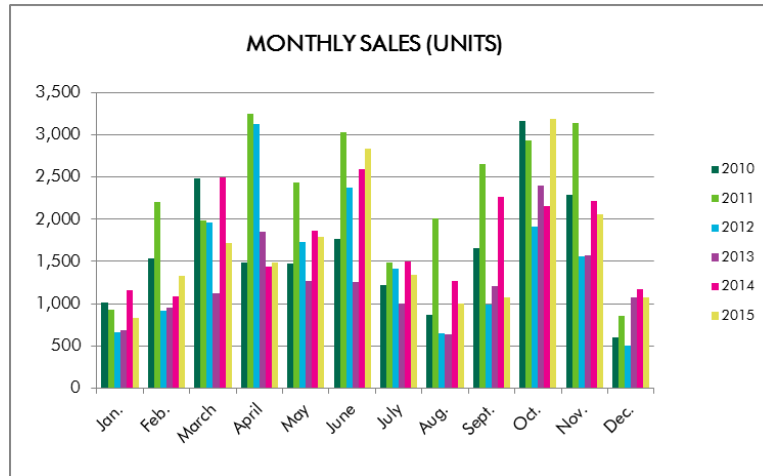
- MLS sales equaled 88,157 in 2012 subsequently increasing to 88,946 in 2013 and 93,278 in 2014. Sales activity is expected to edge up to 93,400 in 2015.
- Condominium apartment starts peaked in 2011 at 29,617. However, a sharp decline ensued came in 2013 and 2014 with only 18,149 and 14,708 starts, respectively. Condominium starts are expected to pick up in 2015 with approximately 18,550 unit starts.
- Low rise development followed the same general trend, albeit not as pronounced as in the condominium market.
- Overall housing starts declined by 30% in 2013 and a further 14% in 2014. Starts are expected to bounce back in 2015 with a year over year increase of 12%.

- The Greater Toronto high rise condominium market has experienced near continuous growth over the past few years. In January 2010, there were 310 active projects representing 70,845 units across the GTA. By November 2014, this had grown to 478 projects and 114,997 units. As the number of projects has increased, so too has the amount of unsold inventory peaking at 23,699 in November 2013.
- As of December 2015, there were 446 active projects with a total of 109,665 units. The unsold inventory has fluctuated over the past 12 months and stood at 20,031 as of December 2015.

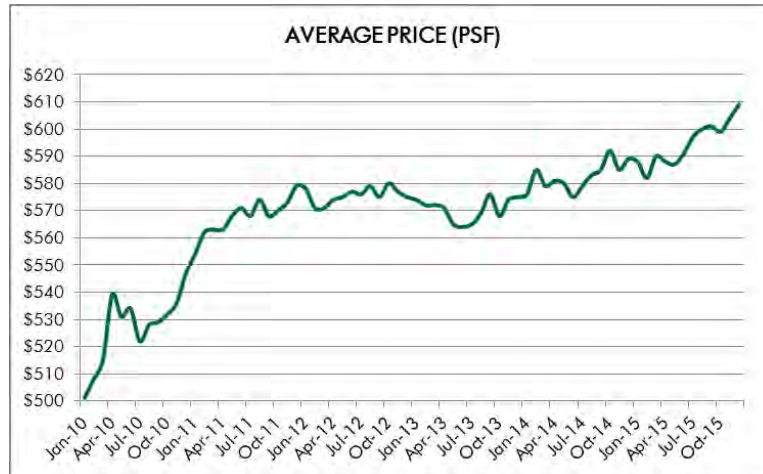


- The number of units sold jumped dramatically from 19,557 in 2010 to 26,889 in 2011 and fell to 17,783 in 2012 and even further to 15,007 in 2013. Sales in 2014 have rebounded with 21,201 units sold by the end of the year. The total number of sales in 2015 equaled 19,714, slightly lower than the previous year.





- Average sale prices per square foot increased considerably in 2010 and 2011. The prices have somewhat stabilized in 2012 and 2013 dipping slightly in the summer of 2013 but have rebounded since. Prices continue to reach new highs peaking at \$609 PSF in December 2015.



Jan-10	310	70,845	1,017	13,075	\$501	916
Feb-10	307	70,790	1,538	12,787	\$508	913
Mar-10	314	73,372	2,483	13,552	\$515	907
Apr-10	313	73,407	1,484	13,636	\$539	914
May-10	323	75,660	1,473	14,410	\$531	906
Jun-10	332	78,054	1,764	14,498	\$534	901
Jul-10	335	78,898	1,222	14,157	\$522	903
Aug-10	332	79,011	861	14,657	\$528	892
Sep-10	345	82,789	1,658	16,740	\$529	856
Oct-10	353	83,671	3,159	16,042	\$532	876
Nov-10	358	84,318	2,293	15,727	\$536	886
Dec-10	356	84,221	605	15,304	\$547	897
Jan-11	350	83,358	931	14,318	\$554	904
Feb-11	349	84,096	2,202	13,867	\$562	908
Mar-11	353	86,270	1,980	14,759	\$563	882
Apr-11	353	86,402	3,249	14,124	\$563	886
May-11	364	87,628	2,433	14,168	\$568	882
Jun-11	365	87,507	3,027	13,049	\$571	900
Jul-11	364	87,871	1,490	14,069	\$568	880
Aug-11	360	86,624	2,011	13,071	\$574	892
Sep-11	372	89,276	2,652	14,249	\$568	860
Oct-11	385	93,123	2,928	16,655	\$570	876
Nov-11	391	93,852	3,137	15,755	\$573	838
Dec-11	390	93,327	849	15,306	\$579	846
Jan-12	391	94,501	666	15,225	\$578	848
Feb-12	395	95,031	913	15,837	\$571	841
Mar-12	404	97,702	1,959	18,307	\$571	831
Apr-12	410	99,371	3,121	17,786	\$574	836
May-12	414	100,888	1,733	18,522	\$575	834
Jun-12	425	103,683	2,373	20,133	\$577	815
Jul-12	420	102,127	1,415	19,351	\$576	828
Aug-12	422	103,202	645	19,984	\$579	820
Sep-12	428	101,977	987	20,231	\$575	827
Oct-12	441	103,274	1,914	21,717	\$580	822
Nov-12	443	103,215	1,556	21,398	\$577	825
Dec-12	442	103,204	501	20,998	\$575	826
Jan-13	443	102,959	686	20,782	\$574	827
Feb-13	445	104,045	952	21,262	\$572	822
Mar-13	448	104,602	1,120	20,851	\$572	822
Apr-13	448	105,896	1,856	22,136	\$571	819
May-13	460	106,910	1,272	22,700	\$565	822
Jun-13	454	106,471	1,251	22,651	\$564	818
Jul-13	457	106,416	995	22,147	\$565	819
Aug-13	450	104,262	633	21,028	\$569	824
Sep-13	458	106,574	1,204	23,153	\$576	812
Oct-13	467	108,137	2,403	23,515	\$568	818
Nov-13	468	108,140	1,566	23,699	\$574	813
Dec-13	468	108,996	1,069	23,327	\$575	816
Jan-14	464	108,624	1,154	22,599	\$576	818
Feb-14	465	109,715	1,080	23,175	\$585	803
Mar-14	472	111,315	2,496	22,533	\$579	824
Apr-14	465	109,878	1,438	21,190	\$581	817
May-14	470	111,809	1,862	22,045	\$580	815
Jun-14	478	112,636	2,588	21,561	\$575	825
Jul-14	470	111,583	1,501	20,678	\$579	828
Aug-14	466	110,895	1,271	19,827	\$583	833
Sep-14	470	112,431	2,262	20,502	\$585	829
Oct-14	478	114,800	2,158	20,734	\$592	827
Nov-14	478	114,997	2,215	21,102	\$585	827
Dec-14	469	112,430	1,176	20,234	\$589	833
Jan-15	461	111,487	825	20,602	\$588	814
Feb-15	455	110,907	1,333	20,135	\$582	817
Mar-15	452	110,591	1,719	19,517	\$590	821
Apr-15	447	109,114	1,482	19,580	\$588	819
May-15	448	109,656	1,793	20,485	\$587	803
Jun-15	452	110,997	2,833	19,892	\$591	802
Jul-15	451	112,605	1,336	20,133	\$597	798
Aug-15	440	109,568	998	18,759	\$600	801
Sep-15	448	111,127	1,079	21,396	\$601	780
Oct-15	452	111,948	3,185	21,408	\$599	780
Nov-15	458	112,892	2,053	20,983	\$604	787
Dec-15	446	109,665	1,078	20,031	\$609	789

- The subject property is located in the Downtown Core, an active condominium submarket over the past 5 years.
- The Downtown Core area has 16 of the 446 total active projects in the GTA market. The total number of units in the active projects is 7,396 with close to 94% of these units sold as of December 2015.
- The average selling prices in the node range from \$646 PSF in the case of Yonge + Rich to \$1,301 PSF in the case of 77 Charles. The average price per square foot in the area is \$958 with an average total unit price of \$1,056,429 compared to the GTA averages of \$609 PSF and \$480,248 for December 2015.
- The average unit size of 1,103 SF is higher than the GTA average of 789 SF.



Highest and Best Use

HIGHEST AND BEST USE

The term "Highest and Best Use" is generally considered to be that use which will result in the greatest net return over a given period of time. The "Highest and Best Use" is also known as the optimal use. A thorough Highest and Best Use analysis involves assessing the subject both as vacant and as improved and was beyond the scope of this mandate. In valuation practice, the concept of highest and best use represents the premise upon which value is based.

The four criteria the Highest and Best Use must meet are:

- legal permissibility;
- physical possibility;
- financial feasibility; and
- maximum profitability.

As Vacant

- The subject site is zoned CR 4.0.
- The Official Plan designates the subject site as Mixed Use Area.
- Several high density residential developments have been approved along Yonge Street in the subject area.

Based on the above, it is concluded that the Highest and Best Use of the subject site, "As Vacant" is for high density residential development.

As Improved

- The subject property is improved with four two-three storey mixed-use buildings with street front retail and rental apartments on the upper floors.
- In order for the existing use to be the highest and best use, the value of the site as improved would have to exceed the value of the site as if vacant.
- The scale of the proposed development is such that it outweighs the value and income potential of the current improvements.

Based on the above, it is concluded that the Highest and Best Use of the subject site, "As Improved", is for the development of high density residential uses. It is important to note that a detailed Highest and Best Use study that would consider any possible development scenario(s) was beyond the scope of this assignment and was not carried out.



Valuation Methodology

VALUATION METHODOLOGY

There are six approaches to the valuation of vacant land.

- Direct Comparison Approach
- Allocation
- Extraction
- Subdivision Development
- Land Residual
- Ground Rent Capitalization

In practice, an approach to value is included or omitted based on its applicability to the property type being valued and the quality and quantity of information available.

Direct Comparison Approach

The Direct Comparison Approach utilizes sales of comparable properties, adjusting for differences to estimate a value for the subject property. This approach is developed in a simplified method to establish a range of unit prices for market comparable sales.

Allocation Method

This technique is based on the principle of balance. A logical relationship or typical ratios of land value to improvement value are analyzed for specific categories of real estate in specific locations.

Extraction Method

This technique deducts the depreciated cost of the improvements on the improved property from the sale price to estimate the sale price of the underlying land. It is a similar procedure to Allocation in that the contribution of the improvements is deducted from the total property value.

Subdivision Development Method

This technique is used to value vacant land when the highest and best use of the land is to be used for subdivision and development. The future selling price of the subdivided lots then have the costs of development subtracted to estimate the current value of the land.

Land Residual Method

This technique arrives at a land value by subtracting the costs of an actual or hypothetical improvement and allowance for developer's profit from the capitalized value of the income the improved property could generate.

Ground Rent Capitalization Method

This technique is used to value lands when the ground rent corresponds to the value of the landowner's interest in the property and market-derived capitalization rates are available to convert the ground rent into an indication of market value.

Conclusion

In the case of the subject, we have placed most reliance on the Direct Comparison Approach which is considered the most recognized and in this instance is also the most applicable approach to value the subject property. We

have identified six land sales over the past 18 months in Downtown Toronto. We believe this is a sufficient number of transactions of comparable sales to warrant use of the Direct Comparison Approach.



Direct Comparison Approach

DIRECT COMPARISON APPROACH

Major Differences

Differences between the transactions and the subject property are identified and the appropriate effect on the prices paid is noted in order to make a direct comparison.

We have identified eight important differences upon which to assess each transaction:

Time of Sale

- The sale date, particularly the negotiated sale date, is an important factor to consider as well as the prevailing marketing conditions at the time the sale was negotiated.

Financing

- Financing terms provided by a vendor can have an impact on the purchase price. For example, more favourable financing that might include a Vendor Take Back mortgage at a lower than market interest rate tends to have a positive influence on the price.

Location

- Location is also a major factor affecting value, primarily due to its influence on land use, development timing and exposure/views.

Scale

- As there is generally an inverse size/rate relationship, larger scale parcels typically trade at a lower rate and vice versa. Smaller development sites are generally considered more attractive given the reduced exposure to market risk, and the smaller amount of required capital.

Topography

- Topographical features tend to vary widely, particularly amongst large land tracts, with extreme topographical features such as valley lands and environmentally sensitive areas, having a negative impact on achievable development yields overall. Sales of lands with significantly higher proportionate areas affected by irregular topographical features tend to result in lower gross unit values. This factor is more applicable to greenfield parcels, as opposed to urban properties.

Planning Status

- Land use designations and planning status are clearly important. Properties lacking requisite planning approvals are not likely to achieve as high a price as sites with advanced planning, primarily attributable to associated risk levels.

Development Timing

- Development timing clearly affects value. Properties with imminent development prospects due to phasing policies and/or servicing allocation are favoured by developers and typically trade at a higher price. Furthermore, properties in locales with relatively rapid absorption rates allow for shorter development time horizons, translating into higher values due to mitigated risk relative to those that are slower.

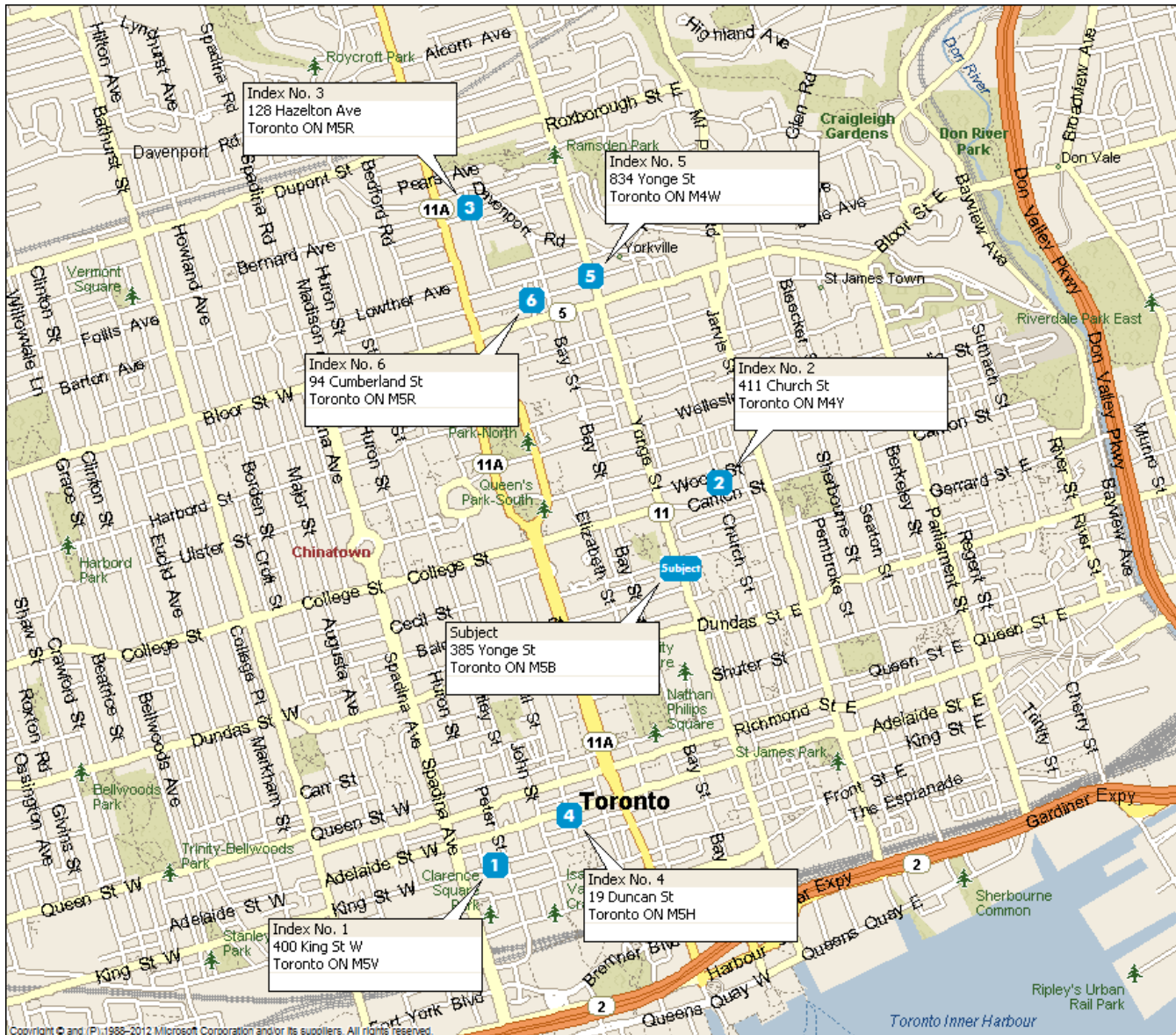
Site Character

- Intrinsic features of each property are recognized such as: configuration and site conditions affecting the construction cost, street and highway access, the nature of adjoining properties, important views to and from the potential buildings being built, and market demographics.

COMPARABLE SALES ANALYSIS

CBRE conducted a survey of land transactions within the vicinity of the subject. The map below and the table on the next page summarize the results of this survey and represent the comparables considered in the valuation of the subject.

The price per buildable square foot was used as the unit of comparison. A brief description of each comparable is found after the table and more detailed information can be found in Addendum B.



Index No.	Address City Province	Closing Date Price (100%)	Zoning Size (Acres) Size (SF)	Allowable Building Area Density	Price PSF Price PSF Buildable
1	400 King Street West Toronto Ontario	Listing \$50,100,000	CRE 0.65 28,481	400,000 14.04	\$1,759 \$125
2	411 Church Street Toronto Ontario	December-15 \$27,000,000	R 2.0 0.53 23,282	270,000 11.60	\$1,160 \$100
3	126 - 128 Hazelton Avenue Toronto Ontario	June-15 \$13,100,000	CR 0.22 9,627	59,202 6.15	\$1,361 \$221
4	19 Duncan Street Toronto Ontario	February-15 \$47,050,000	CRE 0.57 24,779	455,384 18.38	\$1,899 \$103
5	826-834 Yonge Street Toronto Ontario	October-14 \$46,800,000	CR 0.35 15,414	310,697 20.16	\$3,036 \$151
6	94 Cumberland Street Toronto Ontario	October-14 \$22,000,000	CR 0.31 13,504	168,950 12.51	\$815 \$130
Subject 363-385 Yonge Street					
Toronto					
Ontario					
1,175,793					
29.22					

Index No. 1 – 400 King Street West (\$125 PSFB) – Pending Sale

- Refers to the Mountain Equipment Co-Op site. The deal is currently conditional and is expected to close in August 2016.
- The property is located on the coveted King Street West strip, just east of Spadina Avenue.
- No project launched as of January 2016.
- There have been no applications to the City of Toronto for the rezoning of the property. However, sources familiar with the transaction indicate that the purchaser intends to construct a 400,000 SF residential tower. We have adopted this area to estimate the price per square foot buildable for this sale.

Index No. 2 – 411 Church Street (\$100 PSFB) – December 15, 2015

- Located on the south east corner of Church Street and Wood Street, just north of Carlton Street.
- No project launched as of January 2016.
- A Rezoning application was submitted in August 2015 pertaining to the land in this transaction. The Application proposed the development of a 45 storey mixed use building with a total of 583 units.
- Total GFA for the proposed development is 409,352 SF including 29,816 of retail and 180 parking spaces.
- As of January 2016, the application is still in circulation.
- Sources close to the sale indicated that the purchaser does not expect to be able to achieve the density that was applied for due to height and shadowing concerns. The estimated final density for the site is expected to be closer to 270,000 square feet and the purchase agreement was structured on this basis. We have used this area to estimate the price per square foot buildable for this sale.

Index No. 3 – 126 - 128 Hazelton Avenue (\$221 PSFB) – June 19, 2015

- Located in Yorkville, on the SW corner of Davenport Road and Hazelton Avenue.
- This sale represents an assembly of two properties, with sales taking place in December 2014 and June 2015.
- No project launched as of January 2016.
- Official Plan Amendment and Zoning Amendment applications were submitted on November 27, 2015, pertaining to the land in this transaction. The application proposed the development of a mixed use condominium building with a total of 21 units. The development would have a total gross floor area of approximately 59,202 square feet including approximately 5,059 square feet of office space and 47 parking spaces. The applicant plans on developing a high end boutique condo building and is anticipating pricing well in excess of \$1,000 PSF.

- As of January 2015, the application is still in circulation.

Index No. 4 – 19 Duncan Street (\$103 PSFB) – February 10, 2015

- Located on the south west corner of Duncan and Adelaide Street West.
- At the time of the sale, the property was improved with a tenanted brick and beam office building.
- No project launched as of January 2016.
- A Rezoning Application was submitted in May 2015 for a 57 storey mixed-use tower with an 8 storey retail and office podium and 460 residential rental units in the tower above.
- Total GFA for the proposed development is 461,996 SF including approximately 123,639 SF of retail and office and 124 parking spaces.

Index No. 5 – 826-834 Yonge Street (\$151 PSFB) – October 9, 2014

- Land assembly of four properties where the sale of all closed on the same day.
- Located on the north east corner of Yonge Street and Cumberland Street, across the street from the Yonge/Bloor subway station.
- No project launched as of January 2016.
- A Rezoning Application was submitted in February 2015 for a residential tower of 64 stories with approximately 531 residential units and retail at grade.
- Total GFA for the proposed development is 409,032 SF including approximately 15,220 SF of retail and 95 parking spaces. However, CBRE received a subsequent preliminary proforma that indicated a revised gross floor area of 310,697 square feet resulting in a density of 20 times the site area. In our opinion, given precedents in the immediate area, this represents a more reasonable density assumption and we have adopted same in our analysis.
- As of January 2016, the application was still under review.

Index No. 6 – 94 Cumberland Street (\$130 PSFB) – October 1, 2014

- Located on the north east corner of Cumberland Street and Bellair Street, in the heart of Yorkville.
- At the time of sale, the property was improved with a nine storey office building.
- A high rise residential development being advertised as Minto Yorkville Park launched in October 2014.
- The project is currently 89% sold and has achieved sales ranging from \$837 to \$1,019 per square foot.

- A Site Plan application and a Rezoning Application were submitted in November 2011 for a residential tower of 22 stories with approximately 127 residential units and retail at grade.
- Total GFA for the proposed development is 168,950 SF including approximately 28,217SF of retail and 87 parking spaces.
- Two Minor Variance Applications were submitted on October 9, 2014 and in January 2015.
- The revised Applications proposed the development of a 25 storey, 204 unit residential condominium development with retail at grade. The development would have a total gross floor area of approximately 197,466 square feet, including approximately 28,212 square feet of retail space and would have 88 parking spaces.
- The revised application was rejected by the City Council but was subsequently approved by the Ontario Municipal Board.

Comparable Sales Discussion

We have the following comments regarding the above-noted sales:

- The sales reflect a range of \$100 to \$ 221 PSF buildable.
- Index No. 1 at \$125 PSFB represents the most recent urban land transaction. It has not yet closed but is reflective of current pricing for well-located urban sites. In our opinion, the subject property is located in a superior location given its proximity to the subway and will have a retail component superior to that of Index No. 1. As a result, a higher PSFB is expected at the subject.
- Index No. 2 transacted at \$100 PSFB represents the most recently closed comparable sale. It is located in close proximity to the subject property but in an inferior location from transit and retail standpoints.
- Index No. 3 at \$221 PSFB represents the high end of the range. The property is located in Yorkville and the proposal calls for a lower density, boutique development. Sources familiar with this transaction indicate that the purchaser intends to construct high-end residences selling at a premium. Given the location and scale of the proposed development, a lower PSFB is expected at the subject property.
- Index No. 4 at \$103 PSF represents a recently completed sale for a well located Downtown West mixed-use project with an office and purpose-built residential rental component. The site was jointly acquired by Allied REIT and Vancouver-based Westbank Development. It is located a short distance from the financial core but is less of a pure residential play and has inferior retail characteristics.
- Index No. 5 at \$151 PSFB represents a sale in a superior Yorkville location. The property is located atop of two subway lines and in a strong retail node. A lower PSFB is expected at the subject property.
- Index No. 6 reflects a price of \$130 PSFB. However, this transaction entails a 50% sale to a partner of Minto at a price which was essentially considered to be Minto's cost base. The sale is not considered to represent current market value and we have not placed much weight on it.

- We also note that the proposed development for the subject site is for a two tower development in excess of 1 million square feet, much larger than all of the comparables. Given the greater degree of inherent risk (particularly market and absorption risk) in a project of this size, we feel a mitigating downward adjustment is required overall.
- Notwithstanding the comparable sales, CBRE understands there is currently an Agreement of Purchase and sale for the subject property in the amount of \$157,500,000. We have taken this into consideration in our analysis.
- In addition to the above noted sales, we have also taken into consideration the following three recent urban land transactions. In our opinion, there are elements of each deal that do not make them directly comparable to the subject but we have included them as additional points of reference :
 - 335-355 King Street West & 119 Blue Jays Way (\$156 PSFB) – This transaction involves the sale of the “King Blue” condominium site located on the corner of King Street West and Blue Jays Way. The site had originally been acquired through an assembly between November 2011 and August 2014, at an average price of \$109 PSFB. The site was then sold, with 89% pre-sales in place, to an offshore developer in September 2014 at a price of \$156 PSFB.
 - Cumberland Terrace (\$117 PSFB) – This sale represents an allocation of the retail and future redevelopment portion of the 2 Bloor Street West office tower sale. The price per square foot buildable takes into account adjustments for increased construction costs due to the land being located directly atop of a subway tunnel and a land lease adjustment. Factoring this in, the price equals \$117 PSFB.
 - 1 Bloor Street West (\$250 PSFB) – This land sale represents an assembly of properties taking place from August 2014 to November 2015. The property is located on the south west corner of Yonge Street and Bloor Street. The project is predicated on a large multi storey retail component that is unprecedented in the GTA market.

Based on the foregoing, and taking into account the specific locational attributes of the subject site, we would estimate the market value as at February 1, 2016 as follows:

PSF Buildable	GFA	Total
\$130.00	1,175,793	\$152,853,090
\$140.00	1,175,793	\$164,611,020
Indicated Value		\$158,732,055
Indicated Value		\$158,732,055
Rounded		\$158,700,000



Certification

CERTIFICATION OF THE APPRAISAL

363-385 Yonge Street, Toronto, Ontario


We certify to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and represents our personal, unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in the property that is the subject of this report and have no personal interest or bias with respect to the parties involved.
4. Our compensation is not contingent upon the reporting of a predetermined value or direction in value that favours the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event, such as the approval of a loan.
5. This appraisal assignment was not based upon a requested minimum valuation, a specific valuation or the approval of a loan.
6. Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Canadian Uniform Standards of Professional Appraisal Practice of The Appraisal Institute of Canada and the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice
7. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
8. Paul Morassutti has completed the requirements of the continuing education program of the Appraisal Institute.
9. Vid Stambolovic made a personal inspection of the property on January 22, 2016. The inspection was considered to be sufficient to describe the subject property, develop an opinion of highest and best use and compare the subject property with recent market leasing and investment data. We note that a detailed inspection to comment on building condition has not been performed.
10. No one has provided professional assistance to the persons signing this report.
11. Paul Morassutti has extensive experience in the appraisal of similar property types.
12. Paul Morassutti is currently certified in the Province where the subject is located.
13. Valuation and Advisory Services Group operates as an independent economic entity within CBRE Limited. Although other employees of CBRE Limited divisions may be contacted as a part of our routine market research investigations, absolute client confidentiality and privacy are maintained at all times with regard to this assignment without conflict of interest.

It is our professional opinion that the market value of the 100% fee simple interest in the subject property, subject to the extraordinary assumptions and limiting conditions noted on page 5, as at February 1, 2016 is: \$158,700,000.



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February 5, 2016



Addendum "A"

Terms of Reference

Assumptions and Limiting Conditions

TERMS OF REFERENCE

Property Identification

The subject, 363-385 Yonge Street, is a parcel of land currently improved with eight 1-4 storey mixed-use buildings with commercial, office and retail uses. The site contains approximately 0.92 acres or 40,236 square feet according to Geowarehouse. The property is located on the north east corner of Yonge Street and Gerrard Street East.

The subject is legally described as:

LT 35 E/S YONGE ST, 36 E/S YONGE ST PL 22A TORONTO; PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN OT46105; PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN CT497024; PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA310343; PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA

The subject is more fully described, legally and physically, within the enclosed report.

Ownership and Property History

The current ownership of the subject lands is held by multiple parties. According to Geowarehouse, the following properties sold within the last three years:

Address	Date	Price
385 Yonge Street	4/4/2013	\$24,701,313
377 Yonge Street	4/4/2013	\$2,419,447
369 Yonge Street	4/4/2013	\$6,713,249
363 Yonge Street	4/4/2013	\$4,652,415

The balance of the properties exchanged hands over the last three years for nominal values ranging from \$0 to \$2.

Purpose of the Appraisal

The appraisal estimates the current Market Value of the subject property, subject to the *Critical Assumptions* included herein. The report is a Narrative Appraisal and has been prepared in accordance with the standards set forth by the Appraisal Institute of Canada.

Definition of Market Value

Market value is defined as follows:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their own best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in Canadian dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale

Intended Use and User of Report

The appraisal report, including the market value conclusion therein, will be used to assist Cresford Developments in financing purposes.

Scope of Work

The following steps were completed by CBRE, Limited for this assignment:

- Inspected exterior of property to provide a comparison to similar properties
- Location analysis
- Review of surrounding land uses
- Land use regulation review

Survey Work

- Comparable sales transaction analysis

Report Format

- Narrative report format

Critical Assumptions

A formal title search was beyond the scope of this assignment. Except as described herein, CBRE Limited has no knowledge of any easements or encroachments. It is recommended that the client/reader obtain a detailed title search outlining all easements and encroachments on the property, if any, prior to making a business decision.

To our knowledge, there are no known covenants, conditions and restrictions impacting the site, which are considered to affect the marketability or highest and best use, other than zoning restrictions.

CBRE Limited, or the consultant(s) has not observed, yet is not qualified to detect, the existence of potentially hazardous material or underground storage tanks, which may be present on or near the site. It should also be noted that the existence of hazardous materials or underground storage tanks might have an effect on the value of the property.

Exposure Time

Exposure time is not intended to be a prediction of a date of sale. Instead, it is an integral part of the opinion analysis and is based on one or more of the following:

- Statistical information about days on the market
- Information gathered through sales verification
- Interviews with market participants

The reasonable exposure time is a function of price, time, and use. It is not an isolated estimate of time alone. Exposure time is different for various types of real estate and under various market conditions.

Exposure time is the estimated length of time the property would have been offered prior to a hypothetical market value sale on the effective date of opinion. It is a retrospective estimate based on an analysis of recent past events, assuming a competitive and open market. It assumes not only adequate, sufficient, and reasonable time but also adequate, sufficient, and reasonable marketing effort. Exposure and marketing time is therefore interrelated with opinion conclusion of value.

Based on the foregoing analysis, an exposure time of three - six months is reasonable. CBRE Limited assumes the subject would have been competitively priced and aggressively promoted nationally and internationally.

ASSUMPTIONS AND LIMITING CONDITIONS

1. Unless otherwise specifically noted in the body of the report, it is assumed that title to the property or properties appraised is clear and marketable and that there are no recorded or unrecorded matters or exceptions to total that would adversely affect marketability or value. CBRE Limited is not aware of any title defects nor has it been advised of any unless such is specifically noted in the report. CBRE Limited, however, has not examined title and makes no representations relative to the condition thereof. Documents dealing with liens, encumbrances, easements, deed restrictions, clouds and other conditions that may affect the quality of title have not been reviewed. Insurance against financial loss resulting in claims that may arise out of defects in the subject property's title should be sought from a qualified title company that issues or insures title to real property.
2. Unless otherwise specifically noted in the body of this report, it is assumed: that the existing improvements on the property or properties being appraised are structurally sound, seismically safe and code conforming; that all building systems (mechanical/electrical, HVAC, elevator, plumbing, etc.) are in good working order with no major deferred maintenance or repair required; that the roof and exterior are in good condition and free from intrusion by the elements; that the property or properties have been engineered in such a manner that the improvements, as currently constituted, conform to all applicable local, provincial, and federal building codes and ordinances. CBRE Limited professionals are not engineers and are not competent to judge matters of an engineering nature. CBRE Limited has not retained independent structural, mechanical, electrical, or civil engineers in connection with this opinion and, therefore, makes no representations relative to the condition of improvements. Unless otherwise specifically noted in the body of the report: no problems were brought to the attention of CBRE Limited by ownership or management; CBRE Limited inspected less than 100% of the entire interior and exterior portions of the improvements; and CBRE Limited was not furnished any engineering studies by the owners or by the party requesting this opinion. If questions in these areas are critical to the decision process of the reader, the advice of competent engineering consultants should be obtained and relied upon. It is specifically assumed that any knowledgeable and prudent purchaser would, as a precondition to closing a sale, obtain a satisfactory engineering report relative to the structural integrity of the property and the integrity of building systems. Structural problems and/or building system problems may not be visually detectable. If engineering consultants retained should report negative factors of a material nature, or if such are later discovered, relative to the condition of improvements, such information could have a substantial negative impact on the conclusions reported in this opinion. Accordingly, if negative findings are reported by engineering consultants, CBRE Limited reserves the right to amend the opinion conclusions reported herein.
3. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraisers. CBRE Limited has no knowledge of the existence of such materials on or in the property. CBRE Limited, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea formaldehyde foam insulation, contaminated groundwater or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

We have inspected, as thoroughly as possible by observation, the land; however, it was impossible to personally inspect conditions beneath the soil. Therefore, no representation is made as to these matters unless specifically considered in the opinion.
4. All furnishings, equipment and business operations, except as specifically stated and typically considered as part of real property, have been disregarded with only real property being considered in the report unless otherwise stated. Any existing or proposed improvements, on or off-site, as well as any alterations or repairs considered, are assumed to be completed in a workmanlike manner according to standard practices based upon the information submitted to CBRE Limited. This report may be subject to amendment upon re-inspection of the subject property subsequent to repairs, modifications, alterations and completed new construction. Any estimate of Market Value is as of the date indicated; based upon the information, conditions and projected levels of operation.
5. It is assumed that all factual data furnished by the client, property owner, owner's representative, or persons designated by the client or owner to supply said data are accurate and correct unless otherwise specifically noted in the opinion report. Unless otherwise specifically noted in the opinion report, CBRE Limited has no reason to believe that any of the data furnished contain any material error. Information and data referred to in this paragraph include, without being limited to, numerical street addresses, lot and block numbers, land dimensions, square footage area of the land, dimensions of the improvements, gross building areas, net rentable areas, usable areas, unit count, room count, rent schedules, income data, historical operating expenses, budgets, and related data. Any material error in any of the above data could have a substantial impact on the conclusions reported. Thus, CBRE Limited reserves the right to amend conclusions reported if made aware of any such error. Accordingly, the client-addressee should carefully review all assumptions, data, relevant calculations, and conclusions within 30 days after the date of delivery of this report and should immediately notify CBRE Limited of any questions or errors.

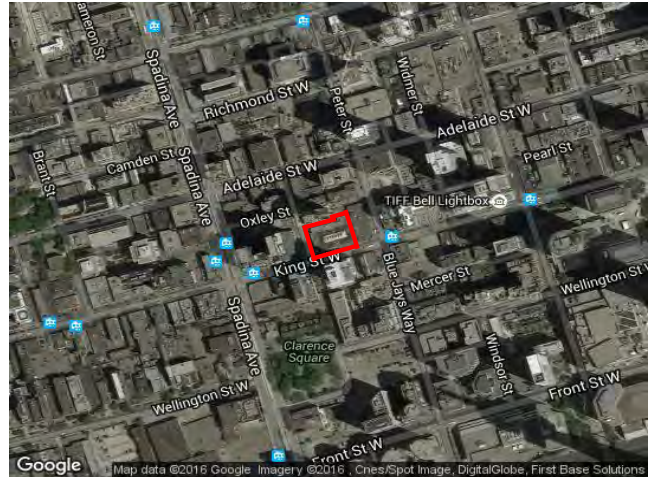
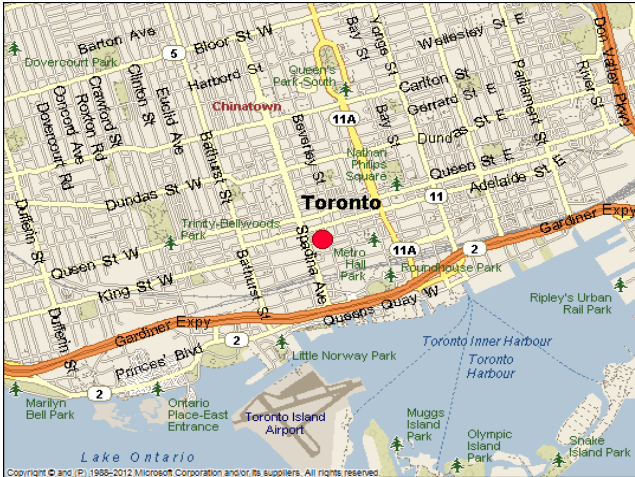
6. The date of value to which any of the conclusions and opinions expressed in this report apply, is set forth in the Letter of Transmittal. Further, that the dollar amount of any value opinion herein rendered is based upon the purchasing power of the Canadian Dollar on that date. This opinion is based on market conditions existing as of the date of this opinion. Under the terms of the engagement, we will have no obligation to revise this report to reflect events or conditions which occur subsequent to the date of the opinion. However, CBRE Limited will be available to discuss the necessity for revision resulting from changes in economic or market factors affecting the subject.
7. CBRE Limited assumes no private deed restrictions, limiting the use of the subject property in any way.
8. Unless otherwise noted in the body of the report, it is assumed that there are no mineral deposit or subsurface rights of value involved in this opinion, whether they be gas, liquid, or solid. Nor are the rights associated with extraction or exploration of such elements considered unless otherwise stated in this opinion report. Unless otherwise stated it is also assumed that there are no air or development rights of value that may be transferred.
9. CBRE Limited is not aware of any contemplated public initiatives, governmental development controls, or rent controls that would significantly affect the value of the subject.
10. The estimate of Market Value, which may be defined within the body of this report, is subject to change with market fluctuations over time. Market value is highly related to exposure, time promotion effort, terms, motivation, and conclusions surrounding the offering. The value estimate(s) consider the productivity and relative attractiveness of the property, both physically and economically, on the open market.
11. Any cash flows included in the analysis are forecasts of estimated future operating characteristics are predicated on the information and assumptions contained within the report. Any projections of income, expenses and economic conditions utilized in this report are not predictions of the future. Rather, they are estimates of current market expectations of future income and expenses. The achievement of the financial projections will be affected by fluctuating economic conditions and is dependent upon other future occurrences that cannot be assured. Actual results may vary from the projections considered herein. CBRE Limited does not warrant these forecasts will occur. Projections may be affected by circumstances beyond the current realm of knowledge or control of CBRE Limited
12. Unless specifically set forth in the body of the report, nothing contained herein shall be construed to represent any direct or indirect recommendation of CBRE Limited to buy, sell, or hold the properties at the value stated. Such decisions involve substantial investment strategy questions and must be specifically addressed in consultation form.
13. Also, unless otherwise noted in the body of this report, it is assumed that no changes in the present zoning ordinances or regulations governing use, density, or shape are being considered. The property is appraised assuming that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, provincial, nor national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report is based, unless otherwise stated.
14. This study may not be duplicated in whole or in part without the specific written consent of CBRE Limited nor may this report or copies hereof be transmitted to third parties without said consent, which consent CBRE Limited reserves the right to deny. Exempt from this restriction is duplication for the internal use of the client-addressee and/or transmission to attorneys, accountants, or advisors of the client-addressee. Also exempt from this restriction is transmission of the report to any court, governmental authority, or regulatory agency having jurisdiction over the party/parties for whom this opinion was prepared, provided that this report and/or its contents shall not be published, in whole or in part, in any public document without the express written consent of CBRE Limited which consent CBRE Limited reserves the right to deny. Finally, this report shall not be advertised to the public or otherwise used to induce a third party to purchase the property or to make a "sale" or "offer for sale" of any "security". Any third party, not covered by the exemptions herein, who may possess this report, is advised that they should rely on their own independently secured advice for any decision in connection with this property. CBRE Limited shall have no accountability or responsibility to any such third party. This entire paragraph is subject to the points noted in the Intended Use of Report section.
15. Any value estimate provided in the report applies to the entire property, and any pro ration or division of the title into fractional interests will invalidate the value estimate, unless such pro ration or division of interests has been set forth in the report.
16. The distribution of the total valuation in this report between land and improvements applies only under the existing program of utilization. Component values for land and/or buildings are not intended to be used in conjunction with any other property or opinion and are invalid if so used.
17. The maps, plats, sketches, graphs, photographs and exhibits included in this report are for illustration purposes only and are to be utilized only to assist in visualizing matters discussed within this report. Except as specifically stated, data relative to size or area of the subject and comparable properties has been obtained from sources deemed accurate and reliable. None of the exhibits are to be removed, reproduced, or used apart from this report.

18. No opinion is intended to be expressed on matters which may require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate appraisers. Values and opinions expressed presume that environmental and other governmental restrictions/conditions by applicable agencies have been met, including but not limited to seismic hazards, flight patterns, decibel levels/noise envelopes, fire hazards, hillside ordinances, density, allowable uses, building codes, permits, licenses, etc. No survey, engineering study or architectural analysis has been made known to CBRE Limited unless otherwise stated within the body of this report. If the Consultant has not been supplied with a termite inspection, survey or occupancy permit, no responsibility or representation is assumed or made for any costs associated with obtaining same or for any deficiencies discovered before or after they are obtained. No representation or warranty is made concerning obtaining these items. CBRE Limited assumes no responsibility for any costs or consequences arising due to the need, or the lack of need, for flood hazard insurance.
19. Acceptance and/or use of this report constitutes full acceptance of the Contingent and Limiting Conditions and special assumptions set forth in this report. It is the responsibility of the Client, or client's designees, to read in full, comprehend and thus become aware of the aforementioned contingencies and limiting conditions. Neither the Appraiser nor CBRE Limited assumes responsibility for any situation arising out of the Client's failure to become familiar with and understand the same. The Client is advised to retain experts in areas that fall outside the scope of the real estate opinion/consulting profession if so desired.
20. CBRE Limited assumes that the subject property analyzed herein will be under prudent and competent management and ownership; neither inefficient nor super-efficient.
21. It is assumed that there is full compliance with all applicable federal, provincial, and local environmental regulations and laws unless noncompliance is stated, defined and considered in the opinion report.
22. No survey of the boundaries of the property was undertaken. All areas and dimensions furnished are presumed to be correct. It is further assumed that no encroachments to the realty exist.
23. Client shall not indemnify Appraiser or hold Appraiser harmless unless and only to the extent that the Client misrepresents, distorts, or provides incomplete or inaccurate opinion results to others, which acts of the Client proximately result in damage to Appraiser. The Client shall indemnify and hold Appraiser harmless from any claims, expenses, judgments or other items or costs arising as a result of the Client's failure or the failure of any of the Client's agents to provide a complete copy of the opinion report to any third party. In the event of any litigation between the parties, the prevailing party to such litigation shall be entitled to recover from the other reasonable attorney fees and costs.



Addendum "B"
Comparable Sales Transactions

400 King Street West
Toronto, Ontario



Sale Details

Sale Price	\$50,100,000
Adjusted Sale Price	\$50,100,000
Sale Price Per Acre	\$76,624,978
Sale Price Per SF	\$1,759
Sale Price Per Buildable SF	\$125
Closing Date	Listing
Vendor	Mountain Equipment Co-Operative
Purchaser	TBD
Broker	CBRE
Interest	100%
Property Rights	Fee Simple
PIN	214120016

Physical Details

Property Size (Acres)	0.65
Property Size (SF)	28,481
Topography	Level
Shape	Regular
Position	Corner
Utilities	Serviced
Official Plan	Regeneration Areas
Zoning	CRE
Frontage	200 feet along King Street West 138 feet along King Street West

Proposed Development

Land Type	High Density Residential
GFA (SF)	400,000
Site Density	14.04
Number of Units	TBD

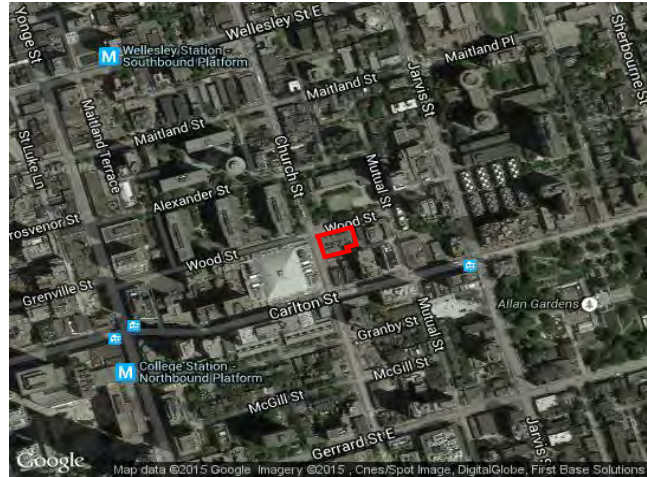
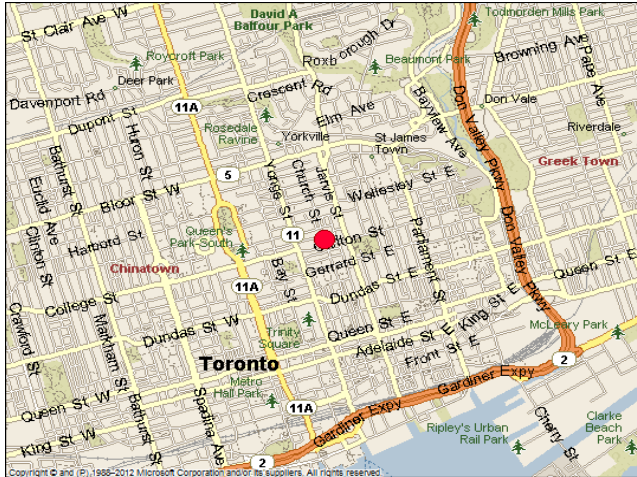
Sale Commentary

This represents a firm land sale scheduled to close in August 2016

The property is designated as Regeneration Areas in the City of Toronto Official Plan. The zoning designation is CRE a commercial residential employment classification.

At the time of sale, the property was improved with a two storey retail building occupied by Mountain Equipment Co-Op.

As of January 2016 no applications have been made to the City of Toronto for the redevelopment of the property. Sources familiar with the transaction indicate that the purchaser intends to construct a 400,000 residential building on the property.

411 Church Street
 Toronto, Ontario

Sale Details

Sale Price	\$27,000,000
Adjusted Sale Price	\$27,000,000
Sale Price Per Acre	\$50,515,539
Sale Price Per SF	\$1,160
Sale Price Per Buildable SF	\$100
Closing Date	December-15
Vendor	Wood & Church Inc.
Purchaser	CentreCourt Development
Broker	CBRE
Interest	100%
Property Rights	Fee Simple
PIN	21105-0062

Physical Details

Property Size (Acres)	0.53
Property Size (SF)	23,282
Topography	Level
Shape	Irregular
Position	Corner
Utilities	At lot line
Official Plan	Mixed Use Areas
Zoning	R 2.0
Frontage	131 feet along Church Street 188 feet along Wood Street

Proposed Development

Land Type	High Density Residential
GFA (SF)	270,000
Site Density	11.60
Number of Units	583

Sale Commentary

The property is in the final stages of being sold.

The property is designated as Mixed Use Areas in the City of Toronto Official Plan. The zoning designation is R 1.0 a residential classification.

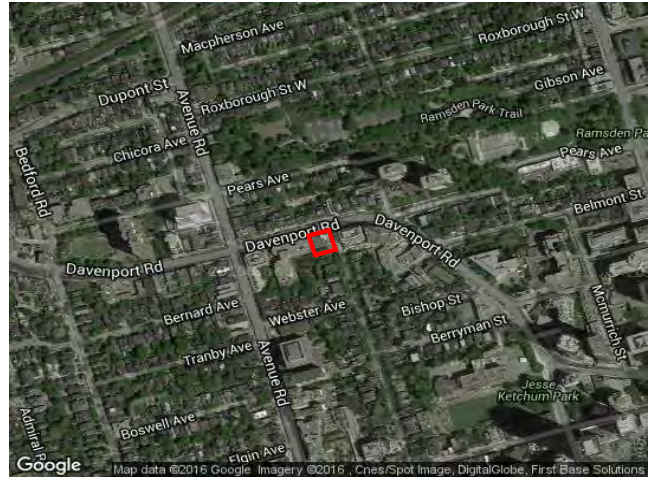
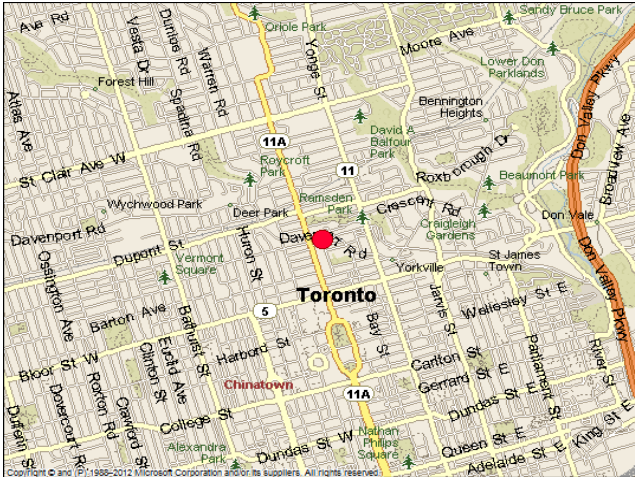
The property is vacant and improved with a parking lot.

A Rezoning application was submitted in September 2014 pertaining to the land in this transaction. The Application proposed the development of a 45 storey mixed use building. The development would have a total gross floor area of 409,352 square feet including 29,816 square feet of retail.

Sources familiar with this transaction indicated that the purchaser expects to achieve a gross floor area of 270,000 square feet. The price per square foot buildable is based on this lower gross floor area estimate.

As of August 2015 the application was still in circulation.

126 - 128 Hazelton Avenue
Toronto, Ontario



Sale Details

Sale Price	\$13,100,000
Adjusted Sale Price	\$13,100,000
Sale Price Per Acre	\$59,276,018
Sale Price Per SF	\$1,361
Sale Price Per Buildable SF	\$221
Closing Date	June-15
Vendor	Private
Purchaser	Mizrahi Development Group
Broker	N/A
Interest	100%
Property Rights	Fee Simple
PIN	21196-0059,-0060

Physical Details

Property Size (Acres)	0.22
Property Size (SF)	9,627
Topography	Level
Shape	Regular
Position	Corner
Utilities	Serviced
Official Plan	Mixed Use Areas
Zoning	CR
Frontage	92 feet along Hazelton Avenue 100 feet along Davenport Road

Proposed Development

Land Type	Medium Density Residential
GFA (SF)	59,202
Site Density	6.15
Number of Units	21

Sale Commentary

This sale represents an assembly of two properties with sales taking place in December 2014 and June 2015.

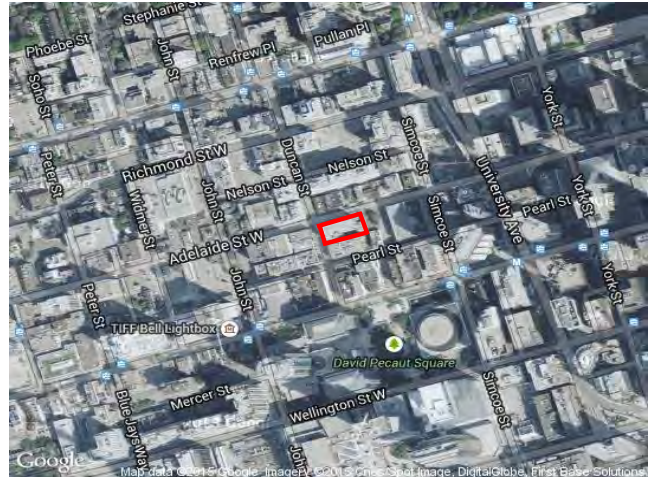
The property is designated as Mixed Use Areas in the City of Toronto Official Plan. The zoning designation is CR, a commercial residential classification.

At the time of sale, the property was improved with a three storey retail building and a three storey single family home.

A Site Plan Application was submitted in November 2015 pertaining to the land in this transaction. The Application proposed the development of a 9 storey mixed-use building with office uses at grade along Hazelton Avenue and Davenport Road and residential above. The development would have a total gross floor area of 59,202 square feet including 5,059 square feet of office and 47 parking spaces.

As of January 2016, the application was still in circulation.

**19 Duncan Street
Toronto, Ontario**



Sale Details

Sale Price	\$47,050,000
Adjusted Sale Price	\$47,050,000
Sale Price Per Acre	\$82,711,086
Sale Price Per SF	\$1,899
Sale Price Per Buildable SF	\$102
Closing Date	February-15
Vendor	Private
Purchaser	Allied Properties REIT and Westbank Projects
Broker	Avison Young
Interest	100%
Property Rights	Fee Simple
PIN	21411-0152

Physical Details

Property Size (Acres)	0.57
Property Size (SF)	24,779
Topography	Level
Shape	Regular
Position	Corner
Utilities	At lot line
Official Plan	Regeneration Areas
Zoning	CRE
Frontage	250 feet along Adelaide Street 111 feet along Duncan Street

Proposed Development

Land Type	High Density Residential
GFA (SF)	461,996
Site Density	18.64
Number of Units	460

Sale Commentary

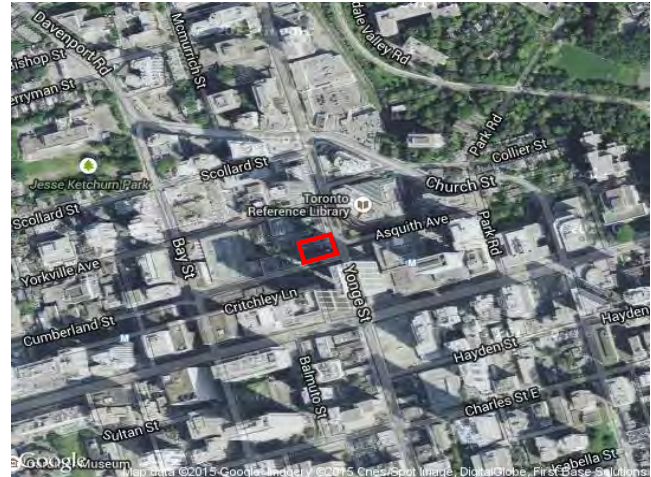
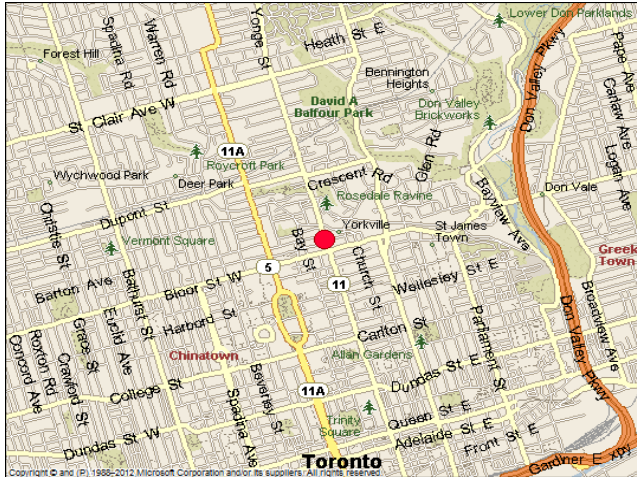
This sale represents an assembly of two properties with sales taking place on February 10, 2015 and March 12, 2015

The property is designated as Regeneration Areas in the City of Toronto Official Plan. The zoning designation is CR a Commercial Residential zoning.

At the time of sale, the property was improved with a five storey office building.

In May 2015 an applications had been submitted to the City of Toronto Planning Department regarding development of the property. The application proposed to develop a 57 storey mixed-use building including an 8 storey retail office podium. The total gross floor area of the development is 461,996 square feet including a 123,639 square foot non residential component. The building would be comprised of 460 residential rental unit with a total of 124 parking spaces.

826-834 Yonge Street
Toronto, Ontario



Sale Details

Sale Price	\$46,800,000
Adjusted Sale Price	\$46,800,000
Sale Price Per Acre	\$132,257,596
Sale Price Per SF	\$3,036
Sale Price Per Buildable SF	\$151
Closing Date	October-14
Vendor	Multiple
Purchaser	Phantom Developments
Broker	N/A
Interest	100%
Property Rights	Fee Simple
PIN	21197-0155 -0154 -0153 -0152

Physical Details

Property Size (Acres)	0.35
Property Size (SF)	15,414
Topography	Level
Shape	Regular
Position	Corner
Utilities	At lot line
Official Plan	Mixed Use Areas
Zoning	CR
Frontage	101 feet along Yonge Street 154 feet along Cumberland

Proposed Development

Land Type	High Density Residential
GFA (SF)	310,697
Site Density	20.16
Number of Units	531

Sale Commentary

This sale represents an assembly of four properties with sales taking place on October 1, 2014 and October 9, 2014.

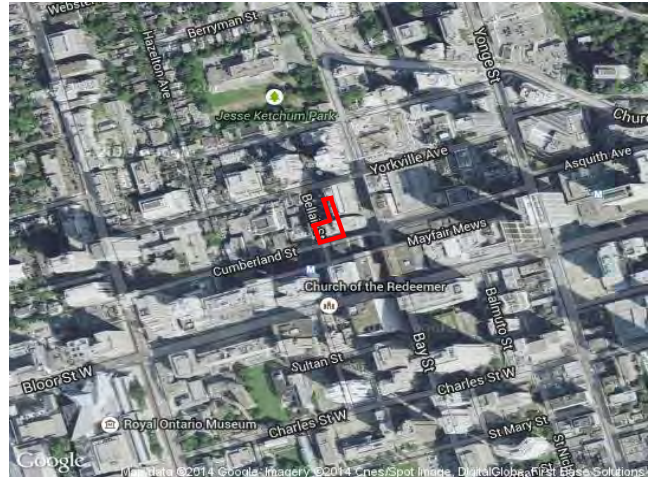
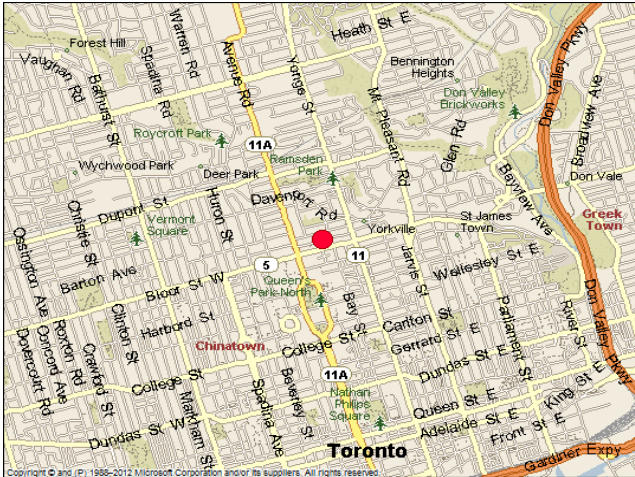
The property is designated as Mixed Use Areas in the City of Toronto Official Plan. The zoning designation is CR a Commercial Residential zoning.

At the time of sale, the property was improved with four three-storey retail buildings.

A rezoning application was submitted in February 2015 pertaining to the land in this transaction. The Application proposed the development of a 64 storey condominium tower containing total of 531 residential units. The development would have a total gross floor area of 404,002 square feet including approximately 15,220 square feet of retail space and would have 95 car parking spaces. The proposed gross floor area reflects a price of \$116 PSFB. However, CBRE was informed that the purchaser intends to construct a building with a total gross floor area of 310,697 square feet resulting in a price of \$151 PSFB.

As of April 2015 the application is still under review.

94 Cumberland Street
Toronto, Ontario



Sale Details

Sale Price	\$11,000,000
Sale Price Per Acre	\$35,483,871
Sale Price Per SF	\$815
Sale Price Per Buildable SF	\$130
Closing Date	October-14
Vendor	Minto Group
Purchaser	Stockton & Bush
Broker	N/A
Interest	50%
Property Rights	Fee Simple
PIN	21197-0239

Physical Details

Property Size (Acres)	0.31
Property Size (SF)	13,504
Topography	Level
Shape	Irregular
Position	Corner
Utilities	At lot line
Official Plan	Mixed Use Areas
Zoning	CR
Frontage	115 feet along Cumberland Street 98 Feet along Bellair Street

Proposed Development

Land Type	High Density Residential
GFA (SF)	168,950
Site Density	12.51
Number of Units	127

Sale Commentary

The property is designated Mixed Use Areas in the City of Toronto Official Plan. The zoning designation is CR - commercial residential.

Note that the Sale Price Per Buildable SF was adjusted to reflect a transfer of 50% interest in the property.

At the time of sale, the property was improved with a 9 storey office building.

A Rezoning Application and a Site Plan Application were submitted on November 1, 2010, pertaining to the land in this transaction. The application proposed the development of a mixed use condominium building with a total of 127 units. The development would have a total gross floor area of approximately 168,950 including approximately 28,217 square feet of retail space and 87 parking spaces.

As of December 2014, the Site Plan application was still in circulation while the Rezoning Application had been approved subject to conditions.



Addendum "C"
Photos

PHOTOS



Corner of Yonge Street and Gerard Street East



Gerard Street East view



O'Keefe Lane



Yonge Street view

CBRE

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Consolidated Court File No. 31-2734090

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3, as amended
IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.
Claim of Maria Athanasoulis against
YG Limited Partnership and YSL Residences Inc.

ARBITRATION PROCEEDINGS HEARD BEFORE
ARBITRATOR WILLIAM G. HORTON
held via Arbitration Place Virtual
on Tuesday, February 22, 2022, at 9:32 a.m.

VOLUME 1

CONDENSED TRANSCRIPT WITH INDEX

APPEARANCES:

Mark Dunn on behalf of the Claimant
Sarah Stothart

Matthew Milne-Smith on behalf of the Respondent
Chenyang Li for KSV Restructuring Inc.
Robin Schwill in its capacity as the
proposal trustee

ALSO PRESENT:

Angela Yu
Hannah Johnson

Arbitration Place © 2022
940-100 Queen Street 900-333 Bay Street
Ottawa, Ontario K1P 1J9 Toronto, Ontario M5H 2R2
(613) 564-2727 (416) 861-8720

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1 Arbitration Place Virtual
 2 -- Upon commencing on Tuesday, February 22, 2022,
 3 at 9:32 a.m.
 4 ARBITRATOR HORTON: Good morning
 5 everyone.
 6 MR. DUNN: Good morning, Mr.
 7 Horton.
 8 MS. STOTHART: Good morning.
 9 ARBITRATOR HORTON: I'm waiting to
 10 see if we have everyone. We have ten participants.
 11 So let me just check the participants list for a
 12 moment. All right. Have counsel checked the
 13 participants list and just ensured everyone is
 14 present who needs to be present and no one is present
 15 who shouldn't be present? Will you just do that,
 16 please.
 17 MR. DUNN: From our side, we have
 18 everyone here who is expected to be here.
 19 MR. MILNE-SMITH: Same from our
 20 side.
 21 ARBITRATOR HORTON: All right.
 22 Okay. So we have an arbitration in which the
 23 claimant is Maria Athanasoulis. And am I pronouncing
 24 that correctly?
 25 THE WITNESS: Yes, you are.

Page 5

1 and the court reporter is Ms. Crystal Deisting. So
 2 we can call on her as needed throughout the
 3 proceeding. And the representative for Arbitration
 4 Place is Angela Yu, and Ms. Yu will be recording --
 5 also doing a video recording of the hearing as we
 6 agreed in procedural order number 2 and providing us
 7 with a copy shortly thereafter. Of course, the
 8 transcript will be the official record of the
 9 arbitration, subject to correction, as may be
 10 necessary.
 11 All right. So I think that's the
 12 preliminaries. I will just mention now, although it
 13 won't come up for a little while, that my plan is
 14 just to affirm the witnesses, and I will do that
 15 myself, rather than having the reporter do it. So if
 16 that's acceptable, that's how we'll proceed on that.
 17 And otherwise, I think we had agreed that there would
 18 be roughly 30 minutes or so or less of opening, and
 19 we'll proceed directly to that. Mr. Dunn.
 20 MR. DUNN: Thank you. Mr. Horton,
 21 before I launch into this, just one small point of
 22 form.
 23 ARBITRATOR HORTON: Sure.
 24 MR. DUNN: I notice my friend, Mr.
 25 Milne-Smith, stood when he was called on. His camera

Page 4

1 MR. DUNN: I believe so, yes.
 2 ARBITRATOR HORTON: To an
 3 acceptable level, anyway. All right. And Ms.
 4 Athanasoulis is represented by Mark Dunn, Mr. Mark
 5 Dunn and by Ms. Sarah Stothart. And is there anyone
 6 else on your team, Mr. Dunn?
 7 MR. DUNN: Our articling student,
 8 Hannah Johnson is here. And it's pronounced
 9 Stothart.
 10 ARBITRATOR HORTON: Ah.
 11 MR. DUNN: Ms. Stothart's name.
 12 ARBITRATOR HORTON: Actually, I
 13 think I misspelled it in my note here. Okay. And
 14 Ms. Johnson is also present. All right. And then
 15 the respondent is KSV Restructuring as trustee,
 16 proposal trustee for YG Limited Partnership, and YGL
 17 Residences Inc., who we're collectively referring to
 18 as YSL, and represented by Mr. Matthew Milne-Smith,
 19 Mr. or Ms. Robin Schwill.
 20 MR. MILNE-SMITH: Mr. Robin
 21 Schwill.
 22 ARBITRATOR HORTON: Mr. Robin
 23 Schwill, and Mr. Chenyang Li. All right. So I hope
 24 those are all the appearances. The hearing is being
 25 transcribed with the assistance of Arbitration Place,

Page 6

1 is set up a little bit differently than mine. My
 2 intention will be to stay seated, and I just trust
 3 that that's okay with you.
 4 ARBITRATOR HORTON: Absolutely.
 5 It's entirely a matter of personal preference. Some
 6 people actually feel more comfortable standing; some
 7 people feel more comfortable sitting. And it makes
 8 absolutely no difference to me as long as I can hear
 9 you.
 10 MR. DUNN: Okay.
 11 ARBITRATOR HORTON: I will let you
 12 know if I'm having a problem in that regard.
 13 MR. DUNN: Thank you. Thank you.
 14 OPENING STATEMENT BY MR. DUNN:
 15 So I'll start Ms. Athanasoulis'
 16 opening. And it is not my intention to repeat. Both
 17 sides filed fairly detailed written opening
 18 statements and our position is spelled out in some
 19 detail in the written opening.
 20 It's not my intention here to
 21 repeat that, although, obviously, there may be a
 22 little bit of overlap. But the focus and the reason
 23 why I wanted to give this opening, notwithstanding
 24 the detailed written opening that's already been
 25 provided, is that some of the positions that we're

1 facing, some of the case to meet, shifted from what
 2 we thought it was in the opening, to what we saw in
 3 the opening, and even since the opening.
 4 And so the intention here is to
 5 frame the issues, at the outset of the hearing, based
 6 on the landscape as it exists today. So the starting
 7 point is, of course, and I believe this to be agreed
 8 upon, although my friend can correct me in his
 9 opening if that's wrong, that there are two questions
 10 and only two questions that are in front of you:
 11 What were the terms of Ms. Athanasoulis' agreement
 12 with Cresford, and was Ms. Athanasoulis
 13 constructively dismissed.
 14 And there is a lot of extraneous
 15 background, and some relevant background, that may
 16 come into the evidence. But at the outset I want to
 17 focus on the fact that those are the questions to be
 18 determined. Issues of damages, issues of what the
 19 claim is worth, if it's valid, are not before you.
 20 And issues about whether Ms.
 21 Athanasoulis was terminated for cause are not before
 22 you, and that's the result of the case conference
 23 that we had last week, where YSL was put to an
 24 election of adjourning the proceeding so that it
 25 could investigate and potentially pursue the

1 allegation that Ms. Athanasoulis was terminated for
 2 cause, or it could proceed without that allegation.
 3 And it elected to proceed without that allegation.
 4 So there is no -- there is nothing before you about
 5 whether Ms. Athanasoulis was terminated for cause.
 6 And that is important, as the
 7 evidence is presented, because there's quite a bit of
 8 negative allegations about Ms. Athanasoulis. And
 9 those are purely put forward to undermine her
 10 credibility. They don't tie into or affect any of
 11 the legal issues that are actually before you.
 12 The second point I want to
 13 emphasize, and that is worth keeping in mind as we
 14 progress through the evidence, is that on the two key
 15 questions, what are the terms of the agreement, and
 16 was Ms. Athanasoulis constructively dismissed, YSL's
 17 position has fundamentally changed since the
 18 discoveries occurred in this matter.
 19 And that is a position held since
 20 2020 by way of procedural background, which is
 21 referenced. There's a claim, a Superior Court action
 22 commenced against a number of Cresford entities,
 23 including YSL, in January of 2020. It was defended
 24 in February of 2020 by YSL. And those allegations
 25 remain outstanding in the Superior Court action. And

1 what YSL chose to do in this proceeding was to adopt
 2 a slice of them. Not all of them, but some of them.
 3 And the first allegation was what
 4 were the terms of this agreement. And here I should
 5 note there's a bit of a nuance between what my -- how
 6 my friends have characterized this and how I have
 7 characterized it, in that there is a profit sharing
 8 agreement, we say, that is part and parcel of Ms.
 9 Athanasoulis' employment agreement. It's all one
 10 agreement and it's an oral agreement, and the terms
 11 evolved and changed over time. And as I understand
 12 YSL's position, they're framing it as a separate
 13 standalone kind of agreement. It's a small
 14 difference, but it does play into the terminology.
 15 But the initial position was that
 16 Ms. Athanasoulis was entitled to 10 percent of net
 17 profits realized on the successful completion of all
 18 the projects, including YSL. And I'm just going to
 19 bring this up on the screen. Ms. Stothart, I
 20 believe, circulated our compendium. I don't know if
 21 it's more convenient to look at the electronic copy
 22 or -- I'll bring up the documents on the screen that
 23 I'm taking you to. In any event, this is Tab 4 of
 24 the compendium.
 25 And what we see here, paragraph

1 51:
 2 "After the Vox Project,
 3 Casey agreed to pay
 4 Athanasoulis 10 percent of
 5 the net profits realized on
 6 the successful completion of
 7 future projects."
 8 And you'll hear the evidence that
 9 the launch of the Vox project, this time period, was
 10 2014, okay. So this is several years that the
 11 parties are operating under this agreement, according
 12 to YSL's pleading, to pay.
 13 And the same admission, yeah, I
 14 should say, in fairness to YSL in this proceeding, it
 15 is represented by the trustee, who is a stranger to
 16 these facts. But the same admission was made -- oh,
 17 I apologize, what I was just showing you was
 18 Cresford's defence from 2020, which was adopted by
 19 YSL at paragraph 12 of its own proceeding.
 20 And then at paragraph 14, it says,
 21 while there is a discussion of increasing the share
 22 from 10 percent to 15 percent, the increase was never
 23 agreed to between the parties, right? So there's an
 24 admission that there's an agreement in place, but lo
 25 and behold the condition -- or sorry, the percentage

1 was disagreed -- was the subject of disagreement.
 2 And what's being shown now, the
 3 allegation now is that, in fact, there was no
 4 agreement at all, ever. And I'm showing you
 5 paragraph 55 of the opening. That all that happened
 6 were preliminary discussions concerning the potential
 7 profit sharing agreement. Keep in mind, these
 8 allegedly preliminary discussions - and I'm at Tab 7
 9 of my compendium, for what it's worth - took from
 10 2014 to 2020. That's the allegation that's being
 11 put. So there were these preliminary discussions; no
 12 agreement for five or six years.
 13 So we want to outline what the
 14 response is to that allegation, because that seems to
 15 now be the respondent's primary answer or only answer
 16 to the first question, what are the terms of the
 17 agreement? There were no terms, because there were
 18 no agreement.
 19 There are two responses. The
 20 first, I'll touch on fairly briefly, is the legal
 21 response, which is that -- and this isn't a
 22 contentious principle, but there is a specific
 23 admission in the pleading to a key element of Ms.
 24 Athanasoulis' claim, which is the existence of an
 25 enforceable agreement. That is, of course, important

1 in a breach of contract claim. And a party that
 2 makes such an admission cannot simply withdraw it
 3 without leave, and leave requires a reasonable
 4 explanation.
 5 So we will see -- and I've given
 6 at Tab 8, the test for a -- and it's not highlighted,
 7 but at paragraph 8 of the University Plumbing case,
 8 which we'll go through more in argument, gives the
 9 test for withdrawing an admission.
 10 So the first step, the threshold
 11 step, is in order to succeed in its current position,
 12 YSL needs to properly withdraw its prior admission.
 13 And we'll see if that test is made out in the
 14 evidence.
 15 The next point, which I also
 16 believe to not be contentious, is that a contract
 17 need not account for every conceivable possibility in
 18 order to be binding.
 19 What a contract needs to account
 20 for in order to be binding, in order to be
 21 enforceable, is the essential terms. And essential
 22 terms -- and, again, we'll go into a lot more detail
 23 on this in closing. Essential terms vary by the
 24 case.
 25 But in this case, our position is

1 that the essential terms of the agreement, as it
 2 related to profit sharing, are what was to be paid.
 3 And the evidence will be, it was 20 percent of the
 4 profits generated by each project that Cresford
 5 completed. There was four projects at the time,
 6 Clover, Halo, Yorkville and YSL. Everybody involved
 7 in this discussion knew what they were.
 8 And the second question, how was
 9 payment to be calculated. There's some suggestion in
 10 the opening argument that calculating profits is this
 11 complex and difficult to understand that requires,
 12 you know, detailed negotiations that never happened.
 13 But in this case, what Mr. Casey and what Ms.
 14 Athanasoulis agreed to was that the profits were to
 15 be revenue less expenses, calculated on the detailed
 16 budgets that Cresford prepared for every project.
 17 These are two people, remember,
 18 who had been running a business together for years.
 19 And when they said "profit," they knew what it meant,
 20 and that's what Ms. Athanasoulis was entitled to a
 21 share of. Who had to pay? The project owners had to
 22 pay. That's where the profits were earned, and it's
 23 only sensible, and it was agreed to, that that's
 24 where the obligation had to rest.
 25 When were the payments to be made?

1 The payments were to be made to Ms. Athanasoulis when
 2 they were made to Cresford. Again, this is both
 3 something that was agreed to, but also something that
 4 makes simple common sense.
 5 Finally, we say that there was an
 6 implied term that the projects would be managed
 7 honestly and in good faith to maximize profits.
 8 Now, we don't say that this was an
 9 issue that was specifically discussed, because it
 10 would never occur to anyone to discuss it, because it
 11 is so obvious.
 12 And in closing, we'll outline how
 13 that fits into the law of implied terms.
 14 And so you have the basic
 15 questions, right? What, when, who and how. And
 16 that, in our submission, is all that was required.
 17 And I've included in the
 18 compendium the Canada Square case, which we say
 19 simply stands for - and this is Tab 9 - the
 20 proposition that it is -- and this is quoted at
 21 paragraph 32 from a House of Lords case, but it is --
 22 and this is about halfway through the paragraph:
 23 "It is accordingly the duty
 24 of the Court to construe
 25 such documents fairly and

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1 broadly, without being too
 2 astute or subtle in finding
 3 defects; but on the
 4 contrary, the court should
 5 seek to apply the old maxim
 6 of English law..."
 7 And I won't quote the Latin:
 8 "Words are to be understood
 9 that the object may be
 10 carried out and not fail."
 11 And so it is not the correct
 12 approach, with respect, to say what about this
 13 eventuality and what about that eventuality. The
 14 parties are free to agree to what they have agreed
 15 to, and to determine for themselves what are the
 16 essential terms. And to the extent that something is
 17 alleged to be an essential term, the question to be
 18 answered is why, as we go through the evidence, why
 19 is it that for the six years that this was discussed,
 20 this allegedly essential term wasn't agreed to.
 21 So turning -- and with respect,
 22 there is at paragraph 38 a long, long list of things
 23 that were allegedly required and not agreed to. Some
 24 of those things were agreed to, we say, and we also
 25 say the balance did not need to be agreed to.

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1 event of an acquisition of
 2 the Cresford organization."
 3 That is something the parties
 4 could say, in the event of an acquisition, here's how
 5 our respective obligations changed. But it is also
 6 perfectly -- the parties are perfectly entitled to
 7 not enter into an agreement on that point, in which
 8 case an acquisition of the Cresford organization, had
 9 one occurred, would have left their respective
 10 contractual obligations untouched.
 11 And so as these points are raised
 12 in the evidence, the question is, is this essential,
 13 and did the parties think that it was essential.
 14 I want to turn -- and if, as I
 15 understand the point, as I understand the case
 16 currently, that is the response on, on the profit
 17 sharing. That is the response in terms of the terms
 18 of the agreement, that there was no agreement.
 19 There was a prior position, which
 20 is how -- what would happen on -- what would happen
 21 in the event of Ms. Athanasoulis being terminated or
 22 resigning. And that, just returning to the trustee's
 23 defence at paragraph 12, there's a specific term
 24 alleged here:
 25 "However, Athanasoulis would

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1 And I'll just highlight, by way of
 2 example, this is paragraph 38 of the YSL opening, and
 3 that's at Tab 17 of our compendium. And I just want
 4 to highlight two, just for illustration purposes.
 5 First (i):
 6 "The parties never agreed
 7 upon how the alleged PSA
 8 would be treated in the
 9 event of a default of an
 10 entity within the Cresford
 11 organization."
 12 And the point is, this is an
 13 eventuality. It's possible that an entity within the
 14 Cresford organization would default on something.
 15 And it was completely open to the parties to agree
 16 about how that default would affect their respective
 17 contractual obligation. That's a thing people can
 18 agree to. It is also a thing that people cannot
 19 agree to. And the default is, that doesn't have any
 20 effect on the contractual obligations. That's the
 21 result of not agreeing on that point. The same is
 22 true:
 23 "The parties never agreed
 24 upon how the alleged PSA
 25 would be treated in the

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1 only be entitled to this
 2 benefit if she contributed
 3 to the successful completion
 4 of the project and remained
 5 an employee of Cresford at
 6 the date of the project
 7 completion."
 8 So it's the last paragraph here,
 9 the last sentence. What the prior position was, was
 10 that there was a condition, right; she's entitled to
 11 these things if and only if she remains an employee
 12 on the date of project completion.
 13 But now what we're seeing,
 14 paragraph 38(k), the new opening, is that the parties
 15 never discussed or agreed how the dismissal or
 16 resignation from her employment would affect the
 17 alleged PSA.
 18 So it's not just different. What
 19 was previously alleged to be a condition of the
 20 agreement is now alleged to have not even have been
 21 discussed, let alone agreed.
 22 But there's another point, which
 23 is that there has to be evidence that this is an
 24 essential term; that without that you don't have an
 25 agreement that works. And, again, this is something

1 that the parties could have agreed that, in the event
 2 of termination, this is what happens. But in the
 3 absence of an agreement, the parties' rights and the
 4 parties' obligations under this part of the
 5 agreement, simply remain untouched.
 6 So I want to turn to the second
 7 question now, which is, whether Ms. Athanasoulis was
 8 constructively terminated. And the basic facts here
 9 seem to -- or the facts that we say are relevant do
 10 not seem to be contested.
 11 Situating myself at the end of
 12 November 2019, Ms. Athanasoulis -- sorry, I'll start
 13 a little bit earlier. Ms. Athanasoulis was
 14 responsible for virtually all aspects of Cresford's
 15 business. All the employees reported to her. She
 16 was primarily responsible for dealing with trades,
 17 for dealing with lenders. She was involved in all
 18 major decisions. And in November 2019, Mr. Casey
 19 took all of that away, stripped her of all of her
 20 responsibilities, told her to stop coming to the
 21 office, okay. That part is now, from what I can
 22 tell, agreed upon.
 23 But we now see a new allegation.
 24 Well, yes, she was stripped of all her obligations,
 25 but she was on leave. She was behind an ethical

1 wall, to use the language from YSL's opening. And
 2 this is at Tab 18, because at this time there was a
 3 sale being discussed involving a gentleman named
 4 Patrick Dovigi, who is the CEO and founder of Green
 5 For Life, or I believe it's now GFL Environmental.
 6 And Ms. Athanasoulis was going to have an interest in
 7 the theory -- or in the sale; and, therefore, an
 8 ethical wall was erected between Ms. Athanasoulis and
 9 Cresford's business, and she was, according to the
 10 trustee, or according to YSL, tasked with negotiating
 11 that transaction, and only negotiating that
 12 transaction.
 13 The difficulty is, no one told Ms.
 14 Athanasoulis that she was on leave or behind an
 15 ethical wall, ever.
 16 And I'm going to take you to the
 17 Potter case, just briefly which -- and it's paragraph
 18 98. And this is a 2015 Supreme Court of Canada
 19 decision dealing specifically with constructive
 20 termination, specifically with an employee who was
 21 put on leave.
 22 So the first point, point -- and
 23 this is a little bit earlier on at paragraph 39,
 24 which is that the test is whether a reasonable person
 25 in Ms. Athanasoulis' position would consider that the

1 essential terms of the employment contract had been
 2 substantially changed.
 3 So the test is not what Mr. Casey
 4 thought he was doing. The test is what a reasonable
 5 person in her position would understand. And the
 6 evidence will be that he never told her that she was
 7 on leave. He never told her that her position was
 8 temporary.
 9 And in the Potter case, one of the
 10 things that the Court held -- and this is at
 11 paragraph 99, this is the second sentence:
 12 "It seems to me that, in
 13 most cases [sic] an
 14 administrative suspension
 15 cannot be found to be
 16 justified in the absence of
 17 a basic level of
 18 communication with the
 19 employee. At a minimum,
 20 acting in good faith in
 21 relation to contractual
 22 dealings means being honest,
 23 reasonable, candid, and
 24 forthright." [As read]
 25 So it is not enough, in my

1 respectful submission for Mr. -- if Mr. Casey
 2 testifies and is convincing that he thought he was
 3 putting Ms. Athanasoulis on a temporary leave -- and
 4 we don't accept that, but just assume for a moment
 5 that it is. Consider not, in my respectful
 6 submission, that the key analysis is not what Mr.
 7 Casey thought; it's what a reasonable person in Ms.
 8 Athanasoulis' shoes would think. And a reasonable
 9 person who was called crazy or stupid, and sent home
 10 from the office and told not to come back, told not
 11 to communicate with any of Cresford's key
 12 stakeholders, and not given one hint, or iota, or
 13 inkling that anything was temporary, a reasonable
 14 person in that position would believe themselves to
 15 have been terminated.
 16 I'm going to deal with two points,
 17 and then I believe, I'll have exhausted my half an
 18 hour. The first is, there's an issue about whether
 19 Ms. Athanasoulis was employed by YSL. And this is
 20 something of a surprising issue, because Ms.
 21 Athanasoulis was an officer of YSL. So, much was
 22 said in YSL's opening about an intention to create a
 23 contractual relationship between YSL and Ms.
 24 Athanasoulis.
 25 And the facts are that she was an

1 officer of YSL, she was formally appointed its vice
 2 president and its secretary. She negotiated
 3 contracts on behalf of YSL. She signed or delegated
 4 to others the opportunity to sign -- or the right to
 5 sign, give or take, \$650 million worth of contracts
 6 with purchasers. She represented YSL in negotiations
 7 and communications with lenders, at its marketing
 8 launch. If YSL had a face, that face was Ms.
 9 Athanasoulis.

10 And what YSL now says is that
 11 because Ms. Athanasoulis was paid her salary by a
 12 company named East Downtown Redevelopments
 13 Partnership, that EDRP, and only EDRP was the
 14 employer. And that fits us squarely into the leading
 15 case on the common employer doctrine, which is a
 16 case -- the case Downtown Eatery.

17 And at Tab 29, there's a quote
 18 from it, which says:

19 "...the law should be
 20 vigilant to ensure that
 21 permissible complexity in
 22 corporate arrangements does
 23 not work an injustice in the
 24 realm of employment law."
 25 And in that case, there was an

1 integrated group of companies that operated a
 2 nightclub business. And the company that paid the
 3 plaintiff had no assets. And what the Court found is
 4 that it's unjust, and that all of the entities,
 5 including entities that came into existence after the
 6 termination at issue in that case occurred, were on
 7 the hook.

8 So the facts here, the evidence
 9 will show, are very similar. It is true that EDRP
 10 paid a salary to Ms. Athanasoulis. But what you will
 11 hear is that salary was only one part, and, frankly,
 12 a relatively small part of Ms. Athanasoulis' overall
 13 compensation. And a very significant amount of
 14 compensation was paid directly by the project owners,
 15 companies like YSL, in the form of condominium
 16 credits, sometimes in the form of cash.

17 Recall that Ms. Athanasoulis had
 18 no written employment agreement, but you will see
 19 that the template agreement used by Cresford to enter
 20 into employment contracts didn't even mention EDRP.
 21 It was entered into on behalf of Cresford
 22 Developments - not Cresford Developments Inc., not
 23 Cresford Development Corp. So the standard form
 24 agreement referred to the group as a whole, not to
 25 EDRP.

1 Finally, I'm going to touch very
 2 briefly on, and encourage you, Mr. Horton, as I know
 3 you will, to consider -- to put appropriate weight on
 4 some facts that I believe my friend is going to spend
 5 some time on in his opening, and that's this: After
 6 she was terminated, about two weeks after, Ms.
 7 Athanasoulis sent letters to Cresford's lenders by
 8 Dave Mann. And they purported to be drafted by Dave
 9 Mann.

10 And when that was raised in the
 11 related litigation, Ms. Athanasoulis denied that.
 12 And you'll hear from her with respect to why she sent
 13 the letters, and why she denied sending the letters.
 14 But what it comes down to is this, sending the
 15 letters was a stupid thing to do. My friend will use
 16 probably much harsher language than that. But it
 17 touches not at all on the issues in this case. It
 18 does not affect anything. It does not further any
 19 allegation in this case, other than this: The
 20 allegation by YSL will be that Ms. Athanasoulis did a
 21 bad thing, she sent those letters; and, therefore,
 22 she's going to do another bad thing here today, which
 23 is lie under oath.

24 And you, Mr. Horton, will be in a
 25 position to assess that argument and put it in

1 context, having heard from her.

2 I think we lost Mr. Horton.
 3 MS. VU: My apologies, I think Mr.
 4 Horton has disconnected. Just one moment.

5 ARBITRATOR HORTON: I'm afraid I
 6 lost my signal there for a while. I think it was
 7 probably me. Angela?

8 MS. VU: Yes, you dropped out for
 9 just a moment, but Mr. Dunn stopped almost
 10 immediately.

11 ARBITRATOR HORTON: Yes. Okay. I
 12 was just at the point of you were just talking about
 13 the Mann letters and you were arguing that they were
 14 not relevant to the issues in the case. That's the
 15 last note I have.

16 MR. DUNN: Correct. And that
 17 is my essential point, is that this is a character
 18 attack. The only argument that these letters serve,
 19 and the only reason they're being brought up is to
 20 say that Ms. Athanasoulis did a bad thing, she sent
 21 the letters, and you should draw the inference that
 22 she's going to do another bad thing, which is lie
 23 under oath. I don't believe that's, at end to the
 24 day, what will carry the day. You, Mr. Horton -- and
 25 you will see some comments made by Justice Penny, who

1 did not see any, any of the witnesses or any
2 witnesses on a motion in an action that is related,
3 but that Ms. Athanasoulis is not even a party to.
4 But you, Mr. Horton, will be the
5 first person to make a finding with the benefit of
6 complete evidence on the issues that are being
7 raised.

8 This has been tangentially
9 relevant to various insolvency proceedings. But the
10 issue of what the terms of Ms. Athanasoulis'
11 agreement are, and the issue of whether she was
12 constructively terminated, neither of those issues
13 have been before any judicial decision maker at all
14 until this hearing. So no one has had the
15 opportunity to hear the evidence.

16 And at the end of this, what we
17 will argue is that the evidence shows that there was
18 an enforceable agreement; it did entitle Ms.
19 Athanasoulis to 20 percent of the profits; it did
20 provide for how those profits were to be calculated,
21 and when they were to be paid, and by who; and it was
22 repudiated when Ms. Athanasoulis was terminated.

23 And subject to any questions,
24 those are my opening submissions.

25 ARBITRATOR HORTON: All right.

1 Thank you. I don't have any questions at this time.
2 Mr. Milne-Smith.

3 OPENING STATEMENT BY MR. MILNE-SMITH:

4 Good morning, Mr. Horton. So
5 along with my colleague, Mr. Li, we act for KSV
6 Restructuring Inc., proposal trustee in respect of YG
7 Limited Partnership and YSL Residences Inc.

8 This case is principally about an
9 alleged oral agreement that my friend says entitles
10 his client, Ms. Athanasoulis, to profit on a
11 condominium development. Now, there are only three
12 problems with that argument. First, there is no
13 agreement, at least on the terms alleged. Second,
14 there is no development. And third, there are no
15 profits.

16 So she says there's an agreement
17 for profits on a development. There's no agreement
18 on the terms alleged, no profit and no development.

19 The proposal trustee asked the
20 arbitrator to make one of two alternative rulings.
21 Our primary position is that there was no meeting of
22 the minds on the essential terms of any profit
23 sharing agreement as alleged by Ms. Athanasoulis.

24 The parties certainly explored
25 various arrangements regarding Ms. Athanasoulis'

1 compensation from time to time; however, the
2 discussions were so vague that any alleged agreement
3 fails for want of particularity, or simply has no
4 bearing on the actual facts that have occurred in
5 this case.

6 The alternative, the proposal
7 trustee submits, that any profit sharing agreement
8 that might exist was conditional on Ms. Athanasoulis'
9 contribution to the successful and profitable
10 completion of the project. As this has not occurred,
11 and will not occur for Cresford, there can be no
12 profits to share.

13 It's important to understand that
14 this is not a case where Ms. Athanasoulis was
15 terminated in an attempt to deny her access to
16 expected profits. It's not like they had the ball at
17 the one yard line and suddenly yanked her out of the
18 game in order to deny her the profits to which she
19 says she was entitled. Rather, Ms. Athanasoulis
20 played a direct and integral role in derailing the
21 project, and ensuring that it would never be built by
22 Cresford. So to extend my goal line analogy, she
23 punted the ball off the field. The game could no
24 longer continue. There certainly was no touchdown.

25 Now, first of all, a very quick

1 word about the constructive dismissal claim. This is
2 very much the tail on the dog of this case. The
3 claim for constructive dismissal is one million; the
4 claim for profit sharing is almost 20 million.

5 We do not allege cause in this
6 proceeding. The trustee considered the evidence and
7 did not believe it had sufficient grounds to allege
8 cause. We do deny the claim for wrongful dismissal
9 on the basis that Ms. Athanasoulis resigned her
10 position.

11 The claim for wrongful dismissal
12 is principally based, as my friend explained, on the
13 fact that a number of her responsibilities and
14 reporting lines were withdrawn shortly before her
15 termination -- or resignation, I should say. This
16 was entirely understandable and appropriate in
17 context, and Ms. Athanasoulis knew exactly what was
18 going on. She was negotiating for a purchase of
19 Cresford's assets, on behalf of a third party named
20 Patrick Dovigi, who is the principal behind GFL.

21 She had an understanding, or at
22 least she asserts that she had an understanding with
23 Mr. Dovigi, that she would be a 50/50 partner with
24 Mr. Dovigi in that undertaking if they succeeded in
25 acquiring Cresford. In short, she had a substantial

1 economic interest in Mr. Dovigi's proposal in his
 2 position at a time when Mr. Dovigi was negotiating
 3 with Cresford.
 4 Now, Mr. Casey, the principal of
 5 Cresford, was aware that Ms. Athanasoulis was working
 6 with Mr. Dovigi in this regard, and that alone was
 7 not a problem. However, he will testify that he was
 8 reasonably concerned that her economic interests were
 9 more aligned with Mr. Dovigi than with Cresford. And
 10 I'd ask -- it's not in my compendium, because it's in
 11 direct response to my friend's opening, but it we
 12 could call up document C14.
 13 So these are the productions of
 14 the claimant. The way we've organized the
 15 productions in this case is C stands for "claimant"
 16 and R stands for "respondent," so you may hear this
 17 throughout the hearing. So we're looking for
 18 document C14.
 19 ARBITRATOR HORTON: Are you going
 20 to screen share that, or do you want me to pull it
 21 up?
 22 MR. MILNE-SMITH: No, we are going
 23 to screen share. Give us a moment here.
 24 It should be coming up now.
 25 There we go. So this is an email that was sent by

1 Cathy Alderson, who was at the Nelligan law firm, and
 2 it was sent to Ms. Athanasoulis. This is from
 3 Ms. Athanasoulis' productions. And if we just scroll
 4 down near the bottom, right there, you see Ms.
 5 Athanasoulis is advised in the second paragraph from
 6 the bottom there that the LOI was a step that
 7 "jeopardizes the sale of the business." So she's
 8 referring to an issue concerning a letter of intent
 9 to sell a part of the project, and negotiations that
 10 were ongoing. You will see the evidence about this
 11 during the trial.
 12 The email continues:
 13 "That sale is in reference
 14 to a possible purchase of
 15 four projects by Patrick
 16 Dovigi."
 17 So this is what we're talking
 18 about.
 19 "You owe a fiduciary duty to
 20 Cresford. Your future
 21 financial interest with
 22 Patrick Dovigi should the
 23 sale proceed, should not in
 24 any way diminish your
 25 fiduciary duty to Cresford.

1 You are placed..."
 2 And then over to the next page of
 3 the email. I'm sorry, I'm not sure quite why it was
 4 produced in this manner, but it was Ms. Athanasoulis.
 5 ARBITRATOR HORTON: Just excuse me
 6 one moment, just logistically, I'm not seeing on your
 7 screen share what you're reading. And I've just gone
 8 to your compendium of documents for the opening
 9 statement. Is that where I should find this?
 10 MR. MILNE-SMITH: No, this is not
 11 in the compendium of opening statement, because it is
 12 in direct response to the opening of my friend.
 13 ARBITRATOR HORTON: Oh, I see.
 14 All right. Okay. Yeah, it does have a little label
 15 at the top, C014, and your compendium doesn't have
 16 14. So is this an addition? Is this going to be an
 17 admission to your compendium?
 18 MR. MILNE-SMITH: We can certainly
 19 add it to the compendium, yes, and send it around.
 20 ARBITRATOR HORTON: All right.
 21 But right now it's not in the documents I have.
 22 MR. MILNE-SMITH: No.
 23 ARBITRATOR HORTON: Okay. Fine.
 24 I'm with you then.
 25 MR. MILNE-SMITH: Can you see it

1 on the screen now?
 2 ARBITRATOR HORTON: I can, yes.
 3 MR. MILNE-SMITH: Oh, okay. Good.
 4 So the first full paragraph that's
 5 visible on the screen right now says:
 6 "You owe a fiduciary duty to
 7 Cresford. Your future
 8 financial interest with
 9 Patrick Dovigi should the
 10 sale proceed, should not in
 11 any way diminish your
 12 fiduciary duty ... You have
 13 placed yourself in a
 14 conflict of interest
 15 position. You must resolve
 16 this conflict in favour of
 17 Cresford. Your threat to
 18 take steps to interfere with
 19 the completion of the YSL
 20 financing is in breach of
 21 your fiduciary duty to
 22 Cresford. As Dan has told
 23 you, verbally and in
 24 writing, he will deal
 25 directly with the financing

1 issues."
 2 So he's telling you here, Dan is
 3 going to take charge of this now. He will deal with
 4 the bank. Do not interfere with this process.
 5 So this notion that Ms.
 6 Athanasoulis was somehow unaware that she was being
 7 sidelined for the purposes of this transaction, I say
 8 is contrary to this email, which came from her
 9 productions, and which she obviously was aware of.
 10 We say, in the circumstances, that it was entirely
 11 reasonable for Cresford to restrict Ms. Athanasoulis'
 12 responsibilities at Cresford while the negotiations
 13 with Mr. Dovigi were ongoing. If she choose to
 14 resign her position, it's entirely her choice.
 15 So turning to the profit share
 16 issue. At the highest, Ms. Athanasoulis' claim is to
 17 20 percent of the profits earned on Cresford
 18 projects. So if we turn up Tab 1 of the opening
 19 compendium, this is the proof of claim that was filed
 20 in this proceeding by Ms. Athanasoulis.
 21 If we go over to page 6 of the
 22 compendium, you will see paragraph 12(b), which I've
 23 highlighted. It states that:
 24 "The terms of the Profit
 25 Sharing Agreement were

1 discussed and confirmed at a
 2 meeting with Mr. Papadakis
 3 on February 16, 2019.
 4 Specifically, Mr. Casey and
 5 Ms. Athanasoulis both
 6 confirmed during the meeting
 7 that: (b) Under the Profit
 8 Sharing Agreement [she] was
 9 entitled to 20 percent of
 10 the profits earned on each
 11 of the Projects..."
 12 It doesn't plead a claim to
 13 20 percent of the potential value of any Cresford
 14 project at the time Ms. Athanasoulis' employment was
 15 terminated. It doesn't plead a claim to 20 percent
 16 of the value of the sale of the project. It's a
 17 claim to 20 percent of profits earned.
 18 Now, if we go to Tab 2 of the
 19 compendium. We have an excerpt from the read-in
 20 brief we have delivered in this matter from the
 21 examination for discovery of Ms. Athanasoulis.
 22 Question 237 -- this is my friend, Mr. Li,
 23 examining -- it says:
 24 "Okay, understood. When was
 25 the -- did you discuss any

1 terms about when and how the
 2 profit would be paid? And I
 3 am still talking about the
 4 discussion that you had with
 5 Mr. Papadakis and Mr.
 6 Casey...
 7 "When the profit would be
 8 paid or would be due?
 9 "Profit sharing.
 10 "Like....
 11 "When your profit sharing
 12 amount would be paid and how
 13 it will be paid.
 14 "The whole discussions in
 15 February was that I had
 16 earned it, and the money
 17 doesn't come in until the
 18 end. So I would be paid at
 19 the end of... of completing
 20 a project, which we have
 21 always completed projects."
 22 So, again, on Ms. Athanasoulis'
 23 own words, you could only calculate the profits on a
 24 project once it has been completed. That's when, to
 25 use the language of the proof of claim, the profits

1 are earned. This isn't the sale of commodities.
 2 It's an incredibly complex undertaking that takes
 3 place over a series of years.
 4 So taking the claim at face value,
 5 based on the proof of claim and her discovery
 6 evidence, it must fail.
 7 The YSL Project is a hole in the
 8 ground. It was transferred to Concord Developments
 9 as the proponent of the proposal that has been
 10 accepted, and is the foundation for these
 11 proceedings.
 12 We are now told or expect -- my
 13 understanding is that we will be told that what Ms.
 14 Athanasoulis really is asking for is the loss of a
 15 chance to earn a profit. That's not what was
 16 pleaded, and there's no evidence to support it.
 17 It is common ground that there's
 18 no written agreement between the parties. Ms.
 19 Athanasoulis points to one document, and various
 20 alleged oral discussions.
 21 So let's just briefly look at the
 22 one document that is relied on here. This is Tab 3
 23 of the opening compendium. Now, this was prepared by
 24 Ms. Athanasoulis according to her evidence. Mr.
 25 Casey's evidence will be that he can't remember even

1 seeing this document; that he certainly didn't agree
 2 to it. However, let's take it at its highest; it
 3 simply doesn't get Ms. Athanasoulis anywhere.
 4 So on page 11 of the compendium,
 5 which we have up in front of us right here, you will
 6 see that under the heading of Salary, it's referred
 7 to as Salary of \$500,000 per annum. Ms. Athanasoulis
 8 admitted on discovery she was never paid a salary of
 9 \$500,000. So, obviously, inconsistent with this
 10 document being agreed to and accepted by Cresford, as
 11 Ms. Athanasoulis has alleged.
 12 So over to the next page, clause
 13 4. See, clause 4 just above the heading Confidential
 14 Information. It says that:
 15 "Bonus payments will be paid
 16 in full at the completion of
 17 any project in the
 18 construction phase if
 19 employee's employment is
 20 terminated."
 21 So, again, inconsistent with the
 22 position that she takes now, which is that she should
 23 be paid on termination of her employment. This says
 24 she can only be paid at the completion of any
 25 project. The project has not been completed, and it

1 will never be completed by Cresford.
 2 Then if we go to the next page,
 3 you see the document was never signed, or at least we
 4 certainly have no production where it is signed, no
 5 signature by Mr. Casey, no signature by Ms.
 6 Athanasoulis.
 7 Then if we go over to the last
 8 page, there's the bonus structure that was laid out
 9 in this document prepared by Ms. Athanasoulis. You
 10 see there's a reference to a number of fixed sum
 11 bonuses, and then a reference to -- items 4 and 5 are
 12 for the 10 percent of final profits with respect to
 13 final registration of Vox condominiums; that was a
 14 project that closed in 2018. And 10 percent off
 15 final closing of any future site Cresford acquires.
 16 There has been no final closing, and there will be no
 17 final closing by Cresford.
 18 So that's the only document that
 19 Ms. Athanasoulis relies upon to record the agreement
 20 of this quite remarkable profit sharing agreement
 21 that she alleges entitles her to \$20 million.
 22 Beyond this document, Ms.
 23 Athanasoulis can only refer to various alleged oral
 24 agreements. She can't say precisely how profits are
 25 to be calculated, what accounting metric, before or

1 after taxes, how is interest to be accounted for.
 2 None of that is explained.
 3 She cannot say what the parties
 4 agreed to in the event of her departure from the
 5 company. She cannot say what would happen in the
 6 event of the sale of the company's assets. She
 7 cannot say what would happen if the project changed
 8 after her departure for any reason. She cannot say
 9 what would happen in the event of insolvency
 10 proceedings.
 11 The simple answer is that when you
 12 actually examine the evidence that you're going to
 13 hear - and on this I believe the evidence is going to
 14 be consistent between Mr. Casey and Ms.
 15 Athanasoulis - what they were concerned about when
 16 they met with Mr. Papadakis in February of 2019 was
 17 what would happen if Mr. Casey was, quote, "hit by a
 18 bus." It was succession planning.
 19 And they wanted to ensure that Ms.
 20 Athanasoulis would be able to continue managing the
 21 projects. But they never came to an agreement on any
 22 specific terms. They never came to an agreement on a
 23 20 percent profit share. And, indeed, the entire
 24 purpose of the discussion was not to deal with the
 25 situation we're in today, where Ms. Athanasoulis left

1 the company and the projects were never completed.
 2 It was intended to deal with the situation where Mr.
 3 Casey, for whatever reason, whether he's hit by a bus
 4 or some other unfortunate circumstance, if Mr. Casey
 5 left the company. That's not what happened.
 6 That's why I say it's ultimately
 7 irrelevant whether the position is that there was no
 8 agreement, or that there was. You get to the same
 9 result either way. The agreement -- any agreement
 10 that may be found to exist clearly does not cover
 11 this situation. And without such an agreement, Ms.
 12 Athanasoulis cannot claim an entitlement to
 13 20 percent of profits that were never earned on a
 14 profit that was never completed.
 15 Ms. Athanasoulis relies in this
 16 case on the evidence of John Papadakis, a lawyer and
 17 close friend of hers, who was at this February 2019
 18 meeting. The evidence will support an inference that
 19 Mr. Papadakis is certainly very sympathetic to Ms.
 20 Athanasoulis. Among other things, he was the best
 21 man at her wedding, godfather to her children.
 22 However, his evidence simply does not support her
 23 case.
 24 Following the meeting in February
 25 of 2019, Mr. Papadakis did exactly nothing. We say

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<p>1 that is because there had been no agreement on terms 2 that he was in a position to reduce to writing. 3 In the interest of time, I don't 4 think I'll take you through all of the evidence in 5 that regard. But at Tabs 5 through 9 of our opening 6 compendium, we include the relevant excerpts from 7 Mr. Papadakis' discovery transcript. 8 He hadn't had any discussions with 9 Mr. Casey before the meeting and didn't know the 10 terms of any agreement going into the meeting. He 11 didn't know the entities who were supposed to be 12 parties to the agreement. He didn't know what would 13 happen if Ms. Athanasoulis left the company. He 14 didn't discuss whether any profits that she was 15 supposedly to receive a share of were pre- or 16 post-tax. He didn't discuss and wasn't aware of what 17 parties intended if the projects were sold before 18 completion or became insolvent. He simply didn't 19 have instructions on the essential terms for the 20 alleged agreement, which is why he didn't proceed to 21 document the agreement. It was a very loose and 22 conceptual discussion that the parties had that did 23 not result an enforceable agreement. 24 I would just like to take you to 25 Tab 9 of my friend's opening compendium. My friend</p>	<p>1 took you to the Canada Square case, and specifically 2 paragraph 32 of that decision. He read you a passage 3 from paragraph 32, and I'm just going to read the 4 last sentence, which my friend didn't read to you. 5 So my friend read to you: 6 "The maxim of English law 7 ... [that] words are to be 8 understood that the object 9 may be carried out and not 10 fail." 11 But it goes on: 12 "That maxim, however, does 13 not mean that the court is 14 to make a contract for the 15 parties, or to go outside 16 the words they have used..." 17 And I say that is exactly what my 18 friend is asking you to do in this case. 19 "...except insofar as there 20 are appropriate implications 21 of law, as for instance, the 22 implication of what is just 23 and reasonable to be 24 ascertained by the court as 25 a matter of machinery where</p>
<p>Page 45</p> <p>1 the contractual intention is 2 clear but the contract is 3 silent on some detail." 4 There is simply no evidence -- you 5 will hear no evidence in this case that determining 6 Ms. Athanasoulis' alleged profit share was a matter 7 of machinery where the contractual intention was 8 clear. And in these circumstances, one cannot 9 complete a bargain that the parties themselves did 10 not make. 11 I say the parties' conduct was 12 also inconsistent with there being any agreement. 13 Ms. Athanasoulis was never paid a profit share on any 14 project. She was never paid the \$500,000 salary she 15 claimed she was entitled to since 2014. Instead, she 16 was paid her existing \$300,000 salary, plus 17 intermittent bonuses at the discretion of Mr. Casey. 18 She was very well compensated and received taxable 19 income close to a million dollars in her last two 20 years, but nothing in her salary or compensation ever 21 indicated an entitlement to a massive \$20 million 22 profit sharing windfall that she now claims. 23 And there's a good reason for 24 that. She was not an owner. She didn't put equity 25 into the position. That's not to diminish her role.</p>	<p>Page 46</p> <p>1 She played a very important role in the company. 2 Nobody denies that. But she did not act as an owner. 3 She did not contribute as an owner. She did so as an 4 employee. 5 And even according to her own 6 position on the alleged agreement, she was required 7 to bring it to a successful profitable completion, 8 which simply did not happen. 9 So let's talk about the project 10 itself. That brings me to my second point, which is 11 that there is no building. 12 Just by way of background, a large 13 condominium project has a number of phases, first you 14 have to acquire the land, typically with borrowed 15 money. There are all kinds of regulatory and zoning 16 requirements which must be met. You have to design 17 the project, hire various consultants, enter in 18 agreements with all the trades. You then need to 19 demolish whatever is existing on the site and 20 excavate so you can build your new building. The YSL 21 Project hasn't gotten beyond that stage. I mean, if 22 you go by Yonge and Gerrard, you can see it. It's a 23 hole in the ground. It's apparently not even a fully 24 excavated hole. 25 Once you have completed all that,</p>

1 you can then move on to actual construction, which
 2 requires an entire other round of financing, which
 3 Cresford was never able to close.
 4 Once you have your financing in
 5 place, you need to manage the various trades. You
 6 need to ensure that the building is constructed
 7 according to plan and that budget. That obviously
 8 has never happened. Along the way, there can be
 9 delays and cost overruns. And indeed, the evidence,
 10 I think, is uncontroverted that the last four
 11 projects that Cresford completed were not profitable.
 12 They were, at best, break even. There's obviously no
 13 guarantee that YSL would have been profitable.
 14 Finally, at the end of the day,
 15 you register the condominium, and you pay all the
 16 taxes. You repay your debt, compensate your equity
 17 investors, collect all the money from condo
 18 purchasers, and the accountants calculate what the
 19 profit is.
 20 None of that has happened.
 21 And the success of the YSL
 22 project - I think it's important to note - turned on
 23 an aggressive plan to split the project into two
 24 parts. So there were actually to be two separate
 25 condominium projects, condominium corporations in one

1 tower, one on top of the other. The first part would
 2 be completed, sold, and registered and closed.
 3 The important thing about
 4 condominiums is you only get the revenue once you
 5 actually register and close the project. Otherwise,
 6 if there's a 20 percent deposit, or somewhere in that
 7 range of 20 percent, and those funds are held in
 8 trust, and then the balance on closing. So you only
 9 get the revenues at the end. That's why you have to
 10 financing all of this, either through equity or debt.
 11 What YSL intended to do was they
 12 were going to close that first part of the tower,
 13 take all the revenue, and use that to help finance
 14 the second part of the tower, the second condominium
 15 corporation.
 16 Now, that was, to say the least, a
 17 highly unusual structure. You don't typically have
 18 two condominium corporations within one building.
 19 I'm not saying it was unique, but I'm saying it's
 20 unusual. There's no guarantee that the city would
 21 sign off on that. If it didn't, that would obviously
 22 have a huge impact on financing costs, because you
 23 would have to go out and borrow that money, instead
 24 of using the revenue from all the people who bought
 25 units in the first part of the tower. So that's just

1 one obvious example of the kind of contingencies that
 2 profitability turned on, and they were far from a
 3 sure thing.
 4 Now, the Cresford Group, as it
 5 turned out, was deeply troubled by Ms. Athanasoulis'
 6 own account. You'll hear evidence that it was
 7 suffering from significant cost overruns on various
 8 projects that were more advanced than YSL. It lacked
 9 liquidity, couldn't arrange financing, couldn't
 10 service its debts or pay its trade, and ultimately
 11 insolvency proceedings were brought in respect of all
 12 the ongoing projects, including YSL.
 13 A proposal in this case was
 14 ultimately put forward by a developer named Concord,
 15 and after various revisions, was accepted. And
 16 Concord, not Cresford, was now the developer of YSL.
 17 If it ever gets built, it will be because of the
 18 efforts of Concord, not Ms. Athanasoulis or anyone at
 19 Cresford.
 20 And I say, as my second
 21 submission, that Ms. Athanasoulis cannot earn profits
 22 on a project that has not been built; and if it is
 23 ever built, will not be by Cresford.
 24 That brings me to my third and
 25 final point in opening on the issue of the profit

1 share is that there are no profits. Perhaps, more
 2 importantly, nor was there any reasonable prospect of
 3 there being any profits when Ms. Athanasoulis
 4 resigned. YSL was the least advanced project when
 5 the music stopped in early 2020. At various stages
 6 development ahead of it with the three projects my
 7 friend referred to: Clover, Halo and 33 Yorkville.
 8 They were all acknowledged at the time of Ms.
 9 Athanasoulis' departure to be unprofitable.
 10 So in other words, before COVID-19
 11 imposed all kinds of delays and restrictions on
 12 construction, before all the inflationary labour
 13 shortage and material shortage that we've all read
 14 about in the past two years, three consecutive
 15 Cresford projects were projected not to turn a
 16 profit.
 17 Now, Ms. Athanasoulis relies on a
 18 pro forma prepared for the bankers in 2019 that
 19 projected profits of YSL. It was built on a host of
 20 assumptions that we now know turned out not to be
 21 true, starting with the fact that it assumed
 22 construction starting in 2020. It assumes an ability
 23 to close the construction financing agreements, which
 24 never happened. It assumes an ability to
 25 successfully manage the trades so that the project is

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1 completed on budget and on time. Of course, none of
 2 that happened, at least under the leadership of
 3 Cresford.
 4 And you don't have to believe me
 5 in this; you just have to believe Ms. Athanasoulis
 6 when it comes to the problems with the project.
 7 I'm going to take you now to the
 8 two forged letters on the letterhead -- on the name
 9 of Dave Mann. My friend said this is nothing more
 10 than an attack on credibility. It certainly is
 11 relevant to credibility, but I say it's also directly
 12 relevant to this issue of whether the YSL project
 13 ever could have been profitable.
 14 So in early January 2020, two
 15 letters were sent to two of Cresford's most important
 16 lenders. First you'll see here QuadReal Finance.
 17 This was a lender to the Clover, Halo and
 18 33 Yorkville projects, and a prospective lender for
 19 YSL. At the bottom of the page, it purports to be
 20 sent by Dave Mann, who was the acting CFO of Cresford
 21 at the time.
 22 These were explosive letters, and
 23 they effectively brought the project to a halt, as
 24 lenders weren't willing to advance funds in the face
 25 of these allegations.

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1 anyone at Cresford if this
 2 is true. I am enclosing
 3 documents that are
 4 consistent with this
 5 statement confirming that
 6 Dan's equity to purchase
 7 both Halo and Clover were
 8 actually borrowed. He has
 9 no vested interest in these
 10 projects and has nothing to
 11 lose if they do no complete.
 12 Same applies to 33
 13 Yorkville...
 14 "All three projects that
 15 your firm has financed are
 16 substantially over budget
 17 with no real plan to fund
 18 the overruns. Dan continues
 19 to diminish any profits from
 20 these projects with offside
 21 equity loan arranged by Ted
 22 Dowbiggin to inject money
 23 into the company and to live
 24 his lifestyle."
 25 Essentially, argument of

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1 So if you just scroll up a bit on
 2 the page, and let me give you a sense of what these
 3 letters alleged.
 4 Starting on the second paragraph:
 5 "I have decided to give you insight" -- can you read
 6 this, Mr. Horton?
 7 ARBITRATOR HORTON: Yes.
 8 MR. MILNE-SMITH: Okay.
 9 "I have decided to give you
 10 insight to the way Dan runs
 11 Cresford in order to
 12 ensure" --
 13 ARBITRATOR HORTON: Yes. I can
 14 read it. Thank you. Go ahead.
 15 MR. MILNE-SMITH: "...ensure you
 16 look closely at all
 17 financial affairs within the
 18 Cresford portfolio given
 19 Dan's resistance to deal
 20 with the severe cash
 21 shortfalls that are being
 22 hidden from you.
 23 "Although Dan pretends to
 24 have his own capital he has
 25 yet to be able to display to

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1 embezzlement.
 2 "I have enclosed a copy of
 3 the recent commitment
 4 letter. This is not a way
 5 to run a business.
 6 "I am enclosing a snapshot
 7 of the forming contract on
 8 Halo to confirm that it is
 9 over budget."
 10 Cost overruns.
 11 "Dan has asked us all to
 12 hide the real number to
 13 avoid a further equity
 14 injection until more offside
 15 equity loans can be
 16 arranged."
 17 So likely breach of the lending
 18 covenant.
 19 "CASA 3 [that's another
 20 project for Cresford]
 21 remains unfinished with many
 22 trades and real estate
 23 brokers unpaid because there
 24 is no money."
 25 Just jumping down to the bottom,

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1 it says:

2 "There are many stakeholders

3 that will be affected if you

4 do not look closely at the

5 contracts and overruns and I

6 will not be able to live

7 with myself when a financial

8 disaster of this company

9 occurs. I will have to tell

10 the media that you knew

11 about this if asked when

12 something terrible happens."

13 Then there was another letter,

14 over a couple of pages. This one was sent to Otera

15 Capital. This was the principal construction

16 financing company for YSL. It repeats, essentially,

17 all these same allegations.

18 Now, yes, what we -- where we

19 found these documents was in a responding motion

20 record filed in Mareva injunction proceedings brought

21 by certain Cresford equity investors against

22 Mr. Casey.

23 My friend is certainly right that

24 Ms. Athanasoulis was not a party to this litigation,

25 but the plaintiffs in this proceeding relied on Ms.

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1 Athanasoulis was the author.

2 So what does Ms. Athanasoulis say

3 before the evidence comes out and she's caught

4 red-handed, she says at paragraph 48:

5 "The Defendants' defamation

6 claim rests on the bald

7 allegation that Ms.

8 Athanasoulis sent two

9 letters; one to each of

10 Otera and QuadRealFinance,

11 which are both lenders to

12 Cresford. Ms. Athanasoulis

13 did not send these letters.

14 She has not even seen them.

15 She did not defame the

16 Defendants as alleged, or at

17 all."

18 Now, knowing what an honourable

19 and diligent lawyer my friend Mr. Dunn is, I have no

20 doubt he would not have pleaded this if his client

21 had not told him it was the truth. But it wasn't the

22 truth; it was a lie. And she only admitted it was a

23 lie when confronted with incontrovertible evidence.

24 So what do we have? We have a

25 project that hasn't been built and will never be

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1 Athanasoulis as their principal affiant.

2 The defendants filed a responding

3 affidavit from their acting CFO, Mr. Mann, the

4 supposed author of the letters, and he gave evidence

5 that he did not author or send the letters. In fact,

6 what he did -- you can read all this, I'm not going

7 to read it all to you, but you can certainly read it

8 on your own time. He investigated the postmark, he

9 obtained security footage from the Canada Post

10 location, and determined that Ms. Athanasoulis'

11 nephew was the one who had mailed the letter.

12 Ms. Athanasoulis was caught

13 red-handed, and ultimately confessed in

14 cross-examination that she had, in fact, sent the

15 letters.

16 And let me just take you back to

17 what she said before she was confronted with the

18 evidence, or what was said on her behalf.

19 If we go to Tab 12 of opening

20 compendium, this is the reply and defence to

21 counterclaim. So my friend referred to a Superior

22 Court action which was launched by Ms. Athanasoulis.

23 And this is the -- in the statement of defence,

24 Cresford alleged defamation by way of counterclaim,

25 relying on those two letters, and alleging that Ms.

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1 built by Cresford. You have a project that Ms.

2 Athanasoulis was telling the principal lenders, under

3 a false name, was financially troubled. We have a

4 project that did not proceed specifically because the

5 lenders refused to close the construction financing

6 loan in the face of these warnings by Ms.

7 Athanasoulis. And remarkably, she now claims an

8 entitlement to the profits from a project that she

9 brought to a crashing halt with her forged letters,

10 in circumstances where the limited partners of YSL

11 are not projected to make a full recovery on their

12 equity investment.

13 For all these reasons, we say it

14 would be pointless to move to the damages phase of

15 this proceeding, and the agreement that could have

16 existed could only entitle Ms. Athanasoulis to a

17 share of a project that was completed by her and

18 Cresford. That hasn't happened and it can't happen;

19 therefore, there can be no profits and no damages for

20 breach of any profit sharing agreement that might

21 exist.

22 Subject to any questions, those

23 are my opening submissions.

24 ARBITRATOR HORTON: Okay. Thank

25 you very much. We are due for a break, but I would

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1 just like to raise with you one concern that I have,
2 based on the openings that I've heard, and it's of a
3 technical nature really. But it has to do with the
4 bifurcation of the issues as they've occurred.

5 And, you know, one concern that we
6 always have when we bifurcate issues is that the
7 parts add up to a whole. And I'm just concerned that
8 the parts, as we have them, may not add up to a
9 whole.

10 If you think of it conceptually, I
11 think we're in a liability phase, and then there's a
12 damages phase, and that's the sort of overall sort of
13 intention.

14 However, in the liability phase,
15 we're limiting ourselves to -- or you've limited me
16 to the two issues of the terms of the contract, and
17 the constructive dismissal. Now, let's leave aside
18 how broad those particular categories are.

19 It does seem to me that there are
20 other issues that you've both identified in the
21 course of your openings that may not fall into either
22 of those precise categories, but that may have an
23 impact on liability. And broadly speaking, I see
24 those as, perhaps, falling into a category of
25 causation relating to damages. For example, you

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1 anything that bears on the availability of damages
2 that is not covered by the two questions that we're
3 addressing in this first phase of the arbitration,
4 can be addressed in the second phase of the
5 arbitration? Because that will be beyond simply --
6 potentially would go beyond simply a measurement of
7 damages, although -- it's very hard to disentangle
8 some of these concepts when you come right down to
9 it.

10 So maybe the fair thing to do is
11 to leave you with that, to just let you know that
12 that is a concern of mine. Perhaps you can discuss
13 that in the fullness of time and provide me with your
14 answers. But I thought it was fair to raise it now
15 before any evidence is led, in case that may
16 influence how you, how you frame your questions.

17 MR. DUNN: Thank you, Mr. Horton.
18 I had similar concerns listening to my friend's
19 opening that, perhaps, we do need more of a clear
20 delineation between what is damages and what is
21 liability. So we can discuss it amongst ourselves
22 and then determine what the best way is to proceed.

23 ARBITRATOR HORTON: All right.
24 Okay. It may be -- well, I won't say more. I think
25 you have an agreement. I will certainly do my best

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1 know, whether or not particular actions that Ms.
2 Athanasoulis took, perhaps, may relate somewhat to
3 the constructive dismissal issue, but since cause is
4 not in issue, maybe not, but may well relate to a
5 question of whether or not the damages would, in
6 fact, have been incurred. I'm not putting this very
7 eloquently.

8 But anyway, it seems to me that
9 there is a broad category. I might categorize it as
10 causation issues that don't fall either into the
11 question of what are the terms of the contract, which
12 is a static issue, right? I mean, normally you
13 determine what the terms of the contract are as of
14 the date on which the contract was entered into or
15 was allegedly entered into. So that's kind of a
16 static question. Then there's a question of
17 constructive dismissal, as opposed to resignation,
18 which is also somewhat static, especially since cause
19 isn't being alleged.

20 So are we -- how do we -- is that
21 a concern, first of all? Maybe I'm overthinking
22 this, but I've been in enough of these situations
23 that I tend to think I am not, that there is a
24 potential issue.

25 Is it simply solved by saying that

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1 to stay within the terms of that agreement, because
2 that's where I get my jurisdiction to do whatever I'm
3 going to do. But I would invite both of you to think
4 about this and, perhaps, anticipate any problems that
5 might arise if, in fact, we go to a second stage,
6 which I appreciate is not, is not a forgone
7 conclusion here.

8 All right. Okay. Let's take 15
9 minutes then, and we'll come back. And I think we
10 then have our first witness, Mr. Papadakis.

11 MR. DUNN: That's correct. Thank
12 you, Mr. Horton.

13 ARBITRATOR HORTON: Thank you.

14 --- Recess at 11:00 a.m.

15 --- Upon resuming at 11:17 a.m.

16 MS. STOTHART: I think we have Mr.
17 Papadakis potentially in a waiting room or a breakout
18 room.

19 ARBITRATOR HORTON: All right. If
20 he can be admitted.

21 MR. LI: Can I just confirm that
22 Ms. Athanasoulis will be excluded from the testimony
23 of Mr. Papadakis?

24 ARBITRATOR HORTON: Have counsel
25 agreed to that?

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1 MS. STOTHART: No. Sorry, I will
2 let Mr. Dunn speak.
3 MR. DUNN: We haven't discussed
4 that. Perhaps if we could move Mr. Papadakis to the
5 breakout room for a second while the issue is raised.
6 ARBITRATOR HORTON: Yes. Right.
7 MR. DUNN: So I'll just put my
8 default position is, typically, that the party
9 witness is not usually excluded, and there's been no
10 discussion. So I'm happy to hear my friend's
11 submissions on it.
12 MR. MILNE-SMITH: Mr. Dunn, I
13 think the easiest way to put it is that if you want
14 your client to be in the room for Mr. Papadakis'
15 testimony, then that will simply go to her
16 credibility. I expected you to choose to exclude
17 her, but I'll leave it entirely at your discretion.
18 MR. DUNN: So I certainly don't
19 want to make an issue of it, so I'll just ask Ms.
20 Athanasoulis to excuse herself, and we'll go from
21 there.
22 ARBITRATOR HORTON: All right.
23 MS. VU: Then if -- oh, my
24 apologies.
25 ARBITRATOR HORTON: With agreement

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1 of counsel, we'll leave Ms. Athanasoulis in the
2 waiting room, and we can admit Mr. Papadakis.
3 MR. DUNN: Yes. She will
4 probably, I expect, log off and log back in. But I
5 will make sure she's available as soon as Mr.
6 Papadakis is done.
7 ARBITRATOR HORTON: Did you need a
8 moment to explain to her why she's being excluded,
9 Mr. Dunn?
10 MR. DUNN: I think it's fine. I
11 can explain to her after.
12 ARBITRATOR HORTON: All right.
13 And I take it --
14 MS. VU: I have excluded -- oh, my
15 apologies. I have excluded Ms. Athanasoulis, and I
16 have brought in Mr. Papadakis.
17 ARBITRATOR HORTON: Okay. Now, is
18 Mr. Casey in the room or not?
19 MS. VU: He is not.
20 MR. LI: No, he's not.
21 ARBITRATOR HORTON: He's excluded
22 as well, is he? All right.
23 AFFIRMED: JOHN PAPADAKIS
24 ARBITRATOR HORTON: Mr. Li, I
25 think you're going to conduct a direct examination?

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1 MS. STOTHART: That's me, in fact.
2 ARBITRATOR HORTON: I'm sorry.
3 Ms. Stothart is going to conduct a direct
4 examination.
5 EXAMINATION IN-CHIEF BY MS. STOTHART:
6 Q. Good morning, Mr. Papadakis.
7 A. Good morning.
8 Q. Can you just please state
9 your name for the record?
10 A. John Papadakis.
11 Q. Thank you. And is there
12 anyone else in the room with you today?
13 A. No.
14 Q. Do you have any notes or
15 documents in front of you?
16 A. Not pertaining to this file,
17 no.
18 Q. Thank you. And is it correct
19 that you're a lawyer, Mr. Papadakis?
20 A. Correct.
21 Q. How many years have you been
22 practicing law?
23 A. Good question. Probably 28,
24 I think.
25 Q. Twenty-eight years. And

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1 where do you work?
2 A. I'm a partner at Blaney
3 McMurtry.
4 Q. Okay. And what sort of law
5 do you practice?
6 A. I do corporate, commercial
7 law, a lot of real estate lending.
8 Q. Okay. Corporate, commercial
9 real estate lending. So, perhaps, just high level,
10 could you give us a sense of the type of matters you
11 would be dealing with?
12 A. Most of them would be acting
13 on behalf of financial institutions, lending money
14 out with respect to secured credit facilities. I do
15 also act for borrowers as well. I do some land
16 acquisition or real estate acquisition and sales as
17 well, a little bit of M and A work.
18 Q. Okay. Thank you. And did
19 you ever do some work for any entities under the
20 Cresford umbrella, or Cresford?
21 A. I did.
22 Q. Okay. What sort of work did
23 you do with Cresford?
24 A. I did a lot of the financing
25 work dealing with their lenders, putting in the

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1 credit facilities, putting them in place. I dealt
2 with preparing offers to acquire properties, dealing
3 with the sale of certain floors of their office
4 building that have their current -- or had their
5 current headquarters in, things like that.
6 Q. Okay. And how long around
7 have you been working with Cresford?
8 A. Prior to when?
9 Q. Well, to date, how many years
10 have you worked with Cresford?
11 A. I can't tell you exactly, but
12 it's got to be four or five.
13 Q. Okay. And who would your
14 primary contact have been there?
15 A. I would have dealt mainly
16 with Maria Athanasoulis and Sean Fleming.
17 Q. And Sean Fleming, okay. Did
18 you deal with Mr. Casey at all, Dan Casey?
19 A. On occasion.
20 Q. On occasion, okay.
21 Excellent. Do you recall meeting with Ms.
22 Athanasoulis and Mr. Casey in February of 2019?
23 A. I do.
24 Q. How did that meeting come
25 about?

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1 agreement. Was it your understanding that there was
2 an agreement in place that you were memorializing, or
3 were you, in fact, creating the agreement?
4 A. No, there was a verbal
5 arrangement in place.
6 Q. Okay. And you were being
7 asked to put that in writing; is that what your
8 testimony is?
9 A. I was asked to come to the
10 meeting to discuss creating a document or -- a
11 written document to set out the terms of Maria's
12 arrangement with Cresford, or the Cresford entities.
13 Q. When did you understand that
14 that arrangement between Ms. Athanasoulis and
15 Cresford had been made?
16 A. Pardon?
17 Q. When, at what time did you
18 understand that that arrangement you were being asked
19 to document had been made between Ms. Athanasoulis
20 and Cresford?
21 A. Prior to the meeting. I'm
22 not sure when -- how long prior to the meeting was in
23 place, but it was prior to the meeting.
24 Q. Okay. Did you have an
25 understanding or did they say why it was now of

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1 A. Maria probably would have
2 called me and asked me to join her and Dan at a
3 meeting at their offices.
4 Q. Okay. And you did, in fact,
5 join for a meeting?
6 A. I did.
7 Q. And where was that meeting?
8 A. In their headquarters, in
9 their head offices.
10 Q. The Cresford offices?
11 A. Correct.
12 Q. Who was in attendance, was it
13 just Ms. Athanasoulis and Mr. Casey?
14 A. And myself. Just the three
15 of us.
16 Q. Okay. And what did you
17 understand to be the purpose of that meeting?
18 A. The purpose was to discuss
19 putting in place an agreement which would memorialize
20 the arrangement that Maria Athanasoulis had with
21 Cresford as, I guess, their president or CO -- I'm
22 not sure exactly what her title would have been --
23 but as the main person there.
24 Q. Okay. So you said to
25 memorialize an agreement and to put in place an

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1 concern to get that agreement in writing?
2 A. Yeah. Dan Casey said to me
3 that, you know, that he has this agreement with
4 Maria. He wants to make her feel comfortable, to
5 make sure that everything is in writing in case
6 something should happen to him. He used the term,
7 you know, "in case I get hit by a bus." Maria's and
8 Dan's other concern was that should, in fact,
9 something happen to Dan, that they wanted to ensure
10 that on a go-forward basis, Maria would be able to
11 stay in her position to complete any projects that
12 were currently ongoing with Cresford, whether they're
13 projects that were ongoing on the date that I was
14 there, or future projects that would have come
15 onboard.
16 Q. Okay. Thank you. So that
17 was the motivation for the meeting, and then you
18 were, essentially, doing two things, documenting the
19 agreement and discussing what would happen going
20 forward with her role, if something were to happen to
21 Mr. Casey?
22 A. In a nutshell, yes.
23 Q. Okay. So I just want to hone
24 in on specifically the terms of the agreement you,
25 you witnessed or that Ms. Athanasoulis and Mr. Casey

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1 were there to document. Were the terms discussed at
2 the meeting?

3 A. In general terms, yes. You
4 know, it was my understanding that Maria is entitled
5 to 20 percent of the profits of the current projects
6 that were ongoing, and any future projects that
7 Cresford would undertake in the future.

8 Q. Okay.

9 A. And her title would be -- she
10 still maintained, I guess, day-to-day operational
11 control of everything.

12 Q. Thank you. So, so at a high
13 level, the terms were that there would be 20 percent
14 of profits and that those profits would come from
15 existing and future projects?

16 A. Correct.

17 Q. Did you discuss who were the
18 parties to the agreement?

19 A. Not specifically in the sense
20 that the parties was understood to be whatever
21 entities were involved with each specific project,
22 and any new entities that would be involved with any
23 future projects, because each project has its own
24 corporate structure.

25 Q. Okay. And who -- how was it

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1 going to be determined which entities would pay those
2 profits?

3 A. Well, I guess after we
4 figured out which entities were involved in each
5 project, then you could figure out which entities
6 will be signing the documents, and trying to
7 encapsulate future entities as well.

8 Q. Okay. So you had an overall
9 understanding, I think I'm hearing, that there would
10 be certain entities that would become the parties to
11 the agreement. But did you have a sense of how those
12 parties would be determined?

13 A. By looking at the corporate
14 structure.

15 Q. Okay. Thank you. And who
16 were you understanding to be authorized to speak on
17 behalf of those entities?

18 A. Dan Casey.

19 Q. You mentioned 20 percent of
20 profits was the agreement. How would profits be
21 calculated on your understanding?

22 A. Well, we didn't drill down
23 exactly how they would be calculated. What we did
24 talk about was ensuring that there was -- profits
25 were not -- were bona fide profits, in the sense that

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1 there wouldn't be any sort of non-bona fide loans
2 that would necessarily decrease the profits. You
3 know, Dan and Maria obviously were, you know, the
4 heads of all these entities. They knew how profits
5 were being calculated and not calculated and what
6 that meant.

7 Q. Okay. Thank you. Did they
8 discuss when profits would be paid?

9 A. No.

10 Q. Okay. I think we've
11 discussed, just to summarize, the subject matter of
12 the agreement it was for 20 percent of profits, they
13 didn't discuss when they would be paid. They did
14 discuss at a high level how the profits would be
15 calculated and what type of line items would be
16 removed. Are there any other terms to the agreement
17 that I haven't -- that you haven't discussed or that
18 I haven't asked about?

19 A. Not that I can think of at
20 the moment.

21 Q. Okay. Were there any
22 restrictions or conditions?

23 A. No.

24 Q. Okay. Were there any points
25 that you understood were still in dispute at the end

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1 of the meeting?

2 A. No.

3 Q. And then what happened at the
4 conclusion of the meeting? How did it end?

5 A. We said that we would start
6 working on the agreement, and I would require some
7 additional information to begin identifying the
8 entities and the parties to the actual written
9 agreement.

10 Q. What additional information
11 did you require?

12 A. A corporate chart.

13 Q. A corporate chart. Okay.
14 And did you get that information?

15 A. I did receive one a few weeks
16 later.

17 Q. Okay. How did you receive
18 that?

19 A. Dan asked another gentleman
20 that worked at Cresford, Dave Mann - I think it was
21 Dave Mann was his name - to send it to me. And Dave
22 emailed it to me.

23 Q. Okay. And then once you
24 received that document, did you ever go on to prepare
25 the agreement?

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<p>1 A. No, we never did prepare the 2 agreement. 3 Q. Why did you not prepare the 4 agreement. 5 MR. LI: I have to object to this 6 question. It was taken as privileged on the 7 examination for discovery, and privilege was never 8 waived. 9 BY MS. STOTHART: 10 Q. Okay, if you can't answer 11 without revealing privileged information, obviously, 12 do not do so. If there's anything you can tell us 13 that's not privileged about why you didn't draft it? 14 A. Unfortunately, I'm a 15 corporate lawyer, not a litigator, so I really don't 16 know what is privileged and what's not privileged. 17 Q. Okay. Thank you. 18 A. So I will have to assume it 19 is privileged. 20 Q. Did Mr. Casey or Ms. 21 Athanasoulis ever follow-up on the status of the 22 agreement? 23 A. It came up over time. Yes. 24 Q. From which of those two 25 people?</p>	<p>1 A. Maria would bring it up once 2 in a while. 3 Q. Okay. And what would she say 4 when she would bring it up? 5 A. Don't forget we've got to get 6 to that agreement. 7 Q. But it never, in fact, was 8 drafted; is that right? 9 A. Correct. 10 MS. STOTHART: Okay. Thank you, 11 Mr. Papadakis. Those are my questions. 12 THE WITNESS: No problem. 13 ARBITRATOR HORTON: Mr. Li. 14 CROSS-EXAMINATION BY MR. LI: 15 Q. Good morning, Mr. Papadakis. 16 A. Good morning. 17 Q. I have a few follow-up 18 questions from my friend, Ms. Stothart. I think you 19 said you've been practicing law for about 28 years; 20 is that right? 21 A. Correct. 22 Q. You graduated from Osgoode 23 Law School in or around 1992? 24 A. Correct. 25 Q. And did you practice anywhere</p>
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<p>1 else before joining Blaney McMurtry? 2 A. I did. 3 Q. And where was that? 4 A. I initially started off at a 5 law firm by the name of Lafleur Brown, which 6 eventually merged with Gowling's and became Gowling 7 Lafleur Henderson. After a few years at 8 Lafleur Brown, I left. I went to Fogler Rubinoff for 9 a couple of years. After Fogler Rubinoff, I went 10 back to Lafleur Brown. And then after Lafleur Brown, 11 I came to Blaney's and I've been here since. 12 Q. Thank you. I think you also 13 mentioned in your direct examination that you have 14 acted for the Cresford Group for about a four- or 15 five-year period? 16 A. Correct. 17 Q. That period would include, at 18 least, the period between 2018 and 2020? 19 A. I have to check my records, 20 but, yes. I'm not sure what the begin date was, 21 but... 22 Q. Sure. Does that approximate 23 time frame sound correct to you? 24 A. Sure. 25 Q. Fair to say you knew Ms.</p>	<p>1 Athanasoulis both personally and professionally? 2 A. Correct. 3 Q. And you're friends with Ms. 4 Athanasoulis in a personal capacity? 5 A. Correct. 6 Q. You were the best man at Ms. 7 Athanasoulis' wedding? 8 A. No. 9 Q. Were you part of the wedding 10 party? 11 A. No, I don't think so. 12 Q. Did you attend the wedding? 13 A. Yes. 14 Q. Are you a godparent to Ms. 15 Athanasoulis' children? 16 A. No. 17 Q. I take it you would agree 18 with me that as a lawyer you have a number of 19 professional responsibilities? 20 A. Correct. 21 Q. And you owe a number of 22 professional duties? 23 A. Correct. 24 Q. And one of those duties would 25 be a duty to carry on the practice of law and</p>

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1 discharge all responsibilities to clients, tribunals,
2 the public, and other members of the profession
3 honourably and with integrity?
4 A. Correct.
5 Q. Another would be a duty to
6 perform any legal services undertaken on a client's
7 behalf to the standard of a competent lawyer?
8 A. Correct.
9 Q. You have a duty of honesty
10 and candor towards your clients?
11 A. Correct.
12 Q. When your client is an
13 organization, your duties as a lawyer are owed
14 towards the organization, rather than to the
15 individuals who may be giving instructions on behalf
16 of the organization?
17 A. Correct.
18 Q. You have a duty to not assist
19 in or encourage the dishonesty of your client or
20 others?
21 A. Correct.
22 Q. You have a duty to withdraw
23 from acting in a matter if your client intends to act
24 dishonestly, despite your advice?
25 A. Correct.

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1 Q. Yes.
2 A. Yes.
3 Q. The meeting that Ms.
4 Athanasoulis arranged was ultimately held on February
5 16, 2019?
6 A. Correct.
7 Q. I think you confirmed earlier
8 that only three people were in attendance at that
9 meeting, and those were you, Mr. Casey and Ms.
10 Athanasoulis?
11 A. Correct.
12 Q. I take it you understand that
13 what was discussed during that meeting between the
14 three of you on February 16th, 2019, is disputed in
15 this arbitration?
16 A. I don't know the details, but
17 I assume it is.
18 Q. In fact, I take it that you
19 are aware that the subject of the discussions between
20 three of you on February 16, 2019, was the subject of
21 a dispute between Ms. Athanasoulis and the Cresford
22 Group as early as January 2020?
23 A. I don't know the dates, but
24 okay.
25 Q. You are aware that Ms.

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1 Q. You have a duty to avoid
2 conflicts of interest?
3 A. Correct.
4 Q. You have a duty to not
5 represent opposing parties in a dispute?
6 A. Correct.
7 Q. Without consent, you cannot
8 act against a former client in the same or a related
9 matter?
10 A. Correct.
11 Q. You have a responsibility to
12 be courteous, civil and act in good faith with all
13 persons with whom you deal with in the course of your
14 practice?
15 A. Correct.
16 Q. And at all relevant times,
17 you applied all of those duties?
18 A. Correct.
19 Q. I want to take you back to
20 2019. At some point before February 16, 2019, Ms.
21 Athanasoulis contacted you, as counsel for the
22 Cresford Group, and asked that you attend a meeting
23 with her and Mr. Casey; is that right?
24 A. The meeting we were just
25 discussing, is that what you're talking about?

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1 Athanasoulis commenced a civil action against the
2 Cresford Group?
3 A. I am.
4 Q. You are aware that she filed
5 a statement of claim in the Ontario Superior Court of
6 Justice in January 2020?
7 A. I'm not sure what the date
8 was, but I know there's a statement of claim filed.
9 Q. Are you aware that the
10 Cresford Group filed a statement of defence to Ms.
11 Athanasoulis' claim?
12 A. I would assume so.
13 Q. Am I right that in late
14 January 2020 you were approached by the Cresford
15 Group's litigation counsel, Mr. Al O'Brien?
16 A. Al O'Brien did call me. I
17 don't remember exactly when, but yes.
18 Q. Okay. You're aware that
19 Mr. Al O'Brien has since passed away?
20 A. No.
21 Q. Do you recall that
22 Mr. O'Brien forwarded certain paragraphs from Ms.
23 Athanasoulis' statement of claim to you?
24 A. I recall that, yes.
25 Q. Okay. Do you recall that

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1 Mr. O'Brien contacted you because he wanted to get
2 your recollection of the February 16, 2019 meeting?

3 A. Yes.

4 Q. Specifically, he wanted to
5 get your recollection about what was discussed
6 between you, Ms. Athanasoulis and Mr. Casey in
7 respect of an alleged profit sharing arrangement; is
8 that right?

9 A. Correct.

10 Q. And I think you confirmed
11 earlier that you had a telephone conversation with
12 him in late January 2020?

13 A. I don't remember the date,
14 but I know he did call me.

15 Q. I'm going to put up a
16 document.

17 MS. STOTHART: I'm sorry, I just
18 need to jump in here just to say that we have an
19 objection to this document. I'm not sure if you
20 would like me to get into it right now, or simply
21 register it on the record. But before Mr. Li gets
22 into it, I wanted to register that.

23 ARBITRATOR HORTON: I don't yet
24 know what the document is. I'm about to be told, so
25 why don't you tell me what the objection is, if you

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1 We have no one here to
2 authenticate this document. Mr. Li did mention that
3 Mr. O'Brien is deceased. That leaves us with a
4 document that we have no one to authenticate and no
5 real sense of what it is. Obviously, we have a
6 concern of the purpose for which this was prepared.
7 It appears to have been very much prepared in the
8 time in contemplation of litigation.

9 If you scroll down -- and the
10 sections that I believe Mr. Li was about to put to
11 Mr. Papadakis, these are, effectively, Mr. O'Brien's
12 recollection and characterization of certain comments
13 made by Mr. Papadakis. And so what we really have
14 here is, you know, hearsay on hearsay. It's both
15 Mr. O'Brien's words out of court attempting to
16 characterize Mr. Papadakis' words. And, you know, we
17 say that's improper. We have Mr. Papadakis in front
18 of the tribunal to give his evidence.

19 So if this document is being used
20 to suggest that this version of Mr. Papadakis'
21 alleged recollection should be preferred and should
22 be relied upon, then that is, you know, hearsay being
23 relied on for the truth of its contents and is
24 inappropriate.

25 I can get into it, if we need, the

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1 are confident you know about the document.

2 MS. STOTHART: Sure. Yes. Yes.

3 I waited for it to come up on screen just to be sure,
4 but it is the document I expected. I'm not sure if
5 Mr. Papadakis can be here for it or...

6 ARBITRATOR HORTON: Well, it's
7 easy enough to exclude Mr. Papadakis. Mr. Papadakis,
8 just give us a few minutes while we discuss this
9 objection. You will be put into a separate room
10 until then.

11 THE WITNESS: Okay.

12 MS. STOTHART: Perhaps, Mr. Li,
13 would you mind sharing it again, just so we can have
14 it in front of us, or I can do so. And if you just
15 go up to the top, Mr. Li, and, Mr. Horton, you can
16 have a look. This is, essentially, as Mr. Li has
17 been alluding to. It appears to be a memorandum
18 prepared by Mr. O'Brien, who was Cresford's
19 litigator, to recap a conversation he had, and other
20 privileged material that is redacted here.

21 As you can see, it appears to be
22 dated February 4th, 2020, so this was after the time
23 that Ms. Athanasoulis had delivered her statement of
24 claim, and prior to the time that Mr. Casey and
25 Cresford delivered their statement of defence.

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1 reasons we say there can't be an exception to the
2 hearsay rule in this case. But suffice it to say
3 that our position is that it's hearsay and should not
4 be used.

5 ARBITRATOR HORTON: May I just see
6 the top of the document, please, Mr. Li? And is
7 there anything on record with respect to the
8 provenance of this document, how you came to have it,
9 Mr. Li?

10 MR. LI: It was forwarded to us by
11 Cresford's current counsel.

12 ARBITRATOR HORTON: I'm sorry, I
13 didn't hear that, Mr. Li.

14 MR. LI: Sorry. Can you hear me
15 now?

16 ARBITRATOR HORTON: Yes.

17 MR. LI: It was forwarded, it was
18 forwarded to us by Cresford's current counsel.

19 ARBITRATOR HORTON: Who is?

20 MR. LI: Well, they have separate
21 litigation and corporate counsel. Right now their
22 corporate counsel is Aird and Berlis, so it was sent
23 to us by the Aird and Berlis firm.

24 ARBITRATOR HORTON: I see. Okay.
25 All right. Well, we have an objection stated in very

1 general terms. Do you want to give me your general
 2 position with respect to it, Mr. Li?
 3 MR. LI: Sure. Our general
 4 position is that this obviously contains notes of
 5 Mr. Papadakis' recollection. We intend to use it to
 6 establish whether or not Mr. Papadakis shares the
 7 same recollection now as he did in February 2020.
 8 In any event, our position is that
 9 this falls into the principled exception to hearsay,
 10 which requires two branches. The first is necessity.
 11 And we say that you can look at any case law,
 12 necessity will be established when the witness is
 13 deceased. The second is reliability. And the
 14 circumstances of this document show that it is
 15 eminently reliable. It is a memo to file from a
 16 senior member of the bar, at a time when there was no
 17 waiver privilege to Mr. Papadakis testifying in any
 18 of these related proceedings.
 19 Mr. Papadakis obviously was
 20 counsel to the Cresford Group. Mr. Papadakis and
 21 Mr. O'Brien would have had a very open and frank
 22 discussion about the strengths and merits of the
 23 claim against their client, the Cresford Group. And
 24 there would be no reason at all for Mr. O'Brien to
 25 have obscured or misled about what the contents of

1 this document were, more than two years ago, when
 2 there was no inkling or sense that this document
 3 would ever become -- that privilege would be waived
 4 over this document.
 5 ARBITRATOR HORTON: Ms. Stothart,
 6 you had mentioned that you would go more deeply into
 7 the case law. I'm not sure that's really required.
 8 I mean, my understanding is, as stated by Mr. Li, of
 9 the general principle, to the extent that, you know,
 10 the hearsay rule might be considered in an
 11 arbitration -- of course, it's not binding on me,
 12 because the Rules of Evidence don't apply in
 13 arbitration, I accept, with respect to relevance and
 14 privilege. But having regard to the hearsay rule,
 15 there are the exceptions with respect to reliability
 16 and necessity. And it strikes me that this is a
 17 document that should be considered in that light.
 18 Is there something else you wanted
 19 to draw my attention to before I rule on it?
 20 MS. STOTHART: Well, I would
 21 simply say, first of all, Mr. Li mentioned that this
 22 is being used to jog Mr. Papadakis' recollection and
 23 to see if his current recollection accords with his
 24 previous recollection. And my first point is,
 25 essentially -- and we can scroll down, perhaps, to

1 the sections where he's being quoted. But this is
 2 not even Mr. Papadakis' recollection; this is
 3 Mr. O'Brien's recitation of a conversation he had.
 4 So, you know, to the extent we're
 5 bringing in a prior statement, it's not even
 6 Mr. Papadakis' prior statement. So that would be my
 7 first point.
 8 If it's being used to jog his
 9 memory and, you know, Mr. Papadakis will give his
 10 response, and then there will be no further reliance
 11 on it, then that's one thing. But if Mr. Li is going
 12 to seek to use this version of the recollection,
 13 instead of Mr. Papadakis' current recollection,
 14 that's where we have a hearsay issue.
 15 And on the two-prong test, you
 16 know, I think we're all agreed on what are the two
 17 elements of the exception, the principled exception
 18 to hearsay. And I would simply say, on the necessary
 19 branch, yes, Mr. O'Brien is deceased. However, it's
 20 not Mr. O'Brien's evidence that is necessary here;
 21 it's Mr. Papadakis'. And we have him before the
 22 Court.
 23 And then on the reliability
 24 branch, I would simply say we don't know, again, what
 25 this document is. We have no one before the Court to

1 authenticate it. We have no one to testify to the
 2 circumstances in which it was prepared. And it's not
 3 correct that we can simply presume this is reliable
 4 and neutral recitation of facts. This was the
 5 litigator acting on behalf of Mr. Casey and Cresford.
 6 And in that circumstance, we have no reason to
 7 believe this wasn't prepared with a certain angle or
 8 intention to advance certain positions in litigation.
 9 And for that reason, you know, I
 10 would just say, again, Mr. Li's version of what this
 11 is, and my version of what this is, frankly, because
 12 we don't know what this document was for, and we
 13 don't have anyone to testify to that. So all you
 14 have is two sets of counsel attempting to interpret a
 15 document that we have no firsthand knowledge of.
 16 ARBITRATOR HORTON: Okay. Well,
 17 subject to weight, I'm going to let it in. I will
 18 offer the following comments with respect to it.
 19 I've already mentioned that the Rules of Evidence
 20 don't apply in arbitration. It doesn't mean that we
 21 just let anything in that may not have any bearing
 22 whatsoever on the subject.
 23 However, this is a document, in
 24 the circumstances in which it's being produced,
 25 there's no reason to doubt the authenticity of it as

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1 a record maintained by Mr. O'Brien of a conversation
2 that he had with Mr. Papadakis in the normal course
3 of preparing to defend a claim by Ms. Athanasoulis.
4 It's the type of conversation that would go on in any
5 such situation between a lawyer representing a client
6 and a witness.

7 And I would observe that
8 Mr. Papadakis here is not really just a witness in
9 the ordinary course. I mean, he is put forward as
10 the repository of the key objective evidence of the
11 existence of this agreement. And so, therefore, I
12 think the authenticity of Mr. Papadakis'
13 recollections and so on are quite important.

14 It isn't necessarily the case that
15 the relevance of this document is purely to help
16 Mr. Papadakis refresh his memory. It seems to me
17 that it might represent a challenge. I haven't seen
18 the document in full yet. It might represent a
19 challenge to his recollection. He may well take the
20 opportunity to deny or explain what it is that was
21 said to Mr. O'Brien.

22 And I fully understand the context
23 that Mr. O'Brien has a point of view in representing
24 one party, and may, therefore, not have exactly
25 understood Mr. Papadakis in the spirit in which Mr.

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1 Papadakis was speaking. I do. I absolutely
2 understand that. And that there may be -- there may
3 have been a bit of an advocacy perspective on Mr.
4 O'Brien's part, so I'm not prepared to take this as
5 gospel.

6 But on the other hand, this is
7 part of the record that I think we need to look at
8 when we're trying to determine whether or not there
9 was an agreement of this nature in the absence of
10 anything in writing. I think we really need to
11 explore this very carefully. And I think as a tool
12 in that exploration process, this document may be
13 useful. And I think it does give Mr. Papadakis an
14 opportunity, if he disagrees with any of this, to put
15 that forward and explain why.

16 So for those reasons, I'm going to
17 allow the document in, as I say, subject entirely to
18 weight, and subject to the qualifications that are
19 inherent in my reasons for admitting the document in
20 the first place.

21 So you can proceed, Mr. Li. And
22 let's let Mr. Papadakis back into the room.

23 MR. LI: Thank you, Arbitrator

24 Horton.

25 ARBITRATOR HORTON: Mr. Papadakis,

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1 I'll just inform you that there has been objection,
2 objection to the introduction of this document that
3 you're about to be shown. I want you to know that I
4 have allowed it in on the basis that it will give you
5 an opportunity either to agree with what's in the
6 document or to disagree with what's in the document,
7 and to the extent you disagree with what's in the
8 document, to explain or elaborate on your
9 disagreement, all right? That's the basis on which
10 you're being shown the document.

11 Please proceed, Mr. Li.

12 MR. LI: Thank you, Arbitrator

13 Horton.

14 BY MR. LI:

15 Q. Mr. Papadakis, you understood
16 that Mr. O'Brien was litigation counsel for the
17 Cresford Group, correct?

18 A. I believe so, yes.

19 Q. And as a fellow member of the
20 Bar, as a senior member of the Bar, you would have
21 dealt with him with regard to your client's common
22 interest in a fair and forthright manner?

23 A. Correct.

24 Q. In an open and transparent
25 manner?

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1 A. Correct.

2 Q. All right. So I'm going to
3 take you to the top of this document. This is a memo
4 to file from Mr. Al O'Brien, dated February 4th,
5 2020. I appreciate that you may have not have seen
6 this document before. However, it recounts a
7 conversation that you had with Mr. O'Brien on or
8 around January 31st, 2020. I think you stated
9 earlier that you do recall that a telephone
10 conversation occurred in late January 2020, correct?

11 A. Correct.

12 Q. It could have been on January
13 31st, 2020; is that right?

14 A. It could have, but there was
15 a conversation.

16 Q. Good. You see here in one of
17 the highlighted sentences, it says:

18 "On January 31, 2020, I
19 forwarded a copy of
20 paragraphs 27-28."

21 A. Sure.

22 Q. Which are noted above of the
23 statement of claim of Ms. Athanasoulis to Mr.
24 Papadakis. Do you recall that?

25 A. I remember him sending me

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1 something. I haven't gone back to my emails to see
2 exactly what he had sent me, but that could probably
3 be it.
4 Q. Let me just pull up a
5 separate document then. I don't want to take you by
6 surprise in any of the questions. All right. Do you
7 see my screen share now, Mr. Papadakis?
8 A. Yes.
9 Q. This is an email chain
10 between you and Mr. O'Brien, dated February 6th,
11 2020, correct?
12 A. Yes.
13 Let me just go to the very bottom.
14 So in the first email of this chain, Cathy Alderson,
15 who was legal assistant for Mr. O'Brien, sent you an
16 behalf on behalf of Mr. O'Brien, and she says that:
17 "This is further to our
18 telephone conversation on
19 January 31, 2020. You were
20 going to check your file and
21 provide me with copies of
22 any notes you may have with
23 respect to your meeting or
24 meetings with Dan Casey and
25 Maria Athanasoulis relevant

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1 to paragraphs 27-28 of the
2 statement of claim."
3 Do you see that?
4 A. Yes.
5 Q. I take it you have no reason
6 to doubt the accuracy of the email on February 6th,
7 2020, that was sent on behalf of Mr. O'Brien?
8 A. No. My only comment would be
9 that the telephone conversation would have been with
10 me and Al O'Brien, not with Cathy Alderson.
11 Q. Understood. Thank you. I
12 think Cathy Alderson is sending this email on behalf
13 of Al O'Brien. I think she's his legal assistant.
14 Okay. And further up in this chain, you confirm that
15 you looked through your files and you do not have any
16 notes of the February 16, 2019 meeting; is that
17 right?
18 A. So where am I looking at?
19 Where it says, "Al, I have not been able to locate"?
20 Q. Yes.
21 A. Yes. That's correct.
22 Q. Thank you. So going back to
23 the memo, at least in as far as the January 31st,
24 2020 date, and the call on that date, you have no
25 reason to doubt the accuracy that paragraphs 27 and

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1 28 were, indeed, forwarded to you by Mr. O'Brien?
2 A. I do not.
3 Q. And I take it you would agree
4 with me that that's, in fact, what occurred?
5 A. Correct.
6 Q. And after he forwarded those
7 paragraphs, I take it that it's undisputed that --
8 I'm not sure if you called him or he called you, but
9 the point is, there was a telephone discussion
10 between you and Mr. O'Brien; is that right?
11 A. Correct.
12 Q. Mr. O'Brien then summarizes
13 the content of your call with him. Mr. O'Brien says
14 that in your call with him, you repeated, on a number
15 of occasions, that it was an -- that the February
16 16th, 2019 was an informal meeting, a very
17 preliminary meeting, and that he, i.e. you, was not
18 to be drafting anything. Do you recall that?
19 A. That's not correct. The term
20 "informal meeting" just meant that we weren't in a
21 boardroom wearing suits and having, you know,
22 something, like, formal. We were just getting
23 together and talking about it.
24 Q. Mm-hmm.
25 A. And then -- and that the part

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1 where it says I was not to be drafting anything,
2 that's not correct either.
3 Q. Okay. Did you receive
4 instructions to draft an agreement?
5 A. I was told to start drafting
6 an agreement at that point in time, yes.
7 Q. Did you draft an agreement?
8 A. No, I did not.
9 Q. And I think you said earlier
10 that at all material times you complied with your
11 duties as a lawyer?
12 A. Correct.
13 Q. And you were told to draft an
14 agreement, but you did not draft the agreement?
15 A. Correct.
16 Q. He also says that:
17 "Mr. Papadakis will state
18 that Maria and Dan never got
19 to a point of "meeting of
20 the minds" as to how to move
21 forward." [As read]
22 Do you see that?
23 A. I do.
24 Q. And is that accurate?
25 A. No, it is not.

1 Q. And is your evidence now that
 2 there was a meeting of the minds?
 3 A. I was -- to tell you the
 4 meaning, it wasn't a negotiation. I was told that
 5 this is the verbal arrangement that we have, and we
 6 want to put it in writing. So that point of where he
 7 says "meeting of the minds," that's a legal term. I
 8 don't see how I would have said that to him.
 9 Q. You're a lawyer,
 10 Mr. Papadakis?
 11 A. Of course.
 12 Q. You know what the term
 13 "meeting of the minds" means?
 14 A. Of course.
 15 Q. And in discussing the topic
 16 of contract formation with another lawyer, would it
 17 be outside the realm of possibility that you would
 18 use those words?
 19 A. Yes, because it's incorrect.
 20 To me, it's a conclusion.
 21 Q. So your evidence now is that
 22 you told Mr. O'Brien on January 31st, 2020, that
 23 there was a meeting of the minds between --
 24 A. No, I would not have used
 25 that term.

1 Q. Your evidence now is that on
 2 January 31st, 2020, you told Mr. O'Brien that there
 3 was a contract between Mr. Casey and
 4 Ms. Athanasoulis?
 5 A. That's exactly what I said to
 6 you, that I was told that they have an agreement
 7 already in place that's verbal. You're asking me a
 8 different question.
 9 Q. I think I asked you earlier,
 10 you had been open and forthright with Mr. O'Brien at
 11 the time?
 12 A. Correct.
 13 Q. You would have expected that
 14 if the position of Cresford's counsel was that there
 15 was an agreement, that that would be a material thing
 16 to include in any pleading?
 17 A. Sorry, can you say that
 18 again?
 19 Q. Your evidence now is that you
 20 advised Mr. O'Brien that there was a contract between
 21 Mr. Casey and Ms. Athanasoulis. You advised
 22 Mr. O'Brien on January 31st, 2020, that there was a
 23 contract between Mr. Casey and Ms. Athanasoulis?
 24 A. As I stated earlier, I
 25 advised that there was a verbal agreement that was in

1 place that I was asked to put in writing. Mr. Casey
 2 himself told me, "Maria trusts me, we don't really
 3 need this in writing, but I want to get this done for
 4 her," and also for himself in case something should
 5 happen to him in the long term. So we weren't
 6 negotiating anything. It wasn't this is what we're
 7 think of doing. It was, this is what our agreement
 8 is, we just want to put it in writing. The term
 9 "meeting of the minds" never came up in my
 10 conversation with Al O'Brien.
 11 Q. On January 31st, 2020, am I
 12 right that no one had approached you to provide
 13 testimony in any proceedings that might take place
 14 between Ms. Athanasoulis and Cresford?
 15 A. Correct. I knew nothing
 16 about it.
 17 Q. Okay. And certainly no one
 18 had waived any privilege that would permit you to
 19 testify on these topics?
 20 A. Correct.
 21 Q. I'm going to put it to you,
 22 Mr. Papadakis, that what you did, in fact, say during
 23 the meeting on January 31st, 2020, with Mr. O'Brien,
 24 was that, in fact, there was no contract, formal,
 25 formal contract between Mr. Casey and

1 Ms. Athanasoulis?
 2 A. There was no written
 3 contract. There was no written contract.
 4 Q. There was no enforceable
 5 contract?
 6 A. If you're asking me about a
 7 written agreement, there is no written agreement.
 8 Q. Let me rephrase. I'm going
 9 to put it to you, Mr. Papadakis, that on January
 10 31st, 2020, you told Mr. O'Brien that there was no
 11 enforceable contract between Mr. Casey and
 12 Ms. Athanasoulis. Will you accept that?
 13 A. No. No. I said exactly what
 14 I've been saying this whole time. There was a verbal
 15 agreement in place. You're talking about me using
 16 the words "enforceable contract"; those terms did not
 17 come up in my conversation. What he asked me is what
 18 was asked of me earlier, what was said, what happened
 19 at that meeting. He did not go into any, was there
 20 an enforceable contract, was there a meeting of the
 21 minds. It was what was said, you know -- going back
 22 to what you had shown me earlier, those paragraphs,
 23 that just talks about what happened at the meeting.
 24 That's what we talked about.
 25 Q. He also recalls that:

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1 "John Papadakis was never in
2 a position to draft anything
3 and Dan never told him not
4 to proceed with drafting an
5 agreement."
6 Were you in a position to draft a
7 draft agreement?
8 A. I could have started drafting
9 an agreement, sure.
10 Q. I'm going to take you to --
11 do you recall attending an examination for discovery,
12 Mr. Papadakis, in this matter?
13 A. Yes.
14 Q. That occurred on January 13,
15 2020, correct?
16 A. Sure.
17 ARBITRATOR HORTON: Did you say
18 2020 or 2022?
19 MR. LI: Sorry. My apologies.
20 January 13, 2022.
21 BY MR. LI:
22 Q. And before that examination
23 commenced, you swore an oath to tell the truth and
24 nothing but the truth?
25 A. Correct.

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1 A. I did not.
2 Q. You would agree with me that
3 recollections generally degrade over time,
4 Mr. Papadakis?
5 A. I understand that to be the
6 case.
7 Q. And your recollection would
8 likely be better about a topic in January 2020,
9 rather than two years later now?
10 A. I think that would be case
11 with everybody.
12 Q. Thank you. I want to go to
13 the meeting itself that occurred on February 16, 2020
14 [sic].
15 A. Okay.
16 Q. I think you agreed earlier
17 that you met with Ms. Athanasoulis and Mr. Casey in a
18 rather informal manner for the meeting at the offices
19 of the Cresford Group on that day?
20 A. Correct.
21 Q. And prior to that meeting,
22 you had never discussed with Mr. Casey any alleged
23 profit sharing arrangement, correct?
24 A. I don't think so, no.
25 Q. At the February 16th, 2019

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1 Q. Do you recall I asked you the
2 question about whether or not you were in a position
3 to begin drafting an agreement after your February 16
4 meeting?
5 A. Well, yes, but then we did
6 get the -- I answered that question specifically
7 right after the meeting could I draft. And I said,
8 no, I needed the understanding of the corporate
9 structure.
10 Q. So you were not in a position
11 to draft a draft agreement after the meeting,
12 correct?
13 A. Immediately after the
14 meeting, no.
15 Q. My question to you earlier
16 with regard to the Al O'Brien memo was whether you
17 were in a position to draft anything after the
18 meeting?
19 A. Okay, I misunderstood that.
20 I thought -- because I had told you earlier that I
21 had received the -- eventually received the corporate
22 flowcharts, that I could at that point in time draft,
23 start commencing drafting the agreement.
24 Q. And did you draft an
25 agreement after you received the flowcharts?

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1 meeting, am I right that you discussed high level
2 topics like what the agreement might look like?
3 A. Correct.
4 Q. You might have discussed some
5 topics like what entities might be involved in the
6 arrangement?
7 A. Correct.
8 Q. And you might have discussed
9 what some of Dan's concerns might be in respect to
10 the arrangement?
11 A. As to why he, he wanted the
12 arrangement put in place; is that what you're asking
13 me?
14 Q. His concerns with the
15 arrangement, any concerns with the arrangement --
16 A. Sure.
17 Q. -- for what he wanted. And
18 the discussion that took place on February 16th,
19 2019, was at a rather high level or conceptual level;
20 is that fair?
21 A. It was at a high level, yeah.
22 We didn't drill down into minute details, correct.
23 Q. You, Ms. Athanasoulis and
24 Mr. Casey did not at the February 16th, 2019, meeting
25 discuss the matter of timing as far as when potential

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<p>1 profit share payments would be made, correct? 2 A. Correct. 3 Q. You did not discuss whether 4 Ms. Athanasoulis would still be entitled to a 5 potential profit share payment if she was terminated 6 from her employment? 7 A. No, we did not specifically 8 talk about that detail. No. 9 Q. You did not discuss whether 10 Ms. Athanasoulis would still be entitled to a 11 potential profit share payment if she resigned? 12 A. No, we did not discuss that. 13 Q. The general purpose of the 14 meeting was to provide Ms. Athanasoulis some 15 protection or assurance that if Mr. Casey passed 16 away, or, to use your words, was "hit by a bus," his 17 estate would not be able to remove her from her 18 position at the Cresford Group; is that fair? 19 A. That's one of the points. 20 Q. But you did not discuss what 21 provisions Ms. Athanasoulis and Mr. Casey wanted in a 22 potential agreement to accomplish that objective? 23 A. We discussed it generally, 24 but not specifics. 25 Q. I asked you this question,</p>	<p>1 Mr. Papadakis, on examination for discovery on 2 January 13, 2022. I'm showing you the transcript 3 right now at Question 75: 4 "Did they discuss what 5 provisions they wanted in 6 the agreement in order to 7 accomplish that objective?" 8 That objective is referring to our 9 discussion above. In one of your answers, you said: 10 "It was more of an estate 11 concern. I don't think she 12 was worried about the 13 projects being sold -- like, 14 being sold to a third party, 15 if that's what you're 16 referring to." 17 And we continue on for a bit on 18 discussing. 19 "So she wanted to protect 20 herself from that sort of a 21 thing, correct? 22 "And so did Dan. 23 "Was there any discussion 24 about ... that eventuality? 25 "They wanted to make sure</p>
<p>Page 109</p> <p>1 that ... there was no way 2 anybody could remove her 3 from her position." 4 And I asked you: 5 "Did they discuss what 6 provisions they wanted in 7 the agreement in order to 8 accomplish that objective?" 9 Your answer is: "No." 10 Was your answer on January 13 11 correct, or the answer you gave in this arbitration 12 correct? 13 A. I think they're both correct. 14 I don't see much of a difference between the one or 15 the other. Things were discussed in general terms. 16 I think when you asked me about the Question 75, you 17 were going to more specifics, where I've already said 18 we did not talk about specifics. 19 Q. So your answer is no, but it 20 should have read no, it was not discussed in specific 21 terms, but it was discussed generally? 22 A. Correct, which is what I've 23 been saying the whole time. 24 Q. I put it to you, 25 Mr. Papadakis, that you, in fact, did not discuss the</p>	<p>Page 110</p> <p>1 terms that Mr. Casey or Ms. Athanasoulis wanted in 2 the potential agreement with regard to the was 3 hit-by-a-bus issue. Do you accept that? 4 A. I didn't understand it. Can 5 you say that again. 6 Q. I put it to you that you, 7 Ms. Athanasoulis and Mr. Casey -- 8 A. Yes. 9 Q. -- on February 16th, 2019, 10 did not, in fact, discuss what terms they wanted in 11 the agreement to address the estate intrusion or 12 hit-by-a-bus issue? 13 A. Other than ensuring that 14 Ms. Athanasoulis would not be able to be removed from 15 her position. 16 Q. Other than that, there was no 17 other discussion? 18 A. And the profit sharing. 19 Q. Thank you. I think you 20 mentioned in your direct examination that on February 21 16th, 2019, you, Ms. Athanasoulis and Mr. Casey 22 touched briefly on the issue of the definition of 23 "profit"; is that right? 24 A. Correct. 25 Q. But you did not discuss</p>

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<p>1 whether profit would be calculated on a pre-tax or 2 post-tax basis, for example? 3 A. Correct. 4 Q. You did not discuss what set 5 of accounting standards would be used to calculate 6 profit under the arrangement? 7 A. Correct. 8 Q. You did not have a discussion 9 about how profit allegedly owing to Ms. Athanasoulis 10 would be calculated if a project was sold halfway 11 before completion, correct? 12 A. I think, I think that the 13 answer to that question would be she would be 14 entitled to 20 percent of the profit. 15 Q. Not what you think the answer 16 to it is. Did you have that discussion on February 17 16, 2019? 18 A. I don't think that we 19 specifically discussed that. The discussion, though, 20 was -- the sense that I got from the discussion was 21 that Ms. Athanasoulis would be entitled to 20 percent 22 of the profit of any projects going forward, 23 including if a project was sold halfway through. 24 Q. You have no -- sorry, finish 25 your answer.</p>	<p>1 A. No, because that was the 2 whole purpose of our, our -- being called to the 3 meeting was to make sure that the profit sharing was 4 going to be put into some sort of a written 5 agreement, which would have included that, because of 6 everything that we discussed as to what Maria's 7 contributions were leading up to a project and 8 getting a project off the ground. I don't see how 9 that changed. 10 Q. Thank you. So you may have 11 had a general discussion about those topics that you 12 just enumerated. My question is, did you have a 13 specific discussion about how profit allegedly owing 14 to Ms. Athanasoulis would be calculated if a project 15 was sold halfway before completion? 16 A. No, we did not have a 17 specific conversation. 18 Q. Thank you. You did not 19 discuss whether Ms. Athanasoulis would be taking a 20 security interest in any project to secure her 21 alleged entitlement? 22 A. No. 23 Q. You did not discuss what 24 would happen to Ms. Athanasoulis' alleged entitlement 25 if an event of default occurred in respect of a</p>
<p>1 project? 2 A. No. 3 Q. You did not discuss what 4 would happened to Ms. Athanasoulis' alleged profit 5 share entitlement if a project went insolvent? 6 A. No. 7 Q. After February 16, 2019, you 8 did not have another conversation about the terms of 9 the alleged profit share agreement again with either 10 Ms. Athanasoulis or Mr. Casey? 11 A. No. 12 MR. LI: Can I just take five 13 seconds? 14 ARBITRATOR HORTON: Certainly. 15 MR. LI: Those are all my 16 questions. Thank you. 17 ARBITRATOR HORTON: Any 18 re-examination? 19 MR. DUNN: Before re-examination, 20 I want to commend Mr. Li. When he said he needed 21 five seconds, I didn't believe him, but that was very 22 close to five seconds. 23 ARBITRATOR HORTON: Very good. A 24 rare quality in counsel, making reliable predictions 25 as to time.</p>	<p>1 MS. STOTHART: Yes. May I also 2 just have, I suspect, quite literally as well five 3 seconds to double-check? 4 ARBITRATOR HORTON: Certainly. 5 MS. STOTHART: Thank you. Okay, 6 as promised, I also took five seconds and have no 7 re-exam. Thank you. 8 ARBITRATOR HORTON: Okay. Thank 9 you very much, Mr. Papadakis. You're free to leave 10 the meeting. And, counsel, I think it would make 11 sense for us to take a 45 minute lunch hour now and 12 come back at 1:00, and continue on. And I gather, at 13 that point, we'll be hearing Ms. Athanasoulis' 14 evidence. All right, one o'clock. 15 MR. DUNN: Yes. 16 ARBITRATOR HORTON: Thank you so 17 much. 18 --- Recess at 12:15 p.m. 19 --- Upon resuming at 1:02 p.m. 20 ARBITRATOR HORTON: Okay. Again, 21 could everyone confirm for me that everyone is here 22 who needs to be here, and can you just check the 23 participants' list quickly. 24 MR. DUNN: From our perspective, 25 we have everyone here.</p>

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1 ARBITRATOR HORTON: Okay.
 2 MR. MILNE-SMITH: Same for us,
 3 thank you.
 4 ARBITRATOR HORTON: All right.
 5 AFFIRMED: MARIA ATHANASOULIS
 6 ARBITRATOR HORTON: Mr. Dunn.
 7 EXAMINATION IN-CHIEF BY MR. DUNN:
 8 Q. Good afternoon, Ms.
 9 Athanasoulis.
 10 A. Good afternoon.
 11 Q. I want to start by asking you
 12 a little bit about Cresford. So what business was
 13 Cresford in?
 14 A. Cresford was in the business
 15 of building large condominium projects. We were in
 16 the condominium development business.
 17 Q. Okay. And when I say
 18 Cresford, was Cresford a company?
 19 A. Cresford was the marketing
 20 name, and it was owned by various companies. All the
 21 projects were owned by various companies.
 22 Q. Okay. And were there other
 23 companies apart from the project companies?
 24 A. Yes. I mean, the way we ran
 25 the business was there was the fee companies, but I

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1 didn't -- other than each project owning its own
 2 entity and the fee company, I mean, I didn't really
 3 have much involvement in anything else.
 4 Q. And were the entities
 5 operated separately? Did each have their own
 6 employees, or how did it work?
 7 A. No, all the employees worked
 8 for Cresford.
 9 Q. Okay. And who owned the
 10 various Cresford entities?
 11 A. So the various entities --
 12 what I knew that who owned the various entities was
 13 Dan Casey, but I would have later learned that there
 14 was family trusts that had the true ownership of the
 15 company.
 16 Q. Okay. And so who was the
 17 ultimate decision maker for the various entities?
 18 A. Dan Casey.
 19 Q. And how would you
 20 characterize Mr. Casey's style or his management
 21 style in operating the Cresford companies?
 22 A. He was very casual, didn't
 23 really like -- didn't want you to send him emails.
 24 We always had either telephone conversations,
 25 in-person meetings. His style was very casual.

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1 Q. And how often -- turning --
 2 and we'll go through the history a little bit. But
 3 turning to the period 2018/2019, how often did you
 4 speak to Mr. Casey?
 5 A. Daily.
 6 Q. Okay. And let's talk about
 7 the condominium business, just to get a sense of it
 8 more generally. So what's the first step in a
 9 condominium development?
 10 A. The first step is finding the
 11 land in order to build a condominium on.
 12 Q. Okay. And tell me what's
 13 involved at the acquisition stage?
 14 A. So at the acquisition stage,
 15 we would identify a piece of land, and make various
 16 assumptions to see if whether or not we thought the
 17 project was profitable, and also in line with our
 18 brand and our marketing strategy.
 19 Q. Okay. And would there be any
 20 financing at the acquisition stage?
 21 A. It depended. It really
 22 depended on whether or not the project was zoned, or,
 23 if it was, if it was zoned, there were cases where we
 24 marketed, sold the project, and went right into a
 25 construction loan.

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1 Q. Okay. So you mentioned
 2 zoned. What did you mean by zoned?
 3 A. Zoned means you have all of
 4 the municipal approvals in order to build the
 5 condominium in the form that you're marketing.
 6 Q. Okay. And in order to get
 7 zoning, what had to be done, if anything, in terms of
 8 the design of the project itself?
 9 A. With respect to the zoning,
 10 you would ideally zone a project that would be in
 11 line with all of the marketing and all -- it would be
 12 in line with what you wanted to sell, and have all
 13 the attributes that would make it a successful
 14 building.
 15 Q. Okay. And what was
 16 Cresford's sort of brand or its focus, if you could
 17 sum it up for me?
 18 A. Cresford's brand was a luxury
 19 focused brand, mainly focusing in the last decade in
 20 the downtown core.
 21 Q. Okay. And how did Cresford
 22 market its projects?
 23 A. It marketed it by creating a
 24 campaign that really helped explain to clientele why
 25 they should be investing with Cresford. We had

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1 developed a reputation that we had the best suite
 2 layouts in the industry. The luxury aspect of it was
 3 something that was priced into our condominiums,
 4 because you did have to pay a premium to buy in a
 5 Cresford brand. But over the years, we developed a
 6 reputation that people understood the product,
 7 understood that they were buying a premium product,
 8 and that was all part of the brand and strategy to
 9 achieve our financial goals.
 10 Q. Okay. And what specific sort
 11 of techniques would you use to get that message out?
 12 A. So we used several. We -- my
 13 style was I loved the big campaign where I could
 14 introduce the project and explain the vision, the
 15 suite layouts, the reasons why the product was
 16 designed the way it was, and the long term growth
 17 potential. And I would like -- I used to do that in
 18 large events that brokers would attend. We would
 19 also market to past customers.
 20 But, basically, the message would
 21 go through all of the broker community and friends,
 22 family, and everybody who had touched Cresford, and
 23 it would become a marketing tool that would help
 24 create a big advantage for us, because everybody was
 25 chasing our product.

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1 and having firm deals with clients that have bought
 2 your product, each condominium unit.
 3 Q. Okay. And when did those
 4 deals actually get completed?
 5 A. When would they close?
 6 Q. Yeah.
 7 A. Okay, so they would close at
 8 the end of -- at final registration.
 9 Q. Okay. And would the
 10 purchasers pay any deposits?
 11 A. The purchases would pay
 12 deposits, and that would vary from project to
 13 project. And it would also vary -- you know, at one
 14 point in time when I started in the industry, it was
 15 15 percent. Later on in the years, the banks were
 16 requiring 20 percent up front prior to occupancy, and
 17 at occupancy another additional 5 percent in the
 18 deal.
 19 Q. Okay. And did Cresford have
 20 access to those deposits to fund construction?
 21 A. Yes, they did. We would get
 22 an insurance bond against that, the purchaser
 23 deposits, and that would be used in parallel with the
 24 construction facility.
 25 Q. Okay. And was it ever the

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1 Q. Okay. And so when -- at what
 2 point in this whole process would construction
 3 typically start?
 4 A. So construction would start
 5 as soon as we could achieve the pre-sale
 6 requirements, which is typically 65 percent of the
 7 project.
 8 Q. And what do you mean when you
 9 say a pre-sale requirement? When does -- whose
 10 requirement is it?
 11 A. So the construction lenders
 12 would have a pre-sale requirement. So, I mean, in
 13 the, in the phase where we were buying it pre-zoned,
 14 we would, we would have an acquisition financing
 15 tool. I wasn't involved in that, but, like, that
 16 would carry us to the marketing phase. And then,
 17 once we got the pre-sales, we would get a
 18 construction loan. But in the cases that we bought
 19 the sites that would go straight into a construction
 20 financing, they needed a 65 percent roughly pre-sale
 21 number in order to close on the land.
 22 Q. Okay. And what exactly --
 23 when you say "pre-sale" in this context, what does
 24 that mean?
 25 A. A pre-sale is, is engaging

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1 case that some construction started before the
 2 construction loan was available?
 3 A. Yeah. So in the case of YSL,
 4 it actually worked a little bit different. It was
 5 the first project that did this. We actually were in
 6 a -- we went from a zoning acquisition loan, where
 7 once we received the zoning, we were at a crossing
 8 point where we needed to refinance the project.
 9 However, we were able to, in a very short period of
 10 time, market, sell it and sell over \$650 million of
 11 project in a very short period of time. And we then
 12 used that money to do various things with.
 13 So it was the purchaser deposits
 14 that were then bonded into a facility with Aviva, and
 15 we used those deposits towards the project, which
 16 also started construction.
 17 Q. Okay. And in terms of going
 18 back to just the general life cycle of a project,
 19 what happens once the project is built?
 20 A. What happens once the project
 21 is built? It -- people move in during the occupancy
 22 phase. Then it goes through a final registration
 23 phase.
 24 Q. And at what point does
 25 Cresford receive the bulk of its revenue?

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1 A. At the final registration
2 phase.
3 Q. Okay. And in terms of -- I'm
4 jumping around a little -- but situating ourselves in
5 2018, what projects did Cresford have ongoing at that
6 time?
7 A. So at that time it had four
8 active projects in the construction phase: Halo was
9 one; Clover was the furthest along; 33 Yorkville;
10 and, YSL.
11 Q. Okay. So now I want to take
12 a step back and figure out -- or ask you some
13 questions about how you come into this picture. So
14 can you tell me about your educational background?
15 A. My educational background is
16 I went to Seneca College after graduating high
17 school, and I took business administration and did
18 not finish. In parallel to going to school, I also
19 had a part-time position with Canada Trust, which I
20 ended up focusing on and pursuing. And that -- so I
21 did not finish my college education.
22 Q. And approximately when did
23 you start working at Canada Trust?
24 A. When I was 17.
25 Q. Okay. I won't ask how old

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1 you are now.
2 A. I'd have to do the math to
3 tell you the exact year, but...
4 Q. Okay. So when did you leave
5 Canada Trust, and what did you do next?
6 A. So Canada Trust merged into
7 TD Bank, and so I left what would have been known as
8 TD Canada Trust in 2004 to join Cresford.
9 Q. Okay. And what -- how did
10 that come about?
11 A. So two individuals that I had
12 worked with and for at both Canada Trust and TD,
13 Ted Dowbiggin and Ian Scott, were working for an
14 individual named Dan Casey and approached me about a
15 job opportunity that I thought sounded pretty
16 fantastic. And so I ended up joining them, and
17 joined them in 2004.
18 Q. Okay. And what was your job
19 when you joined Cresford in 2004?
20 A. My job was working in the
21 finance department with both Ted Dowbiggin and
22 Ian Scott, and I carried a role of manager special
23 projects.
24 Q. Okay. And what kind of
25 things did you do in your role as manager of special

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1 projects?
2 A. I basically assisted Ted and
3 Ian in the background work for the financings. At
4 the time they had several projects underway. Also
5 part of the financings was also collecting marketing
6 data, so really had an interest in just the whole
7 market and the condominium business, and really
8 enjoyed sort of getting them their information for
9 the financing and helping them underwrite the deals,
10 but really enjoyed the marketing aspect the more I
11 was researching it in order to support the credit
12 applications for the banks.
13 Q. Okay. And what did you do
14 after being manager of special projects?
15 A. So manager of special
16 projects then evolved into the role of marketing and
17 sales. And shortly after I joined, there was a vice
18 president of sales and marketing who left the
19 company, and there was an opening for someone to take
20 carriage of marketing and sales. And over time -- I
21 immediately started assisting Dan, working for Dan
22 directly for Dan, assisting him with marketing and
23 sales, and that was the start of my role in marketing
24 and sales.
25 Q. Okay. And at that time, how

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1 did Cresford market its projects?
2 A. So at the time, it was
3 marketed and promoted through various industry
4 leaders that had marketing and sales firms, so we
5 used various of the various companies for the various
6 projects. And I would help them with their strategy,
7 the marketing campaigns, and, you know, follow-up on
8 weekly meetings to ensure that we were meeting our
9 sales targets and assisting them with the marketing
10 materials required to achieve our financial goals.
11 Q. Okay. And how -- was there a
12 standard in terms of how these outside firms were
13 compensated?
14 A. Yeah. So the standard was
15 roughly one and a half percent, sometimes -- like,
16 you know, it kind of varied, but the typical standard
17 was one and a half percent, if not more, to the
18 marketing and sales companies in order to promote all
19 the individual condominiums.
20 Q. Okay. And did Cresford,
21 throughout your time working in marketing, continue
22 to use outside firms to market projects?
23 A. No. So in 2007, I really
24 took a liking to the whole marketing and sales and
25 the whole promoting it and having the control of the

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1 product and the brand, and, and the message that was
 2 being delivered to the broker community, and so we
 3 started to evolve into bringing marketing and sales
 4 in-house under my leadership.
 5 Q. Before we go there, my
 6 colleague pointed out I missed something. When you
 7 say one and a half percent as a commission, one and a
 8 half percent of what?
 9 A. One and a half percent of the
 10 total revenue of the project.
 11 Q. Okay.
 12 A. But as you sold a unit -- so
 13 if it was a million dollars, you would make one and a
 14 half percent on the million dollars that you sold.
 15 But the idea is -- I mean, most -- in most cases, the
 16 individual that you hired to promote your project
 17 would have carriage of it from the beginning to the
 18 end.
 19 Q. Okay. So you mentioned
 20 bringing, bringing some functions in-house.
 21 Approximately when did that start?
 22 A. So with sales and marketing,
 23 we brought it in-house for the first project in 2007.
 24 Q. And what -- do you recall
 25 what project that was?

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1 there is a document titled Vice-President, Marketing
 2 and Sales. Do you know what this document is?
 3 A. Yeah, so this document was
 4 created in order to formalize roles and
 5 responsibilities in the organization. So Jessica was
 6 helping Ken and Dan organize everybody's roles.
 7 Because as we were growing, it was a process that we,
 8 we determined was necessary. It was required from an
 9 ownership standpoint, but also from an employee
 10 standpoint. We all wanted our, our roles and
 11 responsibilities memorialized. And so these were my
 12 roles and responsibilities at the time.
 13 Q. And do this reflect your
 14 responsibilities as of February of 2013?
 15 A. Yes, it does.
 16 Q. Okay. And there are --
 17 there's a reference to inventory sales, 399 Adelaide
 18 CASA II and 1000 Bay. Were those -- who was
 19 marketing those projects?
 20 A. At that time, I was.
 21 Q. Okay. And had any outside
 22 consultants been involved?
 23 A. The only project that an
 24 outside consultant was involved in was 1000 Bay at
 25 the beginning, and that's, that's a separate story or

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1 A. NXT.
 2 Q. Okay. I'm going to show you
 3 a joint document book, Tab 2. And I'm just showing
 4 you the cover note, which seems to be from somebody
 5 named Jessica Harrison?
 6 A. Yes.
 7 Q. Do you recall who
 8 Jessica Harrison is?
 9 A. So Jessica Harrison was an
 10 outside consultant that Dan had hired to help, to
 11 help organize the business.
 12 Q. And this is to someone named
 13 Ken Marshall? Who is Ken Marshall?
 14 A. So Ken Marshall at the time
 15 was the president of Cresford.
 16 Q. Okay. And where is
 17 Ken Marshall now?
 18 A. Ken Marshall is working for
 19 or owns, from my understanding, Finnegan Marshall.
 20 Q. Okay. Sorry, just to tie it
 21 off, what does Finnegan Marshall do?
 22 A. They are one of the leading
 23 cost consultants for condominium developments in our
 24 city.
 25 Q. Okay. And scrolling down,

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1 situation. But, essentially, it became in-house and
 2 was very successful, and marketed and sold by myself.
 3 Q. Okay. And what about
 4 CASA III, who was -- there's a launch of CASA III.
 5 Can you tell me what CASA III is?
 6 A. So CASA III is a piece of
 7 land that's located on Charles Street just on the
 8 southeast corner of Yonge and Bloor. It was a fourth
 9 piece of land that was acquired by Cresford on the
 10 same block over a period of many years. And so the
 11 original one that was on the block was called CASA.
 12 The second one that we acquired was CASA II. And
 13 CASA III was later acquired and named CASA III. All
 14 kind of marketed directly -- it was -- they were
 15 three buildings that evolved over time that looked
 16 similar, and it would have appeared that they were
 17 all bought at the same time, and there was a natural
 18 strategy to build all three towers.
 19 Q. Okay. Were they bought at
 20 the same time?
 21 A. No.
 22 Q. Okay. Was there a strategy
 23 to build all three towers?
 24 A. Well, each time we bought a
 25 project and we named it CASA, the strategy was to

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1 build each tower.

2 Q. Okay. And was the marketing
3 of CASA III being handled by an outside consultant or
4 was it being handled in-house?

5 A. When I say marketing, like
6 it's a duplicit role, right. Sales -- so they're
7 called -- it's called marketing and sales or
8 marketing, but really it's the sales, and the sales
9 were promoted by myself. Marketing, like, I would
10 hire a third party, like design firm that would help
11 me with the, with the brochure and all of that. So I
12 just wanted to distinguish the difference between all
13 of the different names.

14 Q. Okay. Sure. What were the
15 advantages of bringing the sales and marketing
16 function in-house, subject to the qualification you
17 just gave me?

18 A. So the advantages were huge.
19 I mean, normally if you hired an outside party, you
20 would be paying that outside party the one and a half
21 percent, and they would earn a profit on the sales
22 piece. But for us, because I was handling that
23 function, we would, we would sell it and we would
24 earn the fees.

25 Q. Okay. I'm showing you Tab 26

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1 of the joint document book, or I will be showing you
2 momentarily. So this purports to be an email from
3 Robin Simpson to you. Who was Robin Simpson?

4 A. Robin Simpson was, at that
5 time, a marketing employee of Cresford.

6 Q. Okay. And turning -- so this
7 is -- can you tell me what this document shows me,
8 that I'm showing you now, which is the second page of
9 joint document book Tab 26?

10 A. So this was an organizational
11 chart of all of the individuals that worked for
12 Cresford and where they reported.

13 Q. Okay. And there is two --
14 there are two presidents here. There's
15 Ted Dowbiggin, president of land and finance, and
16 Maria Athanasoulis, president of marketing and sales.
17 Can you explain to me your role and Ted's role at
18 this time in 2013? Where is the point of
19 demarcation?

20 A. So, basically, Ted was
21 involved and responsible for acquiring the sites and
22 financing them, and I was in charge for all of the
23 operational aspects of the business from
24 construction, marketing, sales, customer service.

25 Q. Okay. At this period, did

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1 you have any involvement at all at the acquisition
2 stage?

3 A. My involvement with the
4 acquisition stage is I would be the one that was
5 responsible for forecasting what the revenues would
6 be.

7 Q. Okay. And there's, off to
8 the far right of this document, there's a Vice
9 President of High Rise Construction, and a Director
10 of High Rise Construction. Can you tell me about who
11 those people were, and what your involved were at
12 this stage with construction?

13 A. So at this point in
14 construction, it was the next phase of bringing
15 another piece of the business in-house. We started
16 our own construction management company. And we were
17 building -- we started building the buildings, the
18 individual towers in-house, and they reported to me.

19 Q. Okay. And how did that --
20 and how did bringing that impact Cresford's business?

21 A. It was, it was a game
22 changer. We had control over our product. We were
23 able to manage our buildings, our product, and had
24 direct open lines of communication in order to
25 deliver the product that we had envisioned at the

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1 beginning when the initial marketing and sales stage
2 had begun.

3 Q. Okay. And how about
4 financially?

5 A. There was another -- yeah,
6 sorry.

7 Q. Go ahead. Go ahead.

8 A. It was another fee generating
9 business for Cresford, which allowed us to earn a
10 substantial amount of further fees.

11 Q. Okay. And around this time,
12 what involvement did you have with the finance side
13 of the business?

14 A. So I wasn't involved with the
15 lenders or -- I wasn't involved with finance, to the
16 extent that I would give the input of the revenue,
17 and the costs of the product.

18 Q. Right. And did that change?

19 A. Did that change over time?

20 Q. Yes.

21 A. No. From this day forward, I
22 was involved in that aspect, if not, it grew. We
23 ended up bringing in another in-house fee generating
24 business that most hire a third party. I don't -- I
25 can't see the whole organizational chart, so I don't

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1 think it's on this.
 2 Q. Sorry --
 3 A. That's okay.
 4 Q. And what fee generating
 5 business was that?
 6 A. Property management.
 7 Q. Okay. And what properties
 8 did the property management arm manage?
 9 A. So, I mean, from CASA II,
 10 1000 Bay forward, we then engaged in our own property
 11 managements of the individual condominiums. What
 12 would happen is, once a building was registered, we
 13 would automatically get that role for a year, but we
 14 had to work hard to continue the relationship with
 15 the condominium owners in order for that to continue
 16 on and on.
 17 Q. Okay.
 18 A. Which happened in many of the
 19 buildings.
 20 Q. Okay. So the basic structure
 21 of this organizational chart, where you have, you
 22 know, sort of one branch reporting up to Ted, and one
 23 branch reporting up to you, did that ever change?
 24 A. It changes when Ted leaves in
 25 2018.

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1 Q. And who at Cresford was
 2 primarily responsible for the relationship with
 3 Otera?
 4 A. I was.
 5 Q. Okay. So I want to talk a
 6 little bit about the various Cresford entities that
 7 were in play. Who paid your salary while you were
 8 employed at Cresford?
 9 A. So my salary was paid by a
 10 company that was known as EDRP, East Downtown
 11 Redevelopment Partnership.
 12 Q. Okay. And what did EDRP do?
 13 A. EDRP collected the fees from
 14 the individual projects. I originally thought that
 15 maybe that money went into Rosedale, but EDRP was, in
 16 fact, the collector of the fees of all the various
 17 entities -- of all the various projects that had fees
 18 generated based on our, on our in-house fee
 19 generating businesses.
 20 Q. Okay. And did Cresford enter
 21 into employment agreements with some employees?
 22 A. Trick question. Cresford is,
 23 Cresford is who entered into --
 24 Q. Well, let me ask you this.
 25 A. Yeah.

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1 Q. Okay. And how did it change?
 2 A. I guess you could just
 3 replace Ted's name with my name, and everybody
 4 reported to me.
 5 Q. Okay. So in practical terms,
 6 what was added onto your plate at that stage?
 7 A. So finance and accounting.
 8 Q. Okay.
 9 A. And acquisitions.
 10 Q. Okay. And when you say
 11 finance, what specific responsibilities did you take
 12 on?
 13 A. So in 2018, Dan, Ted, myself
 14 and others from the finance group flew out to
 15 Victoria B.C., which was our main lender who had
 16 financed several of the projects, to announce sort of
 17 Ted's departure and the changing hands of the
 18 relationship from Ted to myself.
 19 Q. Okay. And what about Otera,
 20 the lender on YSL?
 21 A. So Otera was a new
 22 relationship. It wasn't a longstanding like VCI was.
 23 VCI financed several projects. Otera financed half
 24 of the loan on 33 Yorkville, and would be the mainly
 25 syndicate partner on YSL.

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1 Q. Let me reframe it. You
 2 mentioned earlier working for Cresford. Did -- and
 3 I'm using it in a general sense -- did some of the
 4 employees of Cresford have employment agreements?
 5 A. Yes, some employees did have
 6 employment agreements.
 7 Q. And did Cresford have a
 8 standard form template for those employment
 9 agreements?
 10 A. Yes, it did.
 11 Q. Okay. I'm showing you joint
 12 document book number 4. And is this an example of
 13 Cresford's employment agreement template?
 14 A. Yes, it is.
 15 Q. Okay. And this is entered
 16 into by it just says "Cresford Developments"?
 17 A. Yeah, so --
 18 Q. Sorry, go ahead.
 19 A. When we said "Cresford
 20 Developments" in terms of this, this was guided, I
 21 guess, by various -- various individuals had input
 22 when creating this document, but it was to encompass
 23 all of the various companies that were developing
 24 projects.
 25 Q. Okay. And as far as you

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1 know, is there a legal entity called Cresford
2 Developments?
3 A. No.
4 Q. Okay. You mentioned that
5 EDRP received -- paid you salary. Did you ever
6 receive bonuses?
7 A. Yes, I received bonuses.
8 Q. And how were those bonuses
9 paid?
10 A. So the bonuses were paid
11 either by way of condominium credits or via bonuses
12 via my payroll.
13 Q. Okay. And what do you mean
14 by a "condominium credit"?
15 A. A condominium credit in terms
16 of the amount that was owed to me, if I was buying a
17 million dollar condo, I would get a credit on the
18 total value that was owed to me as a credit on that
19 condo.
20 Q. Okay. And who owned the
21 units that you were getting credits on?
22 A. The various entities that I
23 was working for --
24 Q. Can you be a little more
25 specific?

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1 A. -- or working with.
2 Q. If you talk about the types
3 of entities within the Cresford Group, what entity or
4 what type of entity would own the condominium unit
5 that you were being credited?
6 A. So CASA III was owned by 50
7 Charles Street East, and so 50 Charles Street East
8 was the one that had that condominium. And that
9 condominium unit that I would buy was with that
10 project, and then I would get a credit on closing of
11 money that was owed to me.
12 Q. Okay. And when you were paid
13 in cash, do you know if all of those cash bonuses
14 were paid by EDRP?
15 A. So there's -- so most of
16 them, yes, and then there's one that I was also paid
17 from YSL as well.
18 Q. Okay. And I want to drill
19 down specifically on YSL. And I'm showing you joint
20 document book number 29. I'm going to direct you to
21 page 2 of that, just to refresh your memory. Did you
22 have any position with YSL or with YSL Residences
23 Inc., the entity that owned the YSL project?
24 A. Yes, I did. I had the role
25 of vice president and secretary.

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1 Q. Okay. Now I want to talk to
2 you a little bit about your compensation, and how
3 that evolved. So when you first started at Cresford,
4 do you remember approximately what your compensation
5 was?
6 A. Approximately a hundred --
7 north of \$100,000.
8 Q. Okay. And did you have a
9 written employment agreement?
10 A. I believe I would have had an
11 original written employment agreement that would
12 exist with Cresford.
13 Q. Okay. Do you have a copy of
14 it?
15 A. No.
16 Q. Okay. And did you -- you
17 mentioned that you received bonuses. Approximately
18 when did you start earning those bonuses?
19 A. I started earning bonuses
20 when we started to bring the projects in-house. And
21 the first substantial bonus that I received was with
22 NXT.
23 Q. Okay. And tell me a little
24 bit about that.
25 A. So basically the sales were a

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1 huge success, all of that. And it was at that time,
2 you know, I was learning, I was growing, you know. I
3 understood that it could have been slightly under
4 value, but at the time we landed on paying me a bonus
5 of \$200,000.
6 Q. When you say "we," who is
7 "we"?
8 A. Dan and myself, Dan Casey and
9 myself.
10 Q. Okay. I'm going to show you
11 now a joint document book Tab 1. And just to start,
12 we have an email from Jessica Harrison to you and Ken
13 Marshall on February 6th of 2013. And I'm just going
14 to scroll down for you. And this, again, says vice
15 president marketing and sales. Can you tell me what
16 this document is?
17 A. This document was
18 memorializing what was already in place in terms of
19 certain aspects of my compensation, and also
20 confirming other aspects of my compensation.
21 Q. Okay. So it says 2012 bonus,
22 and then it says:
23 "Bonus to be paid in
24 recognition of CASA II and
25 1000 Bay launches."

1 And it says 0.15 percent of total
 2 sales to December 31, 2012. Can you tell me what
 3 that means?
 4 A. So basically, after NXT, I
 5 was always making 0.15 percent of the total sales
 6 with all the projects. So it was something that was
 7 always paid going forward on all projects that were
 8 being marketed, sold, promoted in-house.
 9 Q. Okay.
 10 A. So it was just confirming
 11 something that was already an ongoing arrangement.
 12 Q. Okay. And at the bottom
 13 here, it says, New launch/CASA III Compensation
 14 Structure, and then there's a range of total sales?
 15 A. Yes.
 16 Q. And did you receive a bonus
 17 on CASA III?
 18 A. Yes, I did.
 19 Q. And how was the bonus
 20 calculated?
 21 A. So the bonus was calculated
 22 on CASA III, on the sales I received 0.15 percent of
 23 the total revenue. I also received an additional
 24 bonus for all the other responsibilities, but that
 25 comes further along. But on this specifically, I

1 received 0.15 percent of the total sales of the
 2 project, which was an ongoing arrangement.
 3 Q. Okay. You mentioned an
 4 ongoing arrangement. How did that come about, and
 5 who was the arrangement with?
 6 A. So it came about because over
 7 time, after NXT, we launched many more projects, and
 8 in terms of properly compensating me for the
 9 promoting of the sales, and not having to pay a third
 10 party the 1.5 percent of the total revenue, it was
 11 agreed upon that I would make 0.15 percent of the, of
 12 the project revenue as a bonus.
 13 Q. Okay. So we've heard a bit
 14 this morning about profit sharing. Can you tell me
 15 about your first discussions with Mr. Casey about the
 16 responsibility of a profit share paid to you?
 17 A. So profit sharing was a
 18 conversation that, and a decision that was made at
 19 the time when Vox was launched. So it's another --
 20 it's a marketing name for another company, and a
 21 project that we acquired in 2014, where it was a huge
 22 success, promoted it, marketed it, sold. The
 23 acquisition happened all within a very short period
 24 of time. And the project was a huge success and went
 25 right into the construction phase without, without

1 having to obtain the initial step of acquisition
 2 financing.
 3 Q. Okay. And what did you
 4 discuss, specifically, with Mr. Casey about profit
 5 sharing?
 6 A. So at that point in time, Dan
 7 committed to pay me 10 percent of profits going
 8 forward on all projects, given my efforts, from the
 9 marketing and sales perspective, and also my growing
 10 role in managing both the construction and, at that
 11 time, we would have also started the property
 12 management company, and just managing all the
 13 business, plus making the projects a success from a
 14 marketing and sales standpoint. And it was huge
 15 savings to the company.
 16 You know, in order for me to sort
 17 of be content with understanding my worth at the
 18 time, you know, Dan agreed to, committed to 10
 19 percent of profits on all projects going forward. At
 20 that moment in 2014 with Vox, knowing that with Vox,
 21 I was able to market, sell it quickly -- at a quick
 22 time frame, and that project had brought in over
 23 \$3 million worth of marketing and sales fees. And
 24 so, I mean, the economics and all of that, and to
 25 make 10 percent, it was a good value for the

1 business, and it was good value for the business
 2 going forward.
 3 Q. And Ms. Athanasoulis, was
 4 these -- were these discussions preliminary
 5 discussions that were subject to executing a written
 6 document?
 7 A. Not as far as -- not from my
 8 understanding. They were, they were a commitment,
 9 and they were something that Dan committed to, and I
 10 trusted that, you know, we had an agreement.
 11 Q. Did he say that until you
 12 sign something, you know, he didn't have -- you
 13 didn't have an agreement?
 14 A. No.
 15 Q. Okay. I'm showing you Tab 3
 16 of the joint document book -- or I'm going to show
 17 you Tab 3 of the joint document book. Can you tell
 18 me what this is?
 19 A. So this is an agreement that
 20 I typed after we had our conversation for Vox and
 21 projects going forward to confirm our new agreement.
 22 Q. Okay. And what was the
 23 starting point for this document? Did you just sit
 24 down with a blank Word document, or how did it come
 25 about?

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1 A. So I used the standard
2 Cresford template, and basically wanted to have the
3 arrangements of the new, the new financial
4 arrangements that were agreed to on paper.
5 Q. Okay. And did Mr. Casey ever
6 see this?
7 A. Yes.
8 Q. How did he receive it?
9 A. He would have received a copy
10 from me in 2014. It was also -- yeah.
11 Q. Sorry, go ahead.
12 A. It was also a document that I
13 carried in our meeting in 2019.
14 Q. Okay. And what happened
15 after you gave this to Mr. Casey?
16 A. He never, he never did
17 anything to formalize signing it or anything like
18 that. But on many occasions, he always gave me
19 my [sic] word that he was going to honour it.
20 Q. Okay. And did you press
21 forward to get everything down on paper and signed at
22 that point in 2014?
23 A. No. I, I trusted Dan. Like,
24 we had, we had a long relationship. He had always
25 paid the bonuses that were owed to me, and always was

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1 fair on the, on the sales commission piece. And I
2 thought, naturally, it would evolve to the correct
3 document that I would need his help in order to, to
4 complete.
5 Q. Okay. And how concerned were
6 you about the fact that you didn't have a signed
7 agreement?
8 A. I trusted Dan.
9 Q. Okay. Is there a signed copy
10 of this?
11 A. I don't think so.
12 Q. Okay. This is an agreement
13 between you and Cresford Developments. What did you
14 mean by that?
15 A. So Cresford Developments was
16 the -- Cresford Developments was the marketing name,
17 so it was all the various companies that encompassed
18 Cresford Developments, all the various condominium
19 developments.
20 Q. Okay. Does Cresford -- and
21 this is signed by -- or the signature block seems to
22 have Cresford Developments Inc. as the signing party.
23 Do you know who Cresford Developments Inc. Is?
24 A. I'm not sure. Again, I used
25 a template that existed at the office.

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1 Q. Okay. So I want to walk you
2 through the terms here. Starting with the salary, it
3 says there will be pay -- that the employee will earn
4 \$500,000 per annum. Were you actually paid around
5 \$500,000 per annum?
6 A. No. So in around 2013, we
7 agreed to increase my salary to 300,000, which we
8 did. And at the time, there was just cash flow
9 issues, et cetera. So, again, it was something that
10 I trusted he would take care of me over time.
11 Q. Okay. And I'm turning down
12 to Schedule A, which are the terms agreed to for the
13 bonus between the employer and the employee -- or
14 that's what it says here. Let me ask you, there's
15 the -- first, there's a \$500,000 bonus on three
16 projects: 1000 Bay, CASA II and CASA III.
17 A. Yes.
18 Q. Did you receive those
19 bonuses?
20 A. I did.
21 Q. Okay. Number 4 is a bonus of
22 10 percent of final profits to be paid upon the final
23 registration of Vox Condominiums. Did you receive
24 that amount?
25 A. No, I did not, and I didn't

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1 press on it, because Vox was a break even project.
2 Q. Okay. And then it says a
3 bonus of 10 percent of final profits will be paid on
4 final closing of any future site Cresford acquires.
5 Were you ever paid a bonus based
6 on a percentage of profits?
7 A. No project completed after
8 that happened.
9 Q. Okay. This -- when it says
10 10 percent of final profits, what did you mean by
11 "final profits" when you wrote this?
12 A. So final profits would have
13 been the revenue minus that specific project's
14 expenses.
15 Q. Okay. And was that something
16 that you had discussed with Mr. Casey, or was that
17 just your understanding?
18 A. That was something we
19 discussed, but also something that is, is reasonable.
20 Like, each project had its own pro forma, had its own
21 revenue and costs, and its own profit.
22 Q. Right. We're going to come
23 back to the issue of the pro formas. Well, let's
24 actually talk about that now. So what is a pro
25 forma?

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1 A. So a pro forma is the
2 financial results of a specific project. It has all
3 of the revenue and all of the costs, and it gives you
4 the profit of the individual project.

5 Q. Okay. And was -- sorry, at
6 this stage, so at an early stage - so we're in 2014,
7 right, and we're talking about the Vox project - what
8 would the pro forma show in terms of Vox? Would it
9 be actual results?

10 A. Yes.

11 Q. Okay. And what about things
12 that were not yet known, how would that be reflected
13 on the pro forma?

14 A. Sorry, you're speaking about
15 Vox in particular?

16 Q. Or in general.

17 A. All right. So, basically,
18 you start off with a pro forma that has various
19 assumptions, revenue and your costs. And over time
20 as various stages of the development were completed,
21 most of your costs become more and more accurate.
22 From when you start selling, your revenue starts to
23 be known, with the unsold, with the unsold product
24 having the ability, potentially, to increase in
25 revenue, or vice versa, but we've always been on an

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1 up trend. And the costs says that as we finalized
2 fix price contracts, those also crystallized, so your
3 costs were also known to the project.

4 Q. Okay. I'm going to show you
5 an example of a pro forma from the YSL project. And
6 you will see that this is dated October 20th, 2019.
7 So what kind of costs are considered -- or are listed
8 on the pro forma?

9 A. So the costs that are on the
10 pro forma are your land cost, your construction cost,
11 your design costs; it's all the various sub-headings
12 to the pro forma. Your legal and administration,
13 your marketing and advertising, your operating
14 expenses and customer service. It includes the land
15 transfer tax. It includes the various taxes that you
16 would pay from a municipal standpoint. It includes
17 your financing fees and costs.

18 Q. Okay. Are there any --
19 sorry, let me ask. How is this used in the course of
20 development?

21 A. It's used as your management
22 pro forma to achieve, to achieve the overall numbers
23 that you're forecasting. In terms of any overruns,
24 you know, we basically are guided based on industry
25 standards and have healthy contingencies that could

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1 help manage any unforeseen expenses or costs.

2 Q. Okay. And is anyone, other
3 than Cresford's management -- or did anyone, other
4 than Cresford's management, review this pro forma,
5 the YSL pro forma?

6 A. Yes. It would have been
7 reviewed by the lenders, and it would have also been
8 reviewed by Altus, who would have confirmed all the
9 numbers.

10 Q. Okay.

11 A. Who did confirm all the
12 numbers.

13 Q. Okay. And turning down to
14 the profit listed here on the, on the pro forma, in
15 general terms, how was this calculated on the pro
16 forma?

17 A. How is the profit calculated?

18 So, basically, it takes your revenue, minuses your
19 costs, minuses the amount returned on equity, and the
20 balance is your net profit.

21 Q. And was Cresford consistent
22 in how it assessed and how it calculated profits?

23 A. Yes.

24 Q. Okay. And turning back to
25 the calculation of profits, how would the pro

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1 formas -- in terms of the agreement, what's the
2 relationship, if any, between the pro formas and the
3 agreement to pay a percentage of profits?

4 A. So my agreement with Cresford
5 is that I would get, I would get a percentage of the
6 profit of each individual project.

7 Q. Okay. And how would the pro
8 forma play into that?

9 A. The pro forma has the profit
10 of each individual project.

11 Q. Okay. And just to make sure
12 that we've covered this off, how would the pro forma
13 evolve as the project progressed?

14 A. So as the project progressed,
15 each, each development, as it progressed, it just
16 became further and further real. So once your sales
17 were achieved, once your fixed contracts were
18 negotiated, any extras were, you know, would have a
19 contingency. So basically when you start
20 construction, you're closer to a very accurate pro
21 forma.

22 Q. Okay. And if you skip all
23 the way to the end of a project, what would the pro
24 forma look like then?

25 A. Hopefully very close to what

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1 you're monitoring from the beginning.

2 Q. Let me ask -- I didn't phrase
3 that as well as I might have. What would the
4 breakdown be at the end of the project between actual
5 information and projections on the pro forma?

6 A. By the end of the project,
7 it's actual numbers.

8 Q. Okay.

9 A. At the end of a project.

10 Q. So we just saw from the draft
11 agreement, there's a reference to a 10 percent profit
12 share. Did that percentage ever change?

13 A. Yeah, so as the projects --
14 on an annual basis, we would acquire a new project
15 and sell a new project. And the revenue numbers kept
16 growing, the success kept growing. You know, our
17 brand was, was one of the most chosen in the pre-sale
18 condominium world. And every year our sales of new
19 projects was a huge success. And so the profit was
20 discussed at many times as something that would grow
21 because of the efforts of myself in growing the
22 company.

23 Q. Okay. And what specific
24 percentages were discussed and when?

25 A. So by 2017, what we agreed to

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1 was 20 percent. And this was a big moment for
2 Cresford, because in 2017 we launched and sold a very
3 large project by the name of 33 Yorkville, and were
4 able to achieve a big revenue number in order to
5 bring the project from land acquisition right into
6 construction financing. The marketing fee alone
7 was -- the sales and marketing fee alone on day one
8 was north of \$10 million.

9 So, you know, at the time we had
10 another project known as YSL that was in the zoning
11 phase, and that was also a large scale project, over
12 a billion dollars. And all my efforts were showing
13 at the front end stage, where we were selling large
14 projects, the volume and the fees. And so we had a
15 conversation where 20 percent was the new number to
16 ensure that I was properly compensated for all my
17 efforts.

18 Q. Okay. And we're going to get
19 to the 33 Yorkville and YSL piece in a second.

20 MR. MILNE-SMITH: Mr. Dunn, I
21 apologize for interrupting. Ms. Athanasoulis keeps
22 on looking down, and it looks like she's reading.
23 Can you just confirm you don't have nothing
24 distracting you?

25 THE WITNESS: No, I'm actually

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1 playing with water bottle paper. Sorry. Do you want
2 me to stop? I'm sorry.

3 MR. MILNE-SMITH: It just -- I
4 know that Mr. Dunn would have confirmed with you in
5 advance that you don't have anything in front of you.

6 THE WITNESS: No, I don't have
7 anything.

8 MR. MILNE-SMITH: Thank you.

9 THE WITNESS: Yeah, I figured it
10 was less noisy than -- I sometimes do this to a pen,
11 and that would be more distracting.

12 MR. DUNN: Thank you for
13 clarifying that. I wouldn't want to have the wrong
14 impression.

15 BY MR. DUNN:

16 Q. Let me actually just --
17 Ms. Athanasoulis, do you have any documents in the
18 room with you?

19 A. Yes, I do.

20 Q. And what do you have in the
21 room with you?

22 A. I have all of the documents
23 that you're sharing on the screen in paper form, in
24 case I need to access them.

25 Q. Okay. Do you have anything

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1 else?

2 A. A couple of water bottles and
3 this piece of paper that I've torn apart that was
4 part of the water bottle. Sorry.

5 Q. Okay. So we were just
6 backing up, and I think that the question that I last
7 asked you was: Did you have any discussions around
8 the launch of the Clover and Halo projects?

9 A. So Clover was another
10 successful project that we acquired, sold and went
11 straight into the construction phase and had huge
12 fees that were generated from it. And so, at that
13 time, we would have talked about 15 percent, but I
14 mean, neither here nor there, because in 2017 we
15 confirmed 20 percent was the profit that would be
16 owed to me.

17 Q. Okay. But just to make sure
18 that I understand, did you ever sort of land at 15
19 percent, or what were the nature of the discussions?

20 A. The nature of the discussions
21 were that, you know, I was comfortable with 15
22 percent, but by 2017, it was confirmed that it was 20
23 percent.

24 Q. Okay. So let's turn now to
25 2018. I just want to understand from your

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1 perspective -- sorry, we're going to skip ahead to
 2 after the launch of the YSL project in 2019. What --
 3 and I'm going to ask you your understanding of the
 4 profit sharing agreement or the agreement at that
 5 time. Who were the parties to the agreement?
 6 A. To the profit sharing
 7 agreement?
 8 Q. Correct.
 9 A. All the individual
 10 condominium owners of each project.
 11 Q. Okay. And is that something
 12 that you discussed with Mr. Casey?
 13 A. Yes, we discussed that in, in
 14 the meeting of 2019 with John Papadakis.
 15 Q. Did you discuss it other than
 16 in the meeting of 2019 with John Papadakis?
 17 A. Well, I mean, I would assume
 18 that one would understand that Cresford Developments
 19 was not a company, and all the individual projects
 20 filed into a corporate structure that I didn't
 21 necessarily completely understand who owned what, et
 22 cetera. So, I mean, each individual project was the
 23 project that I had a deal with in making my profit.
 24 Q. Okay. But just to come back
 25 to my original question, what -- did you have a

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1 discussion about that issue with Mr. Casey, apart
 2 from the discussion that you had with Mr. Papadakis?
 3 A. That each individual project?
 4 Q. Right.
 5 A. It was just something that
 6 was known and assumed.
 7 Q. Okay. And did you have --
 8 what discussions, if any, did you have with Mr. Casey
 9 about how profits were going to be calculated?
 10 A. We would use the project pro
 11 forma for each project.
 12 Q. And is that something you
 13 discussed with Mr. Casey?
 14 A. Yes.
 15 Q. Okay.
 16 A. Like --
 17 Q. Sorry, go ahead.
 18 A. I mean, just like how else
 19 would you know what the profits are of each project?
 20 Like, we had a pro forma on each project that was
 21 distributed on a monthly basis, and that was the
 22 project -- profit for each project.
 23 Q. Okay. And what was your
 24 understanding of when the profit share was going to
 25 be paid?

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1 A. So the profit share would be
 2 paid at the end of a project when it's complete.
 3 Q. Okay. And did you have any
 4 discussion about what would happen if you were
 5 terminated or resigned from Cresford?
 6 A. No. Because I didn't think
 7 that that would be something we would need to
 8 discuss.
 9 Q. Okay. If Mr. Casey had asked
 10 you to agree that if you were terminated by Cresford,
 11 that your profit sharing entitlement would go away,
 12 would you have been prepared to agree to that?
 13 A. No.
 14 Q. Why not?
 15 A. Well, it wasn't something
 16 that I agreed to in terms of the sales and marketing
 17 fee that I would earn, and all of my work was -- the
 18 amount of work that I put into a project, it was
 19 something that a lot of it was front end. And you
 20 know, in order for these projects to be a success, a
 21 lot of it was front loaded. So, I mean, in terms of
 22 getting the project marketed, sold, negotiating the
 23 contracts to get it into construction, that would
 24 have been an integral stage in the understanding what
 25 the profit would be, generally, because you would

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1 have the contingencies in place to take care of, of
 2 any extras. But, I mean, I didn't -- I would never
 3 agree to forgo my profit for all the work that I was
 4 doing.
 5 Q. Okay. And did you ultimately
 6 take steps to document the agreement?
 7 A. So we took steps together to
 8 document the agreement in 2019 with John Papadakis,
 9 who was our corporate lawyer at the time. We asked
 10 for a meeting at our offices to put the existing
 11 agreement in writing.
 12 Q. Okay. I just want to pause
 13 for a second. You mentioned Mr. Papadakis. Do you
 14 have any relationship with Mr. Papadakis, other than
 15 him being Cresford's lawyer?
 16 A. Yes, he's a friend, and --
 17 he's a friend, and I'm also the godparent to his
 18 child by marriage.
 19 Q. What does that mean, the
 20 godparent by marriage?
 21 A. My husband has a relationship
 22 with John.
 23 Q. Okay. And what's the nature
 24 of that relationship?
 25 A. So his -- John -- my

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<p>1 husband's parents were John's godparents. And so 2 Chris, my husband, then became the best man and 3 godparent to his child -- first child. 4 Q. Okay. And so what prompted 5 you in 2019 to decide to document this arrangement? 6 A. So, I mean, it had been -- it 7 had come up over the years several times. In 2019, 8 it was a moment in time where YSL had become very 9 profitable. And it was under construction, the sales 10 had been achieved. We were negotiating to get a 11 construction mortgage. And, you know, it was time 12 that Dan provide me with the paperwork to ensure that 13 I had my profit properly documented. 14 But it was also a time that for, 15 for succession planning, if something were to happen 16 to Dan, I was operating the business; I was the face 17 of Cresford; I was the one who created the brand and 18 the market knew me as Cresford. And it was something 19 that we thought was important, because if something 20 did happen to Dan health-wise, that the business 21 carry forward and completed, so that both his estate 22 and myself could finish the projects and, and nobody 23 could step in and have the ability to derail me from 24 earning my profits. 25 Q. Okay. So returning to this</p>	<p>1 meeting, what was your understanding with respect to 2 who Mr. Papadakis represented? 3 A. He represented Cresford. 4 Q. Okay. And did you have a 5 lawyer at the meeting? 6 A. I did not have a lawyer at 7 the meeting. 8 Q. And why not? 9 A. I didn't think I needed one. 10 I would have engage my own lawyers after I had 11 received formal paperwork. 12 Q. Okay. And when did the 13 meeting take place? 14 A. So the meeting took place on 15 a Saturday, because we were talking about my 16 employment and profit numbers, which, you know, it 17 just made sense to have it on a Saturday, where there 18 wouldn't be many people around. And so we had it, 19 you know, at the Cresford offices. 20 Q. Okay. So describe for me, as 21 best you can, what you recall being discussed at the 22 meeting? 23 A. So we went through all of the 24 various components to my employment contract. I 25 talked about just what I was owed, and in terms of</p>
<p>Page 165</p> <p>1 each project what the profit was, which was 20 2 percent. But also, my sales commission, how each 3 company owed me the profit, and my arrangements were 4 with all the individual companies, and talked about 5 just how it would work in terms of ensuring that both 6 my interests were protected, and so were Dan's. 7 Q. Okay. And did you discuss 8 what percentage of profit you were entitled to? 9 A. Yes. We discussed the 10 ongoing arrangement of 20 percent. 11 Q. Okay. And did you discuss at 12 the meeting who would pay you the profits? 13 A. All the individual entities, 14 all the project companies of each condominium. 15 Q. Okay. And did you have at 16 the meeting, to the best that you can recall, a list 17 of who those entities were? 18 A. No. We talked about each 19 project name and John wrote them down. And, and he 20 received all of those names after the meeting, all of 21 the various legal names. 22 Q. Okay. Did you have a 23 discussion about what would happen in the event that 24 any of the companies -- or any of the projects were 25 sold?</p>	<p>Page 166</p> <p>1 A. No. 2 Q. Okay. And did you discuss at 3 the meeting how profits were to be calculated? 4 A. Each project pro forma had 5 its own -- each project had its own pro forma. The 6 profits were based on the actual pro forma for each 7 project. 8 Q. Okay. And how many meetings 9 did you have on this topic? 10 A. We had one meeting at the 11 office. 12 Q. And so is that the meeting 13 that you just told me about? 14 A. Yes. 15 Q. Okay. Did you have a further 16 meeting at the office? 17 A. No. 18 Q. Or anywhere, sorry. Did you 19 follow-up with Mr. Casey or Mr. Papadakis to ask -- 20 sorry, let me take a step back. Did you ever receive 21 a draft of the agreement? 22 A. No. 23 Q. Okay. Did you follow-up with 24 Mr. Casey or Mr. Papadakis about the draft of 25 agreement?</p>

1 A. I mean, it was something
 2 that -- it wasn't top of mind because I was so busy
 3 running the business. There was a couple of times
 4 that I asked what was going on in terms of, of
 5 getting the contract. Dan said that -- at one point
 6 he said he was handling it. But, you know, in
 7 November, when -- I was a little stressed out. I
 8 basically also said to Dan, like, what are we doing
 9 with my contract, so that I can ensure that I am
 10 safeguarded on your commitment to pay me 20 percent.

11 Q. Right. And did you -- during
 12 this period, between February 2019 and January of
 13 2020, which we'll come to in a little bit, was it
 14 your understanding that until Mr. Papadakis did his
 15 work, you didn't have an agreement about the profits?

16 A. No.

17 Q. Okay. If you had that
 18 understanding, would it have changed how you
 19 approached this issue?

20 A. Wow. Of course. I mean, I
 21 would have -- I wouldn't have worked for Cresford. I
 22 mean, my -- I was always working under the
 23 commitments that Dan made to me.

24 MR. DUNN: Okay. So I wonder,
 25 Mr. Horton, and Madam Reporter, if now is a

1 convenient time to take a break. We've been going
 2 for about an hour and a half, and I'm about to take
 3 Ms. Athanasoulis to a new topic. I do have to take a
 4 break at about 3:15, which I've told my friend, just
 5 like a 10 minute break. So I'm happy to go until
 6 then, and we may, frankly, finish her testimony by
 7 then, or I'm in your hands. I just didn't want to
 8 keep going without giving you an opportunity to take
 9 a break.

10 ARBITRATOR HORTON: It's good to
 11 check. I don't think we want to go all the way to
 12 3:15 without a break, but we know we're going to have
 13 a break at 3:15. Why don't we take sort of 10
 14 minutes now. I like to give the reporter a break,
 15 and there may be others who appreciate it as well.
 16 Yeah, let's come back just shortly after 2:30.

17 MR. DUNN: Sure. And Mr. Horton,
 18 just for housekeeping, as my friend and I discussed,
 19 and you may be interested in this, my friend -- we're
 20 definitely going to finish Ms. Athanasoulis' chief
 21 comfortably before 4:30. My friend has asked that we
 22 start her cross-examination in the morning, because
 23 Mr. Casey can't testify tomorrow whatever happens, so
 24 tomorrow may be a shorter day. So I just wanted you
 25 to sort of have that information.

1 ARBITRATOR HORTON: Sure.

2 MR. DUNN: Since my friend and I
 3 have spoken about it.

4 ARBITRATOR HORTON: Okay.
 5 Mr. Milne-Smith, you're just rising to confirm, are
 6 you?

7 MR. MILNE-SMITH: Yes, I rose in
 8 anticipation of. Mr. Dunn has stolen my thunder. We
 9 have spoken of this. And subject to your input, I
 10 thought it would make more sense, since there was no
 11 shortage of time to -- if I can use the evening, I
 12 will be able to condense my notes and prepare a
 13 proper cross-examination, so everything takes less
 14 time.

15 ARBITRATOR HORTON: Yeah. No,
 16 that all makes sense to me. So why don't we come
 17 back at 2:35.

18 --- Recess at 2:24 p.m.

19 --- Upon resuming at 2:40 p.m.

20 ARBITRATOR HORTON: Okay. Sorry
 21 for the delay. I gather the witness is having some
 22 problems with her Zoom connection, which we don't
 23 know exactly how to resolve. But we'll carry on.

24 THE WITNESS: So just to be clear,
 25 it's not a Zoom connection. It's just pop-ups keep

1 coming up while I'm being asked questions. One
 2 various one that changes in the corner. But the
 3 other one is gone that was distracting me; it was
 4 asking me to play music.

5 ARBITRATOR HORTON: Oh, okay.

6 THE WITNESS: Which -- but it's
 7 fine.

8 ARBITRATOR HORTON: It's always a
 9 concern when we do have these kinds of intrusions
 10 into our hearings and we're doing Zoom. And, you
 11 know, it doesn't sound like it's anything too
 12 menacing.

13 THE WITNESS: No, it just throws
 14 you off when you're being asked a question and a
 15 pop-up comes on.

16 ARBITRATOR HORTON: No, I
 17 appreciate that, Ms. Athanasoulis. You know,
 18 testifying is enough of an experience without having
 19 those distractions. So let us know if it becomes too
 20 much of a problem. I gather that Ms. Yu is going to
 21 try to see if there's some sort of solution to it, or
 22 maybe we can log back in with -- if anyone --
 23 certainly if you continue to have it, or if anyone
 24 else has the problem, maybe we can log back in with a
 25 different code or something like that, and see if

1 that solves the problem for you. I don't believe
 2 anyone else is having that issue. Is anyone else on
 3 the --
 4 MR. DUNN: I'm not.
 5 ARBITRATOR HORTON: -- having that
 6 issue? Okay. It might just be your own underlying
 7 system. Maybe you have some other thing open in
 8 Google, some other window open. Can you see whether
 9 you have any other windows open?
 10 THE WITNESS: I don't have any of
 11 that. That's why it was throwing me off. And it
 12 is -- I took the last -- I took a screenshot shot,
 13 like, of the latest one. But right knew I'm clear,
 14 so I'm fine.
 15 ARBITRATOR HORTON: Let's carry
 16 on. Do let us know if it's more of an issue.
 17 THE WITNESS: I apologize.
 18 ARBITRATOR HORTON: Okay. Thank
 19 you very much. Don't feel that you have to keep it
 20 to yourself if there's any kind of distraction like
 21 that.
 22 THE WITNESS: Thank you.
 23 ARBITRATOR HORTON: Thank you.
 24 BY MR. DUNN:
 25 Q. Ms. Athanasoulis, before I

1 move on from these discussions, can you tell me, did
 2 you have any understanding, if profits were going to
 3 be derived from the YSL project, specifically, who
 4 was going to earn them?
 5 A. The profits?
 6 Q. Yes.
 7 A. That company would pay both
 8 myself and whatever Dan did with his 80 percent.
 9 Q. And what -- but where -- who
 10 was going to earn them before they were paid to you
 11 and to Dan?
 12 A. The individual project.
 13 Q. Okay. So I want to talk a
 14 little bit more about the YSL project. Can you just
 15 give me an overview of what it was?
 16 A. So YSL was a piece of
 17 property that was located in the center of the
 18 downtown core. It was a parcel that we bought that
 19 was initially bought that had a zoning application
 20 that wasn't approved on it when we acquired it. And
 21 we designed -- when we bought it, we changed gears
 22 and designed a tower that was fitting for the
 23 location, and also something that we worked on with
 24 the city that we thought could get approved.
 25 It was a large scale development,

1 85 storeys, encompassed 1106 suites. It was one of
 2 the largest -- it was going to be -- it is going to
 3 be one of the largest towers in Toronto. And it was,
 4 it, it was a beautiful.
 5 Q. Okay. And can you
 6 describe -- well, first, was there ever consideration
 7 of selling the YSL project rather than building the
 8 project out to completion?
 9 A. So in 2018, what we had
 10 considered was potentially selling it for a
 11 substantial profit. And at that time, we would have
 12 distributed profits, but also, you know, at that time
 13 there was discussions of whether or not Dan would
 14 like to use those to, to properly capitalize other
 15 projects or use that money as he saw fitting for the
 16 organization or for himself.
 17 Q. Okay. And had there been a
 18 sale and profits were earned, did you have any
 19 expectation about what would happen with your
 20 agreement?
 21 A. My expectation was that my
 22 agreement would be honoured.
 23 Q. Okay.
 24 A. But it wasn't something that
 25 eventually happened. There were no suitors to

1 purchase it, and it wasn't, it wasn't something I
 2 thought about for very long.
 3 Q. Okay. And so after the sales
 4 process didn't go anywhere, what happened next?
 5 A. So the sale process didn't go
 6 anywhere at the time. In August of 2018, we had our
 7 zoning meeting with -- it was under the new rules.
 8 In the olden days, it would have been called ONB.
 9 But basically, there were some challenges and we were
 10 working with the city, and all of that, and we had a
 11 trial. And the project was approved, zoned in August
 12 of 2018. Given the fact that there was no solution
 13 to quickly sell the project and realize its profits
 14 from a zoning perspective, we moved very quickly into
 15 a marketing and sales phase to ensure that it was a
 16 very successful and profitable project.
 17 Q. And what was your involvement
 18 at the marketing and sales phase?
 19 A. So I was involved from the
 20 zoning. I'm ensuring that we were zoning a project
 21 that was going to be properly designed so that I
 22 could maximize its value. In August through to, to
 23 September, October, I moved very quickly into the
 24 design stage, and designed all of the small details
 25 that needed to be designed from an exterior

1 standpoint in order to create the marketing material
2 of the image of the building, but really went into
3 the deep dive of designing all the suites, so that
4 they were designed to maximize the value of the
5 project.

6 Q. Okay. And did you work with
7 anyone in that effort?

8 A. In terms of the suite
9 layouts, we engaged with architectsAlliance, and I
10 worked with a architect there over a period of 48
11 hours, and we designed all the suites that could be
12 sold that I could actually achieve a revenue that we
13 could enter into the pre-sale -- sorry, the
14 construction phase very quickly. So we designed all
15 the suites up until the 68th floor.

16 Q. Okay. And what steps did you
17 take after that to market the project?

18 A. So shortly after that, I mean
19 and concurrent to designing the suites, I was
20 promoting that we were coming out with this fantastic
21 new site, getting the market excited about the
22 opportunity to, to be able to purchase one of the
23 units that would exist in this luxury limited time
24 edition building, and entered into, entered into the
25 marketing campaign, where we hosted -- invited

1 several of our past brokers that had engaged selling
2 all of the past Cresford projects, and all of the
3 ones that wanted an opportunity to sell the future
4 ones, and had a big marketing and sales event that
5 was a huge success. And thousands of people tried to
6 attend; 1500 people only could actually make it into
7 the venue, where they heard about the opportunity to
8 be able to purchase a unit in the building.

9 Q. Okay. And who spoke at that
10 event?

11 A. I spoke at the event and
12 promoted the product, the opportunity, introduced the
13 project, where the architect also spoke about the
14 project.

15 Q. Okay. And did Mr. Casey
16 speak?

17 A. No, Mr. Casey didn't speak,
18 nor did he attend.

19 Q. Okay. And what happened with
20 the launch? Was it successful?

21 A. Well, you know, it's so
22 biased of me to say. Yes, it was very successful.
23 In terms of the market, it achieved the highest price
24 per square foot that had ever been achieved in the
25 neighbourhood, in the area, and we successfully sold

1 enough condos that would satisfy a pre-sale, a
2 pre-sale condition to enter into the construction
3 phase of a loan.

4 Q. Okay. And in dollar terms,
5 approximately how much, how much products did
6 Cresford sell?

7 A. So we sold about, so we sold
8 about 600 million. And there was another event that
9 I did, like, three months later that sold another 80
10 units that was just a top-up to confirm that the
11 project had the pre-sales in order to satisfy a
12 lender to get a construction loan.

13 Q. Okay.

14 A. But, yeah, it was very
15 successful. In terms of condominiums in our city, to
16 achieve those pre-sale numbers in a very short period
17 of time, it was, it was a first.

18 Q. Okay. So YSL executed a
19 bunch of purchase agreements as a part of this. Who
20 signed them on behalf of YSL?

21 A. So I, I had signing
22 authority. But on a launch, I would also delegate my
23 signing authority to several individuals, because I
24 couldn't possibly sign all of those contracts in, in
25 such a short period of time. So we, we, we -- I

1 delegated my authority to a couple of trusted
2 individuals.

3 Q. Okay. And let's turn now to
4 the -- sorry, and what was happening around the same
5 time with Cresford's other projects, Clover, Halo and
6 33 Yorkville?

7 A. So they were -- they had
8 construction. They were under construction. There
9 were known overruns or increases in both Halo and
10 Clover. And so they were, they were in need of
11 equity contributions, or we knew that that would
12 be -- that would need to happen over time. And
13 prices in construction were escalating. It was a, it
14 was -- those two projects had some financial issues
15 that needed to be addressed.

16 Q. Okay. And did you discuss
17 those issues with Mr. Casey?

18 A. He was fully aware of all the
19 issues.

20 Q. Okay. What about YSL, was it
21 suffering from financial difficulties?

22 A. No, so YSL was the opposite.
23 It was very profitable. It, it had everything going
24 for it, especially with the sales now in place. We
25 were -- we had furthered along the design, so we were

1 able to ensure that the scope of all the construction
2 contracts covered the, the detailed building. All
3 the contracts were coming in line with what we had
4 projected in terms of our construction project. So
5 it was a very exciting time for YSL.

6 Q. Okay. And then fast
7 forwarding a little bit to the beginning of 2019, was
8 Mr. Casey ill during this period and unable to
9 participate in Cresford's business as he normally
10 would?

11 A. Not as far as I'm aware. He
12 took holidays. He traveled. He, he ensured that we
13 spoke every day. He liked off-site meetings. We met
14 at coffee shops, hotel lobby bars, and he even
15 attended Cresford offices several times. But it was
16 business as usual, as far as I knew.

17 Q. Okay. And you mentioned that
18 Clover and Halo were going to need additional equity.
19 Can you explain to me a little bit more about how you
20 knew that and when and why the equity was going to be
21 required?

22 A. Well, there was different
23 things happening. I mean, there were various --
24 every month we would prepare the pro formas, so we
25 were tracking sort of all the, the costs associated

1 with the project. It had delays in terms of its
2 schedule. It had section 37 increases because of the
3 parkland; things that weren't originally forecasted
4 in the original pro forma. It didn't have the
5 healthy contingencies that we had forecasted in a
6 project like, like YSL.

7 And so it was, it was part of
8 actively running a development. Like, it had its
9 issues in terms of getting to the end that required
10 some equity to be injected. That sometimes happens.

11 Q. Okay. And what did the
12 construction loans require in the event of a cost
13 overrun or a cost increase relative to the project
14 budget?

15 A. They required, they required
16 owner's equity.

17 Q. Okay. And what happened if
18 the equity didn't get -- sorry, how much equity was
19 required?

20 A. In, in each project or
21 specifically?

22 Q. Not in dollar terms, right,
23 but when you say they were -- if they're in the event
24 of a cost overrun, owner's equity is required is what
25 you said. What's the relationship between the cost

1 overrun and the equity?

2 A. What's the relationship
3 between the cost overrun and the equity? So,
4 basically, the lender has committed to a construction
5 value of the project, a construction loan, and so
6 they -- they were monitoring the costs. We have a
7 cost consultant that's monitoring the costs, and it
8 is our responsibility to reveal the cost overruns.
9 And it's a known thing that cost overruns, subject
10 to, to not being able to -- or use your contingency,
11 because you've used it up, you would have to write a
12 cheque.

13 Q. Okay. So who's Joe Bolla?

14 A. Joe Bolla is a friend of
15 Dan's. Their history goes back many decades. The
16 story I've been told is he worked for Price
17 Waterhouse, and Dan hired him many decades ago.

18 Q. Okay. Was he involved in
19 investigating these cost overruns?

20 A. Not as far as I was aware.

21 Q. Okay. What about
22 Mr. Dowbiggin? You mentioned -- sorry, what was his
23 role, as far as you knew, in 2019?

24 A. Ted Dowbiggin's role? He
25 didn't have one. He didn't work for Cresford. He

1 had left the company.

2 Q. Okay. Was there ever a time
3 when Mr. Dowbiggin started to investigate these cost
4 overruns?

5 A. Not that I was, not that I
6 was told.

7 Q. Okay.

8 A. That I'm aware of.

9 Q. And so during this period,
10 did you have any discussions with Mr. Casey about how
11 to address these cost overruns?

12 A. So in the summer of 2019, the
13 cost overruns were known. I pressed on Dan for a
14 resolution. You know, we talked about him injecting
15 the proper equity to ensure that these projects were
16 completed. And when I pressed for the equity, he
17 suggested that we sell the company, because he did
18 not have access or did not have the means to inject
19 the equity that was required for, for the projects.

20 Q. Okay. Did you know the
21 equity that had been invested in Clover and Halo and
22 Yorkville, did you gain any understanding about where
23 that money came from?

24 A. So I gained understanding
25 that it, it was borrowed. But the bigger issue for

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1 me is that I also gained the understanding that it
2 was never disclosed to the lender.

3 Q. Okay. And who was the money
4 borrowed from?

5 A. It was borrowed from a
6 company by the name of OTB Capital, and it had
7 monthly interest obligations.

8 Q. And what was the impact of
9 those monthly interest obligations?

10 A. They were hurting the cash
11 flow of the business.

12 Q. And why was that?

13 A. Because the payments were
14 coming from Rosedale, and Dan's obligation. But, I
15 mean, he wanted those to be paid with the fees that
16 were being earned.

17 Q. Okay. So what happened once
18 Mr. Casey suggested that one solution to all this
19 might be selling Cresford's business?

20 A. So in and around the same
21 time, I had met, I had met with Patrick Dovigi, who
22 is the CEO and owner of Green For Life, GFL. Green
23 For Life was the original, but I think it's GFL --
24 GFL, it's a publicly traded company. He was the
25 shoring contractor on two of our projects, both 33

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1 Yorkville and YSL. And I had met with him for, for
2 reasons of the construction schedule and ensuring
3 that we met the construction schedule, and if there
4 was anything he could do to help me speed up the
5 construction schedule, because there could be a
6 significant further savings on YSL. So we talked
7 about both 33 Yorkville and YSL.

8 And in discussions with Dan,
9 Dan -- we knew that Patrick was an active buyer of
10 businesses, and Dan suggested Patrick as a suitor to
11 see if we could approach him to purchase the
12 business.

13 Q. And did you approach him
14 about potentially purchasing the business?

15 A. I did, under Dan's
16 advisement.

17 Q. Mm-hmm.

18 A. And --

19 Q. Sorry, go ahead.

20 A. No, go ahead.

21 Q. And what happened after you
22 approached him?

23 A. So I met with Patrick. He
24 said he'd be interested, and put together all the
25 financial information that was required for him to,

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1 to underwrite the business. And progressed pretty
2 quickly with Dan fully onboard, fully aware, fully
3 aware of all the information that had been given to
4 Patrick Dovigi. And didn't think there was, there
5 was any issues from Dan's part, because it was his
6 suggestion to sell the business.

7 Q. Right. And if the business
8 was sold, did you have any discussions with
9 Mr. Dovigi about what your own role might be after
10 the sale?

11 A. So Patrick wasn't a
12 condominium developer. He -- our arrangement was I
13 was going to continue to operate the business, run
14 the business, and, and I would make a 50 percent -- I
15 would have a 50 percent ownership in the new entity
16 going forward.

17 Q. Okay. And was Mr. Casey
18 aware of that potential interest?

19 A. Dan was fully aware, and also
20 understood that I was the value of Cresford. I was
21 running construction, was running sales. Needed
22 financial support, and Patrick had the ability to
23 provide Cresford with that.

24 Q. Okay. So I want to fast
25 forward to November of 2019. And I'm showing you a

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1 text message -- well, why don't you tell me what this
2 document is.

3 A. So basically, at this time, I
4 was not dealing with the negotiations of purchase of
5 Cresford. Dan was dealing with them direct. At the
6 end of the day, you know, it was his, it was -- I
7 had -- I just wasn't part of the negotiations for
8 conflict of interest, potentially, but it was -- he
9 knew that I would have a stake in the business going
10 forward. But I mean it progressed that Dan was
11 negotiating directly with Patrick, and was keeping me
12 up to date on the negotiations with Patrick.

13 Q. Okay. Do you remember the
14 first line that I'm showing you here -- so, first of
15 all, whose number is 388-2783?

16 A. So that's Dan Casey's cell
17 number.

18 Q. Okay. And do you remember
19 this, first it says:

20 "Maria I'm very, very
21 fortunate to have you with
22 you -- with me. Thank you
23 and God bless us and our
24 families." [As read]

25 And this is, just for the record,

1 joint document book Tab 6. Do you recall what
2 prompted that comment?

3 A. Yeah. So, basically, he was
4 very happy that -- to sell the business, and he was
5 very happy that things -- that there was a solution
6 to the equity requirements, and that it was -- there
7 was this potential sale on the table that would
8 resolve the issues that were highlighted.

9 Q. Okay. And situating
10 ourselves at the date of the text that we're looking
11 at, November 22nd, 2019, by this point had you told
12 Mr. Casey that you were going to have an interest in
13 the post-acquisition company, if there was a sale?

14 A. Yes, he fully was aware. He
15 knew that. And he was providing me with an update on
16 his, on his meeting with Patrick and Dino.

17 Q. Okay. And at this point, had
18 your responsibilities, in terms of managing
19 Cresford's business, had they changed?

20 A. On this specific date, no.
21 Things were going well. I thought that Dan was
22 engaging in the sale in an ethical manner. I thought
23 that he was very keen to sell the business. And I
24 trusted that he was, he was doing as he said in this
25 text, and proceeding with talking to Patrick on

1 selling the business.

2 Q. Okay. There's, there's a
3 reference at the bottom to somebody named Kumer. Who
4 is that?

5 A. So that's Rob Kumer with
6 KingSett, and there was a pre-sale requirement --
7 sorry, the icon has just come up again asking me to
8 play music for all of us. Sorry.

9 Q. Don't do that.

10 A. Sorry.

11 Q. What was the issue with
12 KingSett at this point?

13 A. Sorry. Okay. So the issue
14 with KingSett was that there was a retail sale that
15 was part of the funding condition for the financing
16 of YSL, and Patrick would have been buying the retail
17 of YSL as part of the sale of the whole business.
18 And there was a broader deal to happen with the sale
19 of, of the company, which was one of the things that
20 we had talked about and knew.

21 And Dan writes to me that he's
22 talking to Kumer, because Kumer wanted an update. I
23 was withholding that we were having discussions on
24 selling the business. Dan decided to talk to Rob,
25 and intended to give him an update that he was

1 negotiating two credible parties.

2 Q. And sorry, what was
3 KingSett's involvement?

4 A. So KingSett would have been
5 the Mezzanine loan, which Mezzanine acts as equity as
6 part of the overall construction mortgage of YSL.

7 Q. Okay. And at the bottom, you
8 say:

9 "You are more than welcome
10 to take your time - but I
11 don't have the same schedule
12 as you. I need to make the
13 right decision today if I'm
14 ... continuing to give you
15 time and that includes a
16 full understanding of what
17 your plan is to ensure
18 brokers, trades, staff, and
19 investors are protected. I
20 would like to continue a
21 career in this business and
22 my reputation matters to
23 me."

24 Explain to me why you wrote that
25 and what you're talking about?

1 A. Yeah. So on this -- sorry, I
2 didn't have the full screenshot of the whole text
3 exchange. So I was starting to feel very
4 uncomfortable that Dan was doing things behind the
5 scenes. He wasn't telling me much. Our
6 relationship -- he was starting to act a little
7 strange, which had never happened. And I was very
8 concerned that Dan was doing things behind my back
9 that were going to put all the stakeholders at risk.

10 I don't know why he -- like, I
11 didn't understand why he wanted to tell Kumer that
12 there was more than one party on the retail. Like, I
13 just -- I was not happy with Dan's communication, and
14 I didn't understand what was happening. And I was
15 trying to express my discontent with it.

16 Q. Okay. You say:

17 "Dan, the numbers in the
18 book are accurate, and can
19 even be viewed as aggressive
20 if there is an operator
21 without experience."

22 What book are you talking about?

23 A. So Dan, at this point in
24 time, was trying to -- or at this point in time
25 involved Joe Bolla to come in to look at the white

1 book. So there was a book that was created that had
2 all of the financial data of all of the various
3 companies that were active, and the overall profit
4 that was for Patrick to assess the value of the
5 business, and also to discuss the terms of the
6 purchase and all of that. And Dan started to create
7 a narrative that I was, I was potentially misleading
8 him or the numbers potentially aren't accurate.

9 These are the things that I
10 started to feel that he was trying to, he was trying
11 to say, and he was saying through various sources
12 that were coming back to me. So I was, I was -- I
13 was very uncomfortable with what was happening.

14 Q. Okay. So what did you
15 understand him to mean when he says:

16 "The intention is to sell
17 the company with your
18 leadership living up to its
19 potential and a capital
20 structure that works."

21 A. So he was putting me back on
22 track to say that I am, I am dealing with the sale,
23 and I was led to believe --

24 Q. Sorry, when you say "I am
25 dealing with the sale," who was dealing with the

1 sale?

2 A. Dan was deal with the sale
3 directly with Patrick on selling the business.

4 Q. Okay. So I'm showing you
5 joint document book Tab 30 --

6 ARBITRATOR HORTON: Mr. Dunn, it's
7 almost 3:15.

8 MR. DUNN: Sure.

9 ARBITRATOR HORTON: And I think it
10 might be wise for us to take a couple of extra
11 minutes anyway to see whether we can figure out
12 what's going on with Ms. Athanasoulis' computer. And
13 I don't know -- perhaps, Angela, perhaps I can talk
14 to you in the breakout room, and we can just discuss
15 what potential advice we should give to the witness,
16 or what else we might do, including possibly
17 re-signing in with a different log in number, if we
18 think it has to do with the Zoom. I don't know what
19 your take on it is. So why don't we take a break
20 now. How long do you need? You said 10 minutes, Mr.
21 Dunn? So should we should return at 3:30?

22 MR. DUNN: Sure, 3:30 would be
23 perfect. And just for time-keeping purposes, I think
24 I'll be about half an hour after we resume.

25 ARBITRATOR HORTON: Okay. All

1 right. Well, we have until 4:30, so that's fine.

2 MR. DUNN: Okay.

3 ARBITRATOR HORTON: I think we're
4 okay for time based on what I hear. All right. So
5 let's break until 3:30. And Ms. Yu, I'll see you in
6 the breakout room.

7 --- Recess at 3:14 p.m.

8 --- Resuming at 3:33 p.m.

9 ARBITRATOR HORTON: Okay. All
10 right. We have 10 participants. I assume everyone
11 is here. So just before we start, I will just ask
12 Ms. Yu to give us a little report on her
13 investigation of the issue, just so we have something
14 that explains it.

15 MS. VU: So at a quick preliminary
16 glance, it looks like it is to do with the fact that
17 Ms. Athanasoulis has a basic account and, therefore,
18 ads are popping up to tell her to buy the, to buy the
19 Zoom app, and, therefore, there are ads. However,
20 there are -- there's only a couple of solutions: One
21 is if it pops up at the bottom telling her that, you
22 know, you should explore Zoom apps, so click the
23 little X button to close it. And the other one is
24 that she has noted that there was a musical
25 preference. That is probably because, again, it's

1 just a basic app, and it is popping up to try to get
2 you to buy the client.

3 So the solution, I think, that
4 will help -- I believe will help -- is that you click
5 around the screen. If you click around the screen,
6 you should be able to get rid of the notifications.
7 And if not, please do let me know and I'll keep
8 investigating.

9 THE WITNESS: Thank you.

10 ARBITRATOR HORTON: Okay. And if
11 you need to pause at any point to do that,
12 Ms. Athanasoulis, I would rather that you did that,
13 rather than continue with divided attention between
14 the questions you're being asked and the answers
15 you're giving. That may be more important in
16 cross-examination. So, you know, we have time.
17 Don't feel time pressure to do that. And if you have
18 to deal with it, then take a second or two to close a
19 window, you know, just take the time to do that
20 before turning your attention back to what we're
21 doing here. Okay?

22 THE WITNESS: Thank you.

23 ARBITRATOR HORTON: Thank you very
24 much. Okay. Let's continue.

25 BY MR. DUNN:

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1 Q. Sure. So I'm going to move
2 forward in time a little bit, Ms. Athanasoulis, to
3 joint document book Tab 8, which I'll bring up on the
4 screen for you. And this is an email chain between
5 you and Mr. Casey that starts November 26th. Can you
6 see that?

7 A. Yes.

8 Q. So what prompted you to send
9 this email?

10 A. So what prompted me to send
11 this email was I was not getting any answers from Dan
12 on how we were going to deal with the cash flow
13 issues. He was, at this point, just not giving any
14 answers on cash flow. And I -- in the past, we would
15 always talk through our issues. And I just thought
16 it would be helpful to put everything in writing so
17 he fully understood what was going on, and all the
18 answers he needed to continue running the business
19 properly, and having the right communication with all
20 of the stakeholders.

21 Q. Okay. So turning to the
22 bottom, where it says YSL Financing Urgent, what was
23 your understanding about what had to happen in order
24 to close the YSL financing at that stage?

25 A. So the last condition of the

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1 YSL financing was to have a purchase and sale
2 agreement executed for the retail component of YSL,
3 including deposits.

4 Q. Okay. And turning up to the
5 next in the chain, there's an email from Mr. Casey on
6 November 27th. And can you tell me -- sorry, turning
7 to 33 Yorkville, what did you understand Mr. Casey to
8 mean when he said "help from trade and extra at the
9 end of job"?

10 A. He wanted the trades to
11 forego payment, do side deals and/or bank -- like,
12 bank Cresford by doing the work and not getting paid.

13 Q. Okay. And in exchange for
14 what?

15 A. It's not quite clear. I
16 mean, the trades weren't going to do that. It was a
17 substantial amount of money.

18 Q. Right.

19 A. Like, he was going to do side
20 deals, and he would still have to come up with the
21 equity to pay them on the side. Like, I don't know
22 why -- what he was -- why he was saying what he was
23 saying.

24 Q. Okay.

25 A. And he full-on knew that they

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1 were expecting -- that they wouldn't agree to those
2 numbers.

3 Q. Right. And what about 59
4 Hayden, can you tell me a little bit about this
5 issue?

6 A. Yeah, so 59 Hayden was three
7 office floors at CASA III that were unsold. And we,
8 we negotiated a lease or were in the process of
9 negotiating a lease with Humber, which, you know, I
10 was driving with Sean, and he, he -- his response
11 was, "I will meet with Sean tomorrow about Humber."

12 Q. And, sorry, I don't think
13 we've talked about Sean before. Who is Sean?

14 A. So Sean was the vice
15 president of finance and acquisitions.

16 Q. Okay. And who did Sean
17 report to?

18 A. Sean reported to me.

19 Q. And what was his last name?

20 A. Sean Fleming.

21 Q. Okay. And when you say:
22 I expect to be included --

23 "Given that I am driving the
24 lease and the fact that we
25 are negotiating a sale in

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1 good faith, I expect to be
2 included in this decision as
3 has been the case for the
4 past decade."

5 Can you just help me understand
6 what you meant by that?

7 A. Yeah. So, basically, this
8 was the first time I'm hearing that Dan is going to
9 deal directly on a lease that he knows nothing about
10 with Sean, who reports directly to me. And Dan's
11 going to start dealing with Sean. Like, I, I, I
12 couldn't -- it wasn't -- it was clear to me that Dan
13 was trying to potentially change my role or sidebar
14 me.

15 Q. Okay. And on November 28th,
16 you emailed:

17 "Am I getting an answer to
18 these questions today? We
19 will be seeing people at the
20 Christmas party that have a
21 direct impact on many of
22 these questions and I would
23 like to know what the
24 direction is to be able to
25 appropriately answer."

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1 First of all, what Christmas party
2 were you talking about?
3 A. So Cresford was having a
4 Christmas party with all the trades and brokers and
5 lenders. And you know, YSL was a hot topic, because
6 it was one of the largest buildings and a huge
7 success. And so the lenders that were financing YSL
8 were going to be present, you know, and we -- they
9 were anxiously awaiting for the APS on the retail
10 deal. And I couldn't talk about the sale of the
11 business, which, you know, in my -- what I knew was
12 that we were selling the business, and the retail was
13 going to be sold to Patrick, or we were -- so that
14 was -- I wanted answers to understand how to address
15 all of that, the shortfalls.
16 Trades were calling me. There
17 were, there were payments that needed to be made,
18 contracts to be awarded, because we had a condition
19 on 33 Yorkville. There was, there was, there was
20 Altus that was going to be present that was pressing
21 on a contract for Halo. There was just so many
22 issues. And all of this, all of these issues I just
23 wasn't getting an answer from Dan on.
24 Q. Okay. Sorry, just to make
25 sure, who was Altus? What was Altus' role in all of

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1 the LOI that outlined the sale of the business.
2 Q. Okay. And you mentioned
3 taking something from Mr. Bolla. What specifically
4 did you get from Mr. Bolla?
5 A. So Joe Bolla had notes on the
6 discussion of the, of the, of the sale price, and all
7 of the items that were going with the sale.
8 Q. Okay. And did -- and then,
9 sorry, you mentioned you gave them to Mr. Dovigi's
10 lawyers. Who were they?
11 A. So Stikeman and Elliott was
12 representing PJD, and they prepared the LOI for
13 further meetings between Dan and Joe to -- like,
14 further -- like, further progress on the sale of the
15 business.
16 Q. Okay. And did Mr. Casey and
17 Mr. Bolla know that you were giving those notes to
18 Stikeman Elliott?
19 A. Yeah, it was based on their
20 instructions. And then this document was forwarded
21 to Joe Bolla.
22 Q. Okay. And what did this --
23 had this -- what did this transaction contemplate in
24 terms of the YSL retail?
25 A. Well, I don't -- so at this

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1 this?
2 A. So Altus was the cost
3 consultant on all of the Cresford projects, who
4 monitored all the costs for the project.
5 Q. Okay. So I'm going to turn
6 up now joint document book Tab 30. And what is this
7 document?
8 A. So this document is a
9 document that I received -- sorry, I just want to, I
10 just want to find it as well, Mark.
11 Q. Sure. It's Tab 30.
12 A. Okay. So this is, this is
13 the LOI that was created for Patrick and Dan, based
14 on their negotiations to purchase the business, based
15 on a meeting they had and the terms -- roughly the
16 terms that they agreed to.
17 Q. Okay. What was your
18 involvement with this document?
19 A. So my involvement with the
20 document was Dan came back from a meeting with
21 Patrick, and had Joe Bolla with him, who was helping
22 him negotiate the sale. And my involvement was with
23 it that I gave the document that Joe Bolla had to
24 Patrick's lawyers, and they created this LOI based on
25 the terms that they agreed to. And it was, it was

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1 point and time, I mean, Patrick was buying YSL. He,
2 he didn't -- like, he didn't need a financing to
3 close. He wanted to buy the business, and the retail
4 was in conjunction with buying the business. It
5 wasn't really that the retail was separate from the
6 purchase of Cresford.
7 Q. Right. Okay. And I want to
8 turn next to an email -- oh, I apologize -- to Tab 12
9 of the joint document book. I'll pull it up on
10 screen for you. This is an email on December 13th
11 from Michael DiCesare. Who was he?
12 A. So Michael was the account
13 manager on YSL for the financing with Otera -- from
14 Otera.
15 Q. Okay. And there is attached
16 a letter of intent to Hawalius Inc. Had you, before
17 receiving this email from Otera, had you seen this
18 document, this letter of intent?
19 A. No, I had not seen that
20 document, nor did I understand or know that Dan was
21 negotiating a letter of intent with someone else to
22 buy the YSL retail.
23 Q. Okay. Did you know who
24 Hawalius Inc. was?
25 A. I did not know who

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1 Hawalius Inc. was.
 2 Q. Okay.
 3 A. But --
 4 Q. Sorry, go ahead.
 5 A. But at the bottom, it was
 6 signed by an individual that I knew.
 7 Q. And who is that?
 8 A. Gary Stanoulis, who we had
 9 done business with before.
 10 Q. Okay. And did you have any
 11 concerns about this document?
 12 A. Other than -- I had many
 13 concerns.
 14 Q. And so what were your
 15 concerns?
 16 A. Well, firstly, the fact that
 17 Dan had gone behind my back and was negotiating an
 18 LOI to sell the retail, at the same time that we were
 19 selling the business, at the same time that he had
 20 told Patrick that he wasn't doing that, like, because
 21 Patrick was insisting that he wanted the retail in
 22 conjunction with the sale of the business. Like, I,
 23 at this point, understood that Dan was not acting in
 24 good faith or in the best interest of the business or
 25 the stakeholders.

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1 Q. And did you communicate at
 2 all -- or sorry, let me take a step back. As far as
 3 your understanding went, was this letter of intent
 4 sufficient to satisfy the final condition on the YSL
 5 financing?
 6 A. Absolutely not. It wasn't --
 7 it was not a purchase and sale agreement. And, in
 8 fact, the letter of intent had language in it that
 9 was -- obviously, Dan didn't even know what the
 10 conditions of the financing were, because the
 11 deposits needed to be used in the project.
 12 Q. Okay. And did this letter of
 13 intent allow that?
 14 A. Not from my reading of it.
 15 But, I mean, having said that, regardless, to send a
 16 letter of intent to a lender I had no idea what he
 17 was negotiating with, and to not even advise me
 18 because, you know, I didn't know that I -- like, he
 19 didn't advise the lenders that I was no longer
 20 supposedly going to be dealing with this financing.
 21 And it was just -- I just didn't really understand
 22 what was going on.
 23 Q. Okay. So we saw between --
 24 sorry, had you had -- between the email that we sent
 25 and the sending -- that we looked at a minute ago --

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1 and the letter of intent that we just looked at on
 2 December 13th, had you had any discussions with
 3 Mr. Casey?
 4 A. So between the letter of
 5 intent -- so the letter of intent --
 6 Q. Sorry, I mean between -- you
 7 sent an email. We saw an email chain on November
 8 28th?
 9 A. Yeah.
 10 Q. And then we saw the email
 11 from Otera on December 13th, I believe. But in those
 12 first couple of weeks of December, what discussions,
 13 if any, did you have with Mr. Casey?
 14 A. So we had a meeting at the
 15 office. Basically, it was a meeting after he had a
 16 meeting with Patrick Dovigi on the sale of the
 17 business. And we, we had a meeting at the office to
 18 go over what I thought was going to be to go over the
 19 terms of the sale. Joe Bolla was present, and Sean
 20 Fleming was present, and Dan was present.
 21 I thought I was arriving for a
 22 meeting to go over the terms, which I did after the
 23 fact with Joe Bolla, or Joe Bolla gave me their
 24 letter of intent to be formalized with Stikeman. But
 25 Dan wanted to see me alone, which I didn't want.

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1 Because at this point in time, I didn't necessarily
 2 trust that Dan had the best intentions. So Dan
 3 insisted that he have a meeting with me alone.
 4 And it was a meeting where I was
 5 questioning him as to why things were happening
 6 behind my back. Like, I had learned that he had a
 7 meeting with the Chelsea to purchase another
 8 property. It was, it was a bizarre interaction,
 9 where I asked Dan, is he dealing with the sale, you
 10 know, with good intentions, with honesty and
 11 integrity, and he proceeded to berate me and blow up
 12 and call me crazy, to the point where the whole
 13 office could hear because the wall were glass.
 14 Q. Okay. And did he say
 15 anything other than calling you crazy?
 16 A. All I can remember is he had
 17 real -- he had no answers. He said he was dealing
 18 with the sale honestly and that I'm crazy, that I was
 19 crazy.
 20 Q. Okay. And during this
 21 period, did Mr. Casey give you any instructions about
 22 whether you should deal with the lenders?
 23 A. No. No. I mean, he sent me
 24 an email saying that he was going to take care of
 25 the -- there's an email, I think, in one of the

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1 productions. It was very vague. Like, he was, he
2 was doing things behind my back, but never did he say
3 to me specifically, 'You're no longer going to have
4 people reporting to you, you're no longer going to be
5 dealing with Cresford's issues, or business,' or
6 anything like that.

7 Q. Okay. Did anything change
8 in terms of -- well, let's talk about the reporting.
9 Did anything change in terms of who reported to you
10 during this period?

11 A. Well, so Dan has a meeting
12 with the finance team, which is in the productions.
13 He had -- he requests for a confidential meeting with
14 the finance team, which he never discussed with me,
15 nor did he tell me what he was going to discuss. But
16 in that meeting, he basically told the finance team
17 that they now report to him.

18 Q. And how did you learn about
19 that?

20 A. I learned through the team
21 that that meeting took place, and what he said.

22 Q. Okay. And what was your
23 understanding during this time about who was supposed
24 to be dealing with the lenders?

25 A. I was always dealing with the

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1 lenders, you know, but Dan had started to take the
2 initiative to start to engage with the lenders as
3 well, which I have no problem with. I mean, he is
4 the owner of Cresford.

5 Q. Okay. And what about dealing
6 with the trades; whose responsibility was it to deal
7 with the trades?

8 A. So I was dealing -- I always
9 had the relationship with the trades. I always dealt
10 with the trades. And Dan started to assert himself
11 and wanted to deal directly with trades as well, but
12 never really communicated that with me.

13 Q. Okay. I want to show you an
14 email from Cathy Alderson. Who did you understand
15 Cathy Alderson to be?

16 A. Cathy Alderson was a
17 secretary to Al O'Brien, who's a litigator -- who was
18 a litigator - he's passed - but he was a litigator of
19 his own firm.

20 Q. Okay. This is Tab 14 of the
21 JDB -- or the joint document book. Did you -- in the
22 second paragraph, it says:

23 "In your telephone
24 conversation today with Joe
25 Bolla, you threatened to

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1 take steps to interfere with
2 the closing of the YSL
3 financing. In a text
4 message to Dan this
5 afternoon you referred to
6 the sale of the retail as
7 'presenting a suspicious LOI
8 to the bank.'

9 Did you say that to Mr. Casey --
10 or sorry, I didn't -- did you say to Mr. Bolla that
11 you were going to interfere with the closing?

12 A. No. Joe and I had a call,
13 because I was following up to see what was happening
14 with the LOI and if he could give me an update. And
15 at the same time, the email came through -- or prior
16 to the call or -- and I questioned him and said --
17 and asked him, like, does he know anything about
18 this, because this was the first time I was hearing
19 about it.

20 Q. Okay. And did you threaten
21 to interfere with the YSL financing?

22 A. How could I -- like, did I
23 threaten to interfere? I, I basically told him that
24 wasn't the condition of the financing, to provide an
25 LOI, and I didn't know what was happening.

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1 Q. Okay.

2 A. I did send a text message to
3 Dan.

4 Q. Okay.

5 A. And asked him, asked him is
6 he dealing with the sale, or is he -- like, I -- and
7 I, perhaps, said presenting a suspicious LOI to the
8 bank is not acceptable to it, to the bank.

9 Q. Okay. Did you say anything
10 to Otera, the lender, about the LOI?

11 A. No.

12 Q. Did you say anything to Otera
13 about the potential sale being suspicious?

14 A. No.

15 Q. Did you have any
16 communication with the lender during this period?

17 A. No.

18 Q. Okay. And at the last
19 sentence, it says:

20 "As Dan has told you,
21 verbally or in writing, he
22 will deal directly with the
23 financing issues. To be
24 clear, he will deal
25 [directly] with the bank."

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1 [As read]
 2 What did you understand
 3 Mr. O'Brien to mean by this?
 4 A. I understood that I was being
 5 stripped of, of my responsibilities.
 6 Q. Okay. And at this point, had
 7 Mr. Casey said anything to you that you were being --
 8 that any part of this was temporary?
 9 A. Never.
 10 Q. Did you have that discussion?
 11 A. No.
 12 Q. Did he ever tell you that you
 13 were on leave?
 14 A. No.
 15 Q. Did you have any reason to
 16 believe that there was any kind of an ethical wall
 17 established between you and Cresford to deal with any
 18 conflicts of interest relating to the sale?
 19 A. No.
 20 Q. Okay. I just want to take a
 21 step back for a minute. You mentioned the Chelsea.
 22 Can you tell me about the Chelsea and what that is?
 23 A. So the Chelsea is, is a hotel
 24 currently on the west corner of Yonge and Gerrard,
 25 near YSL. It's a very large scale development that

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1 was interest -- was of interest to us for many years.
 2 From a marketing and sales perspective, in the
 3 Cresford brand, it was a project that was well
 4 aligned with, you know, what our capabilities were,
 5 and in line with the Cresford brand and all of that.
 6 So we had, we had spoken in the past to see if there
 7 was a joint venture we could do.
 8 Q. And had you personally been
 9 involved in those discussions?
 10 A. I had.
 11 Q. Okay. And did you learn
 12 anything during this period, the fall of 2019, about
 13 the Chelsea?
 14 A. So what I learned was on
 15 night of the Christmas party, Dan had decided, from
 16 my understanding, had taken others to a meeting with
 17 the brokers that were trying to sell the Chelsea,
 18 which we had passed on many months ago, over six
 19 months prior. Dan decided to start negotiating the
 20 purchase of this large scale development at the same
 21 time that we had, what I considered, financial -- a
 22 financial, a financial crisis.
 23 Q. And how did you learn about
 24 these negotiations relating to the Chelsea?
 25 A. So I first learned of them on

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1 the night of the Christmas party, where -- the
 2 architect of the Chelsea is the same architect on
 3 most of Cresford's projects, and he mentioned it in
 4 passing, as if I should have known.
 5 Q. Okay. And so dealing with
 6 the aftermath of Mr. O'Brien's letter that we were
 7 just looking at, what was your response to -- or what
 8 was your reaction? We'll talk about the response in
 9 a minute. What was your reaction to this email?
 10 A. To the, to the Al O'Brien?
 11 Like, firstly, I considered Al a friend. Like, I'd
 12 known him for many years. I couldn't understand
 13 where he was coming from in sending me this email. I
 14 was only trying to ethically deal with all the
 15 issues.
 16 I was, I was disappointed. I was
 17 sad. I was confused. I didn't understand why I
 18 couldn't get the answers to a simple question as to
 19 why or how an LOI is being negotiated without my
 20 knowledge. And at the same time, a sale is
 21 potentially being negotiated. I was, I was upset and
 22 confused.
 23 Q. Okay. So after this December
 24 2019 email, just situating yourself at that time
 25 period -- or December 16th, I believe it was -- what

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1 were your responsibilities at that point as president
 2 of Cresford?
 3 A. After that email?
 4 Q. Correct.
 5 A. I didn't, I didn't really --
 6 I, I still had a job, but I didn't have a job.
 7 Q. What do you mean by that?
 8 A. I was never formally told
 9 that I don't have, I don't have a role at Cresford,
 10 but at the same time, I understood that Dan was
 11 stripping me of all my responsibilities.
 12 Q. And during this period, were
 13 Cresford employees reporting to you?
 14 A. No. By this point, they were
 15 all told that they no longer reported to me, not --
 16 without my knowledge.
 17 Q. Okay. And were you going
 18 into the office at that point?
 19 A. At this, at this stage, when
 20 I received that letter, I stopped going into the
 21 office.
 22 Q. Okay. And did Mr. Casey ever
 23 contact you and say, you know, come on back?
 24 A. Never.
 25 Q. Okay. So I'm going to turn

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1 up Tab 15 of the joint document book. So this is a
2 letter that you wrote -- or that I wrote on your
3 behalf on January 2nd of 2020. And what was your
4 understanding of what you were doing by sending this
5 letter?

6 A. My understanding was that I
7 was --

8 Q. Oh, sorry. I apologize. I'm
9 told it's not actually sharing. Sorry, let me start
10 at the top, because you missed it. Sorry, go ahead.

11 A. It was, it was a letter that
12 confirmed that I was under the understanding that I
13 was constructively dismissed.

14 Q. Okay. Was it your intention,
15 when you sent this letter, to resign?

16 A. No. I mean, yes -- no, no
17 no. Like, no. Sorry, I didn't understand your
18 question. I would have never resigned.

19 Q. Okay. So what did you mean
20 when you said yes?

21 A. I just meant, like, resigning
22 meaning a constructive dismissal, in a fashion of a
23 constructive dismissal.

24 Q. Okay.

25 A. And can never go back to

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1 my -- like, basically, I put them on notice that I
2 was not going back to the office.

3 Q. Okay. And in the period
4 between December 16th and January 2nd, were you
5 contacted by lenders or trades?

6 A. Sorry, which period, Mark?

7 Q. Between December 16th of 2019
8 and January 2nd of 2020.

9 A. Was I contacted by lenders?

10 Q. Correct. Did you --

11 A. No.

12 MR. DUNN: Okay. If I could,
13 Mr. Horton, have just a five minute break. I think
14 I'm done. I'm just going to consult my notes and my
15 colleagues and confirm that.

16 ARBITRATOR HORTON: Sorry. We'll
17 stand down for five minute.

18 --- Recess at 4:08 p.m.

19 --- Upon resuming at 4:12 p.m.

20 ARBITRATOR HORTON: Okay. I think
21 we're all back.

22 MR. DUNN: And that completes my
23 questioning, Mr. Horton. And, Ms. Athanasoulis,
24 thank you.

25 ARBITRATOR HORTON: Okay. So I

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1 understand that we'll do the cross tomorrow, and that
2 will be the only item on the agenda for tomorrow. Is
3 there any need to start early tomorrow, or are we
4 comfortable we can finish in the normal time?

5 MR. MILNE-SMITH: I'm certainly
6 optimistic. One never knows, of course. It all
7 depends on the answers, but my expectation is that we
8 will be done by the lunch break.

9 ARBITRATOR HORTON: Okay. Now,
10 Mr. Casey is not available until Thursday, that would
11 make it. And that would -- since you had the opening
12 scheduled for Friday, that would mean that we would
13 need to do the direct and the cross of Mr. Casey
14 tomorrow [sic] to stay on schedule. Is that expected
15 to be a problem?

16 MR. MILNE-SMITH: Yeah, I expect
17 roughly the same timelines for Mr. Casey as we've had
18 for Ms. Athanasoulis. There would be a half day
19 in-chief and a half day in cross.

20 ARBITRATOR HORTON: Okay. Okay.
21 I am generally okay with running a bit later tomorrow
22 or Thursday. I cannot start early on Friday, so we
23 can't make up the time that way. And nobody likes to
24 stay late on Friday.

25 MR. DUNN: And I don't think my

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1 friend or I, having finished in crosses on Thursday,
2 I don't think either of us will be rushing to start
3 the closing early Friday morning. We may need that
4 extra little bit of time.

5 ARBITRATOR HORTON: Okay.

6 MR. DUNN: So that the key is,
7 really, to get Mr. Casey done on Thursday. And as
8 long as that happens, we'll be fine.

9 ARBITRATOR HORTON: Okay. So just
10 bear in mind, and perhaps you can also talk to the
11 witnesses to make sure that there isn't an issue, or
12 to let me know if there is an issue, that any make-up
13 time will have to be either tomorrow -- by extension
14 tomorrow or Thursday, okay? All right. Thank you
15 very much. See you tomorrow at 9:30.

16 MR. MILNE-SMITH: Thank you.

17 MR. DUNN: Thank you.

18 --- Whereupon proceedings adjourned at 4:14 p.m.

6

Consolidated Court File No. 31-2734090

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3, as amended
IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.
Claim of Maria Athanasoulis against
YG Limited Partnership and YSL Residences Inc.

ARBITRATION PROCEEDINGS HEARD BEFORE
ARBITRATOR WILLIAM G. HORTON
held via Arbitration Place Virtual
on Thursday, February 24, 2022, at 9:30 a.m.

VOLUME 3

CONDENSED TRANSCRIPT WITH INDEX

APPEARANCES:

Mark Dunn on behalf of the Claimant
Sarah Stothart

Matthew Milne-Smith on behalf of the Respondent
Chenyang Li for KSV Restructuring Inc.
Robin Schwill in its capacity as the
proposal trustee

Dan Rosenbluth on behalf of Dan Casey

ALSO PRESENT:

Angela Yu
Hannah Johnson

Arbitration Place © 2022
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1 Arbitration Place Virtual
 2 --- Upon resuming on Thursday, February 24, 2022,
 3 at 9:30 a.m.
 4 --- Reporter seeks clarification.
 5 ARBITRATOR HORTON: We'll just
 6 start again with this comment. And we're dealing
 7 with a preliminary point that counsel wish to
 8 address. Mr. Milne-Smith.
 9 MR. MILNE-SMITH: Mr. Dunn, I see
 10 your client is in the room. I have no problem with
 11 that, but I just want to make sure that you're fine.
 12 MR. DUNN: No, it's fine for me
 13 too.
 14 MR. MILNE-SMITH: Okay. So at the
 15 hearing, at the end of the hearing yesterday, there
 16 was evidence given by Ms. Athanasoulis about a
 17 comment made to her by Mr. Henry Zhang, and a
 18 reference to people being hurt if limited partners
 19 were not paid. Mr. Dunn and I both made inquiries
 20 into this matter overnight.
 21 As you might imagine, there is
 22 some dispute over that statement. But what we have
 23 both agreed upon is that that evidence is irrelevant
 24 to the issues that are before you, and can,
 25 therefore, be disregarded in rendering your decision.

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1 we've made the same arrangement today, is that his
 2 son, Richard, will be the technical support. But
 3 obviously I've instructed them that during the
 4 examination, once the examination begins, there will
 5 be no communication about the evidence.
 6 Mr. Richard Casey will not be
 7 visible to his father. He will not be communicating
 8 with him about his evidence. He will follow all of
 9 the appropriate rules. But you may see him on
 10 screen, and he will probably be in the room to
 11 assist, should anything technically go wrong. So I
 12 just wanted to explain that to you, Mr. Horton. Mr.
 13 Dunn is already familiar with it from the examination
 14 for discovery.
 15 I guess the only other point I
 16 should make is that, I believe Dan Rosenbluth from
 17 Paliare Roland firm, who is counsel to Mr. Casey, is
 18 also present at the hearing today, just in case any
 19 privileged issues might arise, which I'm unaware.
 20 ARBITRATOR HORTON: Sure. And how
 21 should I -- is it Rosenbluth?
 22 MR. MILNE-SMITH: Yeah,
 23 R-O-S-E-N-B-L-U-T-H.
 24 MR. DUNN: Yes.
 25 ARBITRATOR HORTON: I saw

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1 Have I stated that fairly, Mr. Dunn?
 2 MR. DUNN: Yes.
 3 ARBITRATOR HORTON: Thank you very
 4 much. That is very helpful.
 5 MR. MILNE-SMITH: So thankfully we
 6 don't have to call four witnesses today to testify
 7 about it.
 8 ARBITRATOR HORTON: Yeah, I mean,
 9 the subject matter of the letters didn't go in in
 10 direct examination. You raised it in
 11 cross-examination, which, of course, you were
 12 entitled to do, as it went to credibility. That did
 13 open up the issue in a new way. She was allowed to
 14 explain the evidence that she gave in relation to
 15 that. However, as often happens when these matters
 16 are pursued, they have a logic of their own, but they
 17 don't necessarily lead to, you know, facts that will
 18 be helpful in deciding the case. So I'm glad you
 19 reached that agreement with respect to that
 20 particular evidence, and we can proceed.
 21 MR. MILNE-SMITH: So the only
 22 other comment I will make by way of explanation,
 23 then, is that the next witness, and the last witness,
 24 is Dan Casey. And Mr. Casey is not very technically
 25 savvy. So the arrangements we made on discovery, and

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1 Mr. Rosenbluth a moment, a moment ago.
 2 Mr. Rosenbluth, can you come on the screen again,
 3 please, just so that we can properly introduce
 4 ourselves.
 5 MS. VU: I will admit him. I
 6 apologize. I put him into a waiting room.
 7 ARBITRATOR HORTON: All right.
 8 That's fine. Please go ahead and do that. Good
 9 morning, Mr. Rosenbluth.
 10 MR. ROSENBLUTH: Good morning.
 11 ARBITRATOR HORTON: I understand
 12 you will be attending the hearing this morning during
 13 Mr. Casey's evidence, and will assist us in certain
 14 regards. Can I just be clear as to the capacity in
 15 which you are attending?
 16 MR. ROSENBLUTH: Yes. So our firm
 17 represents Mr. Casey personally, as well as the
 18 Cresford Group of companies, so I believe the
 19 understanding, among all counsel, is I am essentially
 20 here on a watching brief, subject only to any issues
 21 that may arise as to questions that engage privilege,
 22 and it will be my privilege to protect.
 23 ARBITRATOR HORTON: All right.
 24 Okay. So you are representing Mr. Casey and
 25 Cresford?

1 MR. ROSENBLUTH: Correct.
 2 ARBITRATOR HORTON: All right.
 3 That's helpful. And how will we do this
 4 mechanically? Sometimes these issues arise rather
 5 quickly. So will you be -- do you want to be on
 6 screen the whole time, or are you content to just
 7 come on screen when you have an objection?
 8 MR. ROSENBLUTH: I think the
 9 latter. It works for me, assuming it works for
 10 everyone else. I don't expect there to be much, if
 11 anything. And I would propose to just jump in as
 12 quickly as I can and deal with objections in real
 13 time.
 14 ARBITRATOR HORTON: All right.
 15 Okay. My experience is that good counsel, such as
 16 the ones we have before us today, are well able to
 17 anticipate when they're getting into an area of
 18 privilege or potential privilege, and extend the
 19 courtesy of instructing the witness not to answer
 20 until there has been an opportunity for objection.
 21 So I would expect that of counsel, and, perhaps, we
 22 can also just keep things going a little more
 23 smoothly if that happens.
 24 If you don't appear -- you don't
 25 need to come on screen every time there's no

1 objection, if we give you a reasonable opportunity of
 2 a couple of seconds to find your video unmute button.
 3 We'll assume you don't have anything, if we don't
 4 hear from you. But, of course, if you're late,
 5 that's fine. We'll revisit the subject. And, of
 6 course, we can always take a motion on privilege
 7 inadvertently revealed afterwards, as often happens,
 8 and then we'll make a determination as to whether or
 9 not to exclude the evidence that's already been
 10 given, okay?
 11 MR. ROSENBLUTH: Thank you very
 12 much.
 13 ARBITRATOR HORTON: So I think
 14 that should cover all the contingencies. That being
 15 the case, thank you very much, Mr. Rosenbluth. And
 16 we'll make contact with you at the end, perhaps, if
 17 not before. Okay, are we ready for the witness then,
 18 counsel?
 19 MR. MILNE-SMITH: I believe we
 20 are.
 21 ARBITRATOR HORTON: Okay. Can you
 22 admit Mr. Casey, if he's not already in, or put him
 23 on screen, Ms. Yu?
 24 MS. YU: Of course. I'm admitted
 25 him at the moment. Mr. Casey, if you could just on

1 your video and unmute yourself. Thank you.
 2 ARBITRATOR HORTON: Okay. Good
 3 morning, Mr. Casey.
 4 THE WITNESS: Good morning.
 5 AFFIRMED: DAN CASEY
 6 EXAMINATION IN-CHIEF BY MR. MILNE-SMITH:
 7 Q. All right. Good morning,
 8 Mr. Casey. What is your position within the Cresford
 9 Group of companies?
 10 A. I'm the CEO of the Cresford
 11 Group of companies.
 12 Q. Can you just give me like a
 13 brief background of the Cresford Group of companies,
 14 when they were founded, and what business they engage
 15 in?
 16 A. So the original building
 17 company was founded in the '70s by myself and, and
 18 has been in existence from then. We started using
 19 the name Cresford in the late '90s as a marketing
 20 overall name.
 21 Q. And what business does the
 22 Cresford Group engage in?
 23 A. Property development and
 24 condominium development mainly.
 25 Q. How long has it been engaged

1 in the business of condominium development?
 2 A. In condominiums since the
 3 '80s.
 4 Q. I would like to talk to you
 5 about Maria Athanasoulis. As of roughly 2014, what
 6 position did she hold in the organization?
 7 A. She was the president of the
 8 sales and marketing divisions.
 9 Q. If we can pull up documents
 10 26 and -- let's start with 26, and then go to 26A.
 11 So I'm showing you on screen a document from our
 12 joint document book Tab 26, and it shows an email
 13 from a Robin Simpson with a Cresford email address on
 14 October 30th, 2013. It attaches an organizational
 15 chart. If we go to the chart itself, which is Tab
 16 26A.
 17 A. Yes.
 18 Q. And does this look like an
 19 accurate statement of the organization chart of the
 20 Cresford Group as of late 2013?
 21 A. Yes.
 22 Q. And I see at the left-hand
 23 side of the chart, there's a box -- so starting at
 24 the top there's yourself, Mr. Casey, there's an
 25 executive committee of Ted Dowbiggin and Maria

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1 Athanasoulis, and then it branches off. Can you tell
2 me who Ted Dowbiggin is and what his history with the
3 company was?
4 A. So Ted Dowbin -- Ted
5 Dowbiggin was the senior member of the company. He
6 specialized in real estate -- financing and real
7 estate purchasing.
8 Q. Okay. And what were
9 Ms. Athanasoulis' responsibilities?
10 A. So Maria's -- Athanasoulis'
11 responsibility was marketing, sales at that time.
12 Q. Okay. And did her -- you
13 said at that time. Did her job functions or
14 responsibilities change after 2014?
15 A. Yes. She grew in
16 responsibilities. And after Ted left the company in
17 '18, she became the COO of the company.
18 Q. Okay. And as COO, what did
19 her responsibilities include?
20 A. Managing each section of the
21 company. Overall management.
22 Q. Could we turn up Document 19
23 of the joint document brief, please. So this is --
24 you're aware, of course, that a civil action was
25 commenced by Ms. Athanasoulis against the Cresford

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1 Q. Has Ted Dowbiggin ever been
2 paid a percentage of profits from Cresford projects?
3 A. No.
4 Q. Has anyone who worked for
5 Cresford, other than you, I suppose, ever been paid a
6 percentage of profits of the group for any of its
7 projects?
8 A. No.
9 Q. What was the state of
10 Cresford's finances at the time that Ted left the
11 company in 2019?
12 A. They were in good shape.
13 Q. And who assumed
14 responsibility for relationships with lenders after
15 Ted's departure in 2018?
16 A. Maria.
17 Q. Who had responsibility for
18 relationships with construction trades as at 2018?
19 A. Maria.
20 Q. How did you assess Maria's
21 job performance as of 2018?
22 A. I think it was good.
23 Q. Did she have any particular
24 strengths or weaknesses?
25 A. She was, she was

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1 Group of companies and yourself in the Superior Court
2 of Justice. And what I'm showing you is the
3 statement of defence and counterclaim that you and
4 the other defendants filed in that action.
5 If we go to page 8 and
6 paragraph 40. So what is set out here, at paragraph
7 40, is Ms. Athanasoulis' taxable income from
8 employment based on her T4 slips for 2014 through.
9 And then if you go down the page, you will see it
10 goes through to 2019?
11 A. Yes.
12 Q. Is this consistent with your
13 understanding of Ms. Athanasoulis' compensation with
14 the company or the group of companies for that time
15 period?
16 A. Yes.
17 Q. During the period from 2014
18 through to 2018 -- sorry, let me just clarify that
19 point. Did Ted Dowbiggin stay with the company from
20 2014 through to the present?
21 A. Sorry, he stayed until '18.
22 Q. Okay. So from 2014 through
23 to 2018, who was responsible for relationships and
24 negotiations with lenders?
25 A. Ted Dowbiggin.

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1 exceptionally good in marketing and sales, and she
2 had good relationships with the key trades.
3 Q. Did you ever at any point
4 enter into a contract for Cresford to pay Maria a
5 percentage of profits on Cresford projects?
6 A. No.
7 Q. Can we pull up Document 3
8 from the joint book, please. So what I'm showing
9 you, Mr. Casey, is a document dated November 1st,
10 2014. It purports to be an agreement between
11 Cresford developments and Maria Athanasoulis. And if
12 we go to the last page of the document -- sorry, the
13 third page, the third page of the document before the
14 schedule, you will see there's a signing line for
15 yourself and for Ms. Athanasoulis. This version is
16 unsigned. Did you ever sign this document or a
17 version of it to the best of your knowledge?
18 A. No.
19 Q. Do you recall prior to this
20 litigation starting, because I know we've reviewed it
21 in preparation for your testimony, prior to this
22 litigation starting, do you have any recollection of
23 seeing this document or a document like it?
24 A. No.
25 Q. Could we pull up document

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1 Number 4 from the joint book, please. I just want to
 2 go over to the third page, which would be the signing
 3 page. Is that your signature on this document,
 4 Mr. Casey?
 5 A. No.
 6 Q. And --
 7 A. I don't think so.
 8 Q. Do you recognize the
 9 signature on this document?
 10 A. No.
 11 Q. Could you go to the first
 12 page of the document. Do you recognize this
 13 document, which states that it is an agreement
 14 between Cresford Developments and Sean Fleming?
 15 A. Yes.
 16 Q. And what do you understand
 17 this document to be?
 18 A. It's an employment contract,
 19 I believe.
 20 Q. Okay. And do you have any
 21 policy or practice against written employment
 22 agreements with people at Cresford Group?
 23 A. No. No. If someone wanted
 24 one, we would -- and it was appropriate, we'd give it
 25 to them.

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1 there, can you tell me any recollection you have of
 2 discussions you had with Maria about her compensation
 3 between, say, 2014 and up to but not including the
 4 meeting with Mr. Papadakis and Ms. Athanasoulis in
 5 2019?
 6 A. I can't recall a specific
 7 point. I know that we had discussions about her, you
 8 know, her pay, her -- like a car, what type of car,
 9 and bonuses for certain things that she did achieve,
 10 and overall the issue of, of her participation in, in
 11 the company going forward, and, and really talking,
 12 again, in broad conceptual terms.
 13 Q. And did she raise the
 14 prospect or the possibility of her earning a share of
 15 the company's profits?
 16 A. Yes.
 17 Q. And in the course of those
 18 discussions, did you have any discussions with her
 19 about the sort of conditions that you think would
 20 need to be attached to any potential profit share?
 21 A. The obvious condition was
 22 that, if she had a profit share, she would have to be
 23 there at the end when the profits were done. And
 24 that was, sorry, a condition that we had with anyone
 25 else that had some sort of a bonus tied to something.

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1 Q. Do you recall having signed
 2 an employment agreement with anyone else in the
 3 Cresford Group?
 4 A. I believe -- I'm not certain
 5 of this, but I believe with the person that was a
 6 head of zoning, et cetera. His name just escapes me
 7 right now.
 8 Q. Did you ever have a written
 9 employment agreement with Ms. Athanasoulis?
 10 A. No.
 11 Q. And why not?
 12 A. She, she never asked for one,
 13 and we never agreed to one.
 14 Q. Do you recall any discussions
 15 around paying her a percentage of profits?
 16 A. So there were discussions
 17 and -- about her compensation. And they were, I
 18 guess, conceptual. And in '19, we had a meeting with
 19 John Papadakis to sit down and to look at a number of
 20 issues: Her compensation, her role, my role. I
 21 think they used the phrase if I got hit by a bus,
 22 what would happen, et cetera.
 23 Q. Right. So we're going to
 24 come to those. We're going to come to that meeting
 25 and talk about that, in particular. Before we get

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1 Yes.
 2 Q. So in this period before the
 3 February 2019 meeting, did you have any discussions
 4 with Maria about what would happen if she stopped
 5 working for Cresford for any reason before completion
 6 of a Cresford project and the implications that might
 7 have for any bonus that she was either entitled to or
 8 was seeking?
 9 A. No, I don't recall.
 10 Q. Did you have any detailed
 11 discussion with Ms. Athanasoulis during this time
 12 period about how any profits would be calculated?
 13 A. No.
 14 Q. Did you have any discussions
 15 with Ms. Athanasoulis about which entity within the
 16 Cresford Group would pay any potential profit share?
 17 A. No.
 18 Q. We've talked about various
 19 things that were not discussed or were not agreed.
 20 What, if anything, was agreed with Ms. Athanasoulis
 21 about her compensation during the period from 2014
 22 until the meeting in February 2019?
 23 A. So, I mean, her salary,
 24 her -- as I said, her car, et cetera. And then, at
 25 different times for different reasons, we would

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1 discuss an extra, a bonus. So, you know, when you
 2 look at the numbers of what she earned, there were
 3 bonuses added to her base pay.
 4 Q. And what were the nature of
 5 the bonuses?
 6 A. For some achievement on a
 7 project or if -- for achievements.
 8 Q. Okay. And how was it decided
 9 when those bonuses would be paid and in what amount?
 10 A. So we would discuss it and I
 11 would make the decision.
 12 Q. When you say "we would
 13 discuss it," you mean you and who else?
 14 A. Maria.
 15 Q. Okay. And --
 16 A. And I also discussed it with,
 17 you know, someone else just to make sure that what I
 18 was saying made sense, et cetera.
 19 Q. And I'm not trying to pin you
 20 down to a specific dollar figure, and we've already
 21 seen the reference to the T4 statements. But just in
 22 a general sense, what would be the size of the kind
 23 of bonuses that we're talking about, order of
 24 magnitude?
 25 A. You know, it could be

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1 anywhere from hundreds of thousands up to 500,000 for
 2 various --
 3 Q. Did you ever agree to pay
 4 Ms. Athanasoulis a percentage of condominium sale
 5 revenue on a particular project -- oh, I think he's
 6 frozen. Angela can you check in?
 7 MS. YU: Yes. He has frozen,
 8 indeed, but he hasn't disconnected. Just one moment.
 9 MR. MILNE-SMITH: This is why we
 10 have Richard there.
 11 --- Whereupon the witness exits hearing.
 12 MS. YU: He has just disconnected.
 13 I believe he's reconnecting. Yes, he's returned.
 14 --- Whereupon the witness re-enters hearing
 15 THE WITNESS: Sorry, I lost you
 16 there.
 17 MR. MILNE-SMITH: No problem.
 18 That's why we have Richard there.
 19 THE WITNESS: I had no idea.
 20 MR. MILNE-SMITH: All right. No
 21 problem. This is the world we live in now, but we'll
 22 muddle through, as always.
 23 BY MR. MILNE-SMITH:
 24 Q. So I think I know exactly
 25 where I was in my notes when you cut out. So my last

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1 question to you before we get to that meeting in
 2 February 2019, which you've already referenced, is
 3 did you ever agree to pay Ms. Athanasoulis a
 4 percentage of condominium sales revenues on any
 5 particular project?
 6 A. No.
 7 Q. So you've already referenced
 8 a meeting that you had in February 2019 with
 9 Ms. Athanasoulis and John Papadakis. Who did you
 10 understand Mr. Papadakis to be?
 11 A. So John Papadakis was a
 12 lawyer for us. And he was also a friend of Maria and
 13 her family, but he was a very good -- he's an
 14 excellent lawyer.
 15 Q. How did that meeting come
 16 about?
 17 ARBITRATOR HORTON: Mr.
 18 Milne-Smith, just before you proceed, before and
 19 after the freeze, your questions were slightly
 20 different, and I don't want there to be any confusion
 21 about the witness' answer. I believe that your
 22 question before the freeze referenced whether or not
 23 Ms. Athanasoulis had received any payments by way of
 24 condominium credits. I think you mentioned
 25 condominium credits in your question before the

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1 freeze and not after the freeze. Am I wrong about
 2 that?
 3 MR. MILNE-SMITH: I didn't intend
 4 to ask about that. Let me clear that up, just so
 5 it's clear.
 6 ARBITRATOR HORTON: Okay.
 7 BY MR. MILNE-SMITH:
 8 Q. So we spoke about bonuses
 9 that in consultation with Ms. Athanasoulis and your
 10 finance people, were paid to her from time to time.
 11 In what form were those bonuses paid?
 12 A. They were in either cash or
 13 it could be a credit against a condominium purchase
 14 or some, you know, some expense that, you know, made
 15 sense and was fair.
 16 MR. MILNE-SMITH: Okay. I think
 17 we're ad idem on that issue, Mr. Horton.
 18 ARBITRATOR HORTON: Okay. Thank
 19 you.
 20 BY MR. MILNE-SMITH:
 21 Q. So you were describing
 22 Mr. Papadakis and his role. What was the genesis of
 23 the meeting in February 2019? Why did it happen?
 24 A. So I think probably two
 25 things. I had become ill in -- at the beginning --

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1 at the end of 2018, 2019. And so, you know, I
2 think -- so the issue of my health was there. But
3 also, the issue of Maria, as we took on these larger
4 projects, Maria's role in getting down to a specific
5 contract that would reflect the needs of both sides,
6 Maria and mine and the company's.

7 Q. And can you describe for me
8 what happened in the meeting, to the best of your
9 recollection?

10 A. Yes, the meeting occurred in
11 our offices. It lasted a few hours. It was cordial.
12 We talked about the subject of, of the idea that we
13 should come to, to a deal. We talked about -- a
14 little bit about my health. And we talked about the
15 future.

16 Q. What was the nature of your
17 discussions about the future?

18 A. It was simply that the
19 projects were large and long term, you know, five to
20 seven years, a couple of them. And just that we
21 should have a plan, a plan in place going forward.

22 Q. And did you reach an
23 agreement on anything in respect of those subject
24 matters that you've described being discussed?

25 A. No, we did not.

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1 Q. What was your understanding
2 of what would happen in the event of you falling ill
3 again, being unable to continue with the company?

4 A. So I really -- it's -- I
5 didn't think -- I thought I was going to get better.
6 I looked at getting better. If I -- in theory, if I
7 died, at that time, the trustee of the family trust,
8 was Al O'Brien, would have pulled together, I guess,
9 a team of people to deal with the company.

10 I have some other people that I
11 have relationships with, senior business people that
12 I would -- I'm involved in their wills, et cetera,
13 and they would help in this. They're both -- the
14 couple of people I'm thinking of were both very good
15 business people and, and family friends. And so the
16 team would be put together to assess where the
17 company was, and what the best ways forward for it
18 would be and to value it for the family.

19 Q. And you mentioned a couple of
20 trusted business people, friends and advisors of
21 yours. Who are they?

22 A. Gerry Schwartz,
23 Ewout Heersink, both of Onex Corp, and Arni
24 Thorsteinson of Shelter Corporation. He's a real
25 estate developer.

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1 Q. During this meeting, did
2 Ms. Athanasoulis raise the issue of a potential
3 profit share in the Cresford Group?

4 A. Yes.

5 Q. And was any agreement reached
6 about that subject?

7 A. No.

8 Q. And why was there no
9 agreement? Was there a dispute over terms, or why
10 was no agreement reached?

11 A. It was a general discussion.
12 There was no dispute. There was no animosity at the
13 meeting, but it just didn't, it didn't happen.

14 Q. Following the meeting, did
15 Maria ever press you or follow-up on the subject?

16 A. No. Not really until the
17 fall of -- the late fall of 1919 [sic] when we talked
18 about selling the company.

19 Q. I think you meant 2019.

20 A. Sorry, I apologize.

21 Q. You're making yourself
22 sounding much older than you are, Mr. Casey.

23 A. I know.

24 Q. So let's talk about the YSL
25 project. Can you give me a general description of

Page 405

1 what the YSL project was intended to be and where it
2 is?

3 A. So the YSL project is a
4 project in downtown Toronto next to Ryerson
5 University. It's, it's on Yonge Street. It is a
6 project that we bought from KingSett in a joint
7 venture with the western financial institutions.

8 Q. BCIMC?

9 A. Yes, BCIMC, that's correct.
10 And which we had originally conceptualized to build
11 two towers: One tower that they would own as a
12 rental tower, and one that we would develop as a
13 condominium project. And we would share in the
14 profits, and we would have a fee for managing the
15 towers, the rental tower.

16 Q. And did the plan that you've
17 described of two different rental towers between
18 BCIMC and Cresford, did that continue to be the plan
19 right up through 2019?

20 A. No. The City wanted one
21 tower, and then -- the similar density, but one
22 tower. We discussed with BCIMC the idea that we
23 could divide the tower into sections, but they
24 didn't, didn't want that, so we ended up purchasing
25 their interest.

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1 Q. And what were the sources of
2 financing for the YSL project?
3 A. So the land mortgage was by
4 Timber Creek. There was a secondary mortgage by a
5 private investor. There was an investment from
6 limited partners. There was the use of the insured
7 deposits of purchasers, and there was equity from us.
8 Q. Okay. Could you describe the
9 nature or the terms of the limited partnership
10 financing?
11 A. So the limited partner
12 financing was \$15 million that would double by the
13 end of the project.
14 Q. Okay. Was there any
15 mezzanine financing on the project?
16 A. There would be mezzanine
17 financing at the time that the bank financing
18 occurred.
19 Q. So when you say would be,
20 what do you mean by that? Did it occur, or did it
21 not ultimately occur?
22 A. No, there was a commitment
23 for it from KingSett --
24 Q. Right.
25 A. -- for 75 million. And it

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1 that. The podium consisted of the first -- the three
2 floors were retail, which were stores, like smaller
3 stores, and they were also part of old buildings that
4 would be phased into the building, historical
5 building, historical facades.
6 And above that then was five or
7 six, depending on how the height of the floors were,
8 of retail -- sorry, commercial, for institutional
9 commercial, in which we had done a deal with Ryerson
10 University to purchase three floors, and, maybe, we
11 were discussing a further space.
12 And then above that, there would
13 be a plus 80-storey tower.
14 Q. And what was the physical
15 state of the project as of the end of 2019?
16 A. So the buildings were -- the
17 fronts of the buildings were structurally supported.
18 The backs were all torn down. There was excavation
19 done on the site. There was foundation walls in the
20 site. The excavation was about one and a half
21 storeys deeps. Yes, that's where we were.
22 Q. And perhaps this is of
23 curiosity only, but just in case it's relevant, do
24 you happen to know what the physical state of the
25 site is today?

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1 would have happened at the time that the first draw
2 occurred.
3 Q. Okay. And you referred to
4 the, I think, to the bank financing. Is that this
5 draw that you're referring to?
6 A. Yes, and that was from Otera.
7 Q. Okay. So tell me about the
8 construction financing that had been arranged?
9 A. So the construction financing
10 was for the construction of the project. It involved
11 a series of conditions before it was to, to go into
12 place. The conditions were so much value of sales,
13 so much value in the cost of construction, a
14 pre-selling of the retail, and -- they were the main
15 conditions. They were monitored by Altus, who were
16 quantity surveyors for the bank.
17 Q. Okay. You referred to a
18 presale of the retail. Just so Mr. Horton has it,
19 can you explain sort of the physical structure of the
20 contemplated buildings?
21 A. Yeah.
22 Q. And explain what the retail
23 is?
24 A. Yeah, so the building was --
25 remained in two parts: A podium and a tower above

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1 A. It's not much different.
2 Q. Okay. So I happened to drive
3 by it on the way to work today, it certainly looked
4 the way exactly how you described it. So if anyone
5 wants to take a view, we certainly have no objection
6 to that. It is, actually, quite interesting seeing
7 the historical facade and how it's been sort of
8 reinforced and the structure they're holding.
9 So we were talking about the
10 retail platform and you were describing that. In
11 terms of that being a condition of your mezzanine and
12 construction financing, was there any value that had
13 been targeted or that you had to achieve for the
14 retail platform sale?
15 A. Yes, it was 93 or 97 million
16 or something. The selling of -- and that would add
17 as -- for security to the bank.
18 Q. Okay. So you described the
19 various conditions attached to construction and
20 mezzanine financing. Were all of those conditions
21 ultimately satisfied?
22 A. Yes.
23 Q. And I want to talk about the
24 efforts that Cresford undertook to meet this retail
25 sale condition. What was the first effort in that

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1 regard that you can recall?
 2 A. So there was going to be a
 3 consortium of investors put together by Maria to
 4 purchase it.
 5 Q. And did those efforts
 6 succeed?
 7 A. No, they failed.
 8 Q. And just in general terms,
 9 why did they fail?
 10 A. So this is kind of a -- I
 11 heard this from a couple of the investors, that they
 12 felt that the --
 13 MR. DUNN: I apologize for
 14 interjecting. A sentence that begins with "I heard
 15 this from X," in my respectful submission, is not
 16 appropriate evidence. It's obviously hearsay.
 17 MR. MILNE-SMITH: So obviously my
 18 position is that we are in an arbitration, not in the
 19 Superior Court of Justice, and that the Rules of
 20 Evidence do not apply. I think that Mr. Horton is
 21 perfectly entitled to take into account the hearsay
 22 nature of any evidence that is given and giving it
 23 the weight that it deserves.
 24 MR. DUNN: And I'd note, as well,
 25 none of this was put to Ms. Athanasoulis to, to get

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1 her version of these events. So I do have some
 2 difficulty with the only evidence being tendered
 3 being what Mr. Casey heard from some unidentified
 4 person.
 5 ARBITRATOR HORTON: My main issue
 6 with it, Mr. Milne-Smith -- I'm fully aware we're in
 7 an arbitration. And generally speaking, I admit
 8 evidence, rather than exclude it. My only concern
 9 with it is it's somewhat late-breaking information.
 10 I think, as far as I know, this is the first time I'm
 11 hearing about all of this.
 12 MR. MILNE-SMITH: We had
 13 examinations for discovery. It's not like I'm
 14 contradicting Ms. Athanasoulis. There's no Brown v.
 15 Dunn issue here. It's just --
 16 ARBITRATOR HORTON: No, no. I'm
 17 not suggesting that. I'm just saying as far as I'm
 18 concerned, in terms of how this arbitration has
 19 unfolded, this seems to be the first time I'm hearing
 20 about this. Is that right or...
 21 MR. MILNE-SMITH: Right.
 22 ARBITRATOR HORTON: And as a
 23 result of which, to be perfectly honest, I haven't
 24 quite been able to place it in context. You know,
 25 perhaps you can just roll back the reel a little bit.

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1 This is -- and tell me what this consortium is that
 2 Ms. Athanasoulis is supposed to have put together.
 3 BY MR. MILNE-SMITH:
 4 Q. Mr. Casey?
 5 A. Yes. So we had to have an
 6 agreement of purchasing this space for the -- as I
 7 said, for \$90 million.
 8 ARBITRATOR HORTON: The retail
 9 space or the commercial space? I just missed that.
 10 THE WITNESS: Yeah, for the two.
 11 The retail space mainly, yes.
 12 ARBITRATOR HORTON: So are you
 13 saying that --
 14 THE WITNESS: Sorry, you're
 15 correct.
 16 ARBITRATOR HORTON: There was
 17 going to be an intermediate purchaser of all of the
 18 retail space, is that what you're saying? I'm not
 19 really following what we're talking about at this
 20 point.
 21 THE WITNESS: Okay. I'm sorry for
 22 being unclear. So the retail space had a value of
 23 \$97 million.
 24 ARBITRATOR HORTON: Mm-hmm.
 25 THE WITNESS: As a condition of

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1 the financing, that had to be purchased. And that's
 2 what we're talking about.
 3 ARBITRATOR HORTON: Okay. Okay.
 4 THE WITNESS: Thank you for
 5 putting it to me to clarify. I wasn't clear.
 6 ARBITRATOR HORTON: Okay. So
 7 proceed, Mr. Milne-Smith.
 8 BY MR. MILNE-SMITH:
 9 Q. Okay. So let me see if I can
 10 help with my friend's objection, because I don't
 11 think this ultimately matters that much. It's really
 12 just by way of providing context and background for
 13 the way things unfolded in 2019. So let me rephrase
 14 the question this way, Mr. Casey. Putting aside what
 15 any third party may have told you, what was your
 16 understanding of why the deal with the consortium
 17 you've described didn't proceed?
 18 A. So the only thing I know
 19 specifically from Maria was that she couldn't proceed
 20 with the deal that she had hoped to do.
 21 Q. Okay.
 22 A. And she --
 23 Q. Go ahead.
 24 A. And so we spoke of what would
 25 we do about that purchase, and she said not to worry,

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1 that she had someone else in mind.
 2 Q. Okay. And who was that?
 3 A. I'm not sure of the person's
 4 name, I apologize. He was a person that we had -- he
 5 had bought condominiums from us, and he was a wealthy
 6 individual.
 7 Q. Okay. And did that ever go
 8 anywhere?
 9 A. No.
 10 Q. And so were there further
 11 efforts by Ms. Athanasoulis to advance the financing
 12 of the company -- of the project, if I can put it as
 13 generally as possible?
 14 A. Not that I'm aware of.
 15 Q. Okay. Were there any efforts
 16 made by Ms. Athanasoulis to sell the project or the
 17 company in this 2019 time period?
 18 A. So we spoke of solutions. We
 19 had some issues of cost, cost overruns, et cetera.
 20 So we spoke of whether we should sell the company.
 21 And there was a person at the time who --
 22 Q. Sorry, let me just pause
 23 there. When was this taking place?
 24 A. In the fall of '19.
 25 Q. Okay. So you were telling me

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1 about those discussions.
 2 A. Yes. So at the time, there
 3 was a subcontractor on the foundation work, which was
 4 GFL, and a person by the name of Patrick Dovigi, who
 5 Maria had dealt with and liked and got along with.
 6 Mr. Dovigi had talked to her about wanting to own
 7 some rental projects, and maybe we could do a joint
 8 venture in this regard. And then when Maria and I
 9 were speaking, we said, well, maybe, we should sell
 10 the company to him. And that led Maria to ask him
 11 would he be interested, and he was -- said he would
 12 be interested.
 13 Q. And did you have any
 14 understanding as to what would happen to Maria if
 15 Mr. Dovigi bought Cresford?
 16 A. Yes, I believe Maria would be
 17 part of the purchasing group and be involved with
 18 Mr. Dovigi in running the company.
 19 Q. Were you ultimately able to
 20 reach an agreement with Mr. Dovigi or his company?
 21 A. No. We had hoped to have an
 22 agreement, and we thought we had an agreement. We --
 23 in the negotiations, I had the help of, sorry,
 24 Ted Dowbiggin and Joe Bolla. And Joe Bolla, who was
 25 a former president of Cresford, an accountant by

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1 nature, a very good business person. So he had
 2 drawn -- in the meetings with Dovigi, he drawn up a
 3 list of kind of preconditions and issues. And we
 4 thought -- our side thought that there was an
 5 agreement on those.
 6 And then when -- and it was up to
 7 Mr. Dovigi to bring back an offer reflecting this.
 8 And when the offer came back, it didn't reflect what
 9 we thought would be there.
 10 Q. Okay. So I'm going to ask
 11 you about that and we'll take you to a document, but
 12 let me just pause. And for Mr. Horton's benefit, you
 13 had described earlier in your testimony Mr. Dowbiggin
 14 leaving the company in 2018, and then you just
 15 referred to him again. How did Mr. Dowbiggin get
 16 involved again in this time period?
 17 A. So Ted Dowbiggin is a friend
 18 of mine and is very good at deal making and
 19 structures. And so when we got to the stage of
 20 negotiations, I asked for his help.
 21 Q. Okay. And you described
 22 Mr. Dowbiggin and Mr. Bolla working with you on this
 23 project for -- working with you on this potential
 24 sale to Dovigi on behalf of Cresford. Why was Maria
 25 not working with you on -- for Cresford in this

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1 potential sale?
 2 A. So I had asked Maria to work
 3 on the sale to Patrick, and so -- because she was
 4 working for, she was working for Cresford, but she
 5 had a special project of putting the deal together
 6 with Dovigi.
 7 Q. And if we could turn up
 8 Document 30 in the joint book. You mentioned a
 9 proposal that was put forward by Mr. Dovigi,
 10 ultimately. This is a letter that is sent on
 11 December 9th -- or at least it's dated December 9th,
 12 I should say, 2019, by the Stikeman Elliott firm.
 13 Are you familiar with this document?
 14 A. Yes.
 15 Q. And just in general terms,
 16 what was this document?
 17 A. It was an offer to purchase
 18 Cresford.
 19 Q. And were the terms set out in
 20 this document acceptable to you?
 21 A. No.
 22 Q. During October, let's say,
 23 the period from October through to December 2019 --
 24 so I want to ask again about the retail platform,
 25 because you told me about some of the earlier efforts

1 that Ms. Athanasoulis had been involved in. Were
 2 there any other efforts during this October to
 3 December 2019 time frame to sell the retail platform?
 4 A. Yes. So as a condition for
 5 the financing, we needed to have a sale. So we
 6 thought about it, Joe Bolla and myself. And Joe
 7 suggested that we deal with the Athanasoulis family,
 8 who we bought the Clover project from.
 9 Q. Sorry, I think you said
 10 Athanasoulis family?
 11 A. Sorry. Stanoulis.
 12 Q. Okay. And can you just spell
 13 that for the reporter, please?
 14 A. No, I can't. I'm sorry.
 15 Q. Okay. I will do it, then,
 16 based on the documents. S-T-A-N-O-U-L-I-S. Okay.
 17 So tell me about the Stanoulis family and this
 18 potential sale.
 19 A. So I dealt -- Joe and I dealt
 20 with the Stanoulis family, Gary, who we had a close
 21 relationship with because of the purchase, and Joe
 22 had known him earlier in business. And we came up
 23 with a deal to -- for him to purchase the retail.
 24 Q. Can we bring up document
 25 Number 9, please. So do you recognize this document?

1 A. Yes.
 2 Q. Okay. So this states that
 3 it's a letter of intent from Hawalius to
 4 YSL Residences dated December 9th, regarding all
 5 retail, and it goes on from there?
 6 A. Yes.
 7 Q. So did Cresford accept the
 8 terms that were set out in the letter of intent?
 9 A. Yes. So we accepted the
 10 letter of intent. I think what happened, my memory
 11 is that we showed it to the bank and to KingSett, and
 12 they wanted to change -- some changes, which was
 13 agreed on by Stanoulises.
 14 Q. Okay. And were you
 15 ultimately able to reach a binding agreement with
 16 Hawalius with respect to the sale of the retail?
 17 A. Yes.
 18 Q. And roughly when did that
 19 occur?
 20 A. At the end -- in December.
 21 Q. And you referred to
 22 discussions with the banks. Did the agreement of
 23 purchase and sale with Hawalius satisfy your
 24 financing condition with respect to sale of the
 25 retail platform?

1 A. Yes.
 2 Q. Was Maria working for
 3 Cresford on the Hawalius negotiations?
 4 A. No.
 5 Q. And why not?
 6 A. For two reasons. The first
 7 reason is she was working -- her primary
 8 responsibility, the most important thing that could
 9 be done was to work with Dovigi to get the deal done;
 10 and secondly, the relationship with the Stanoulises
 11 was a close relationship that I and Joe Bolla had,
 12 and they preferred that -- that was -- they preferred
 13 to deal with us on it.
 14 Q. So you've described
 15 negotiations with both Hawalius on the retail
 16 platform and Dovigi on the entire business. Were
 17 these going on at the same time?
 18 A. Yes.
 19 Q. Why were you negotiating with
 20 both simultaneously?
 21 A. They were different subjects.
 22 One was for the sale of the company, and one was for
 23 the procurement of the financing on YSL.
 24 Q. And would the Hawalius deal
 25 solve all of the company's issues that existed at the

1 time?
 2 A. So, so the company had issues
 3 on some cost overruns on three projects - Clover,
 4 Halo and 33 Yorkville. It didn't have cost issues or
 5 other issues on YSL, because it was later in the --
 6 the issue that happened the year before, where there
 7 was a strong increase in demands from the sub-trades,
 8 right across the building industry had, had finished.
 9 So the new numbers that went into the business and
 10 the financing of YSL were strong and correct numbers.
 11 And so by achieving that project
 12 and having it financed, it gave us strength as a
 13 company, that if we needed to put money into other
 14 projects, it gave us the option that we could use our
 15 position in that company to either borrow against the
 16 equity in some manner, or sell, do a joint venture on
 17 that project that would create cash for the other
 18 parts, and/or it created a much stronger company.
 19 So it, in a way -- it didn't solve
 20 all the problems or issues, but it was a big step
 21 forward to being in a position to solve any issues
 22 that were outstanding.
 23 Q. Okay. So let's take a quick
 24 step back, because you've alluded to some of this.
 25 So just make sure that we all have an understanding.

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1 In the summer and fall of 2019, what was the
2 financial condition of the Cresford Group?
3 A. So in the -- I believe in the
4 summer of '19, we were in good shape. In the -- at
5 the beginning -- or at the end of the summer or the
6 beginning of the fall, it became apparent that we had
7 some challenging issues that were difficult in cost
8 overruns. So we had some real challenges.
9 Q. And you mentioned three
10 projects, Clover, Halo and 33 Yorkville. Can you
11 just very briefly describe what those projects were
12 and what their status was in, say, the fall of 2019?
13 A. So Clover, Halo and 33
14 Yorkville were condominium projects. They were all
15 financed by BCIMC. 33 Yorkville was a joint venture
16 with BCIMC and, and Otera. Those projects were in --
17 Clover was the most further along the construction
18 world, and then came Halo, and then came 33
19 Yorkville, which was just being demolished and
20 started excavation.
21 Q. So would Clover, Halo and 33
22 Yorkville have been ahead or behind YSL in terms of
23 the development schedule?
24 A. They were ahead.
25 Q. And were there any other

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1 projects that Cresford was working on at the time
2 other than the four we've discussed?
3 A. It was finishing off a
4 project on Charles Street.
5 Q. Was that the CASA project?
6 A. Yes.
7 Q. What was the last project
8 that Cresford had completed?
9 A. So on Wellesley we had a
10 project and on Charles Street. So Wellesley finished
11 first, and then CASA III was in the final stages. It
12 was slightly later.
13 Q. What was the name of the
14 Wellesley project?
15 A. I'm trying to think of it.
16 I'm sorry.
17 Q. I hope my friend will forgive
18 me for the leading question. Was it the Vox project?
19 A. Yes, sorry. It is the Vox
20 project.
21 Q. I don't think there's any
22 dispute about that. Was the Vox project profitable?
23 A. Slightly, yes.
24 Q. Was Ms. Athanasoulis paid a
25 profit share on any profits from the Vox project?

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1 A. No.
2 Q. So we were talking about how
3 you learned about cost issues with the business in
4 the fall of 2019. How did you come to find that out?
5 A. I'm not sure. It wasn't like
6 a moment. But there was an issue that came up that
7 CASA III -- sorry, 33 Yorkville was coming in over
8 budget and that we had to deal with that.
9 Q. And how about Clover, Halo,
10 and 33 Yorkville?
11 A. They had, they had
12 challenges, as well, because of the excess -- because
13 of claims against them, but not -- so in the process
14 of -- so a cost overrun, I talked about a cost
15 overrun. So a cost overrun would be where we expect
16 a contract to be worth, say, \$20 million, and the
17 sub-trade that was involved in that contract would
18 say there was legitimate extras for a million
19 dollars, and they would then claim that. So there
20 would be kind of two invoices, one for the real --
21 like, against the contract, one for their desired
22 extra -- and that would go through a process of being
23 evaluated by engineers and the cost consultants on
24 our own team.
25 Q. Okay. And what, if anything,

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1 were you doing about these cost overruns that had
2 been emerging?
3 A. So I really -- I mean, I
4 wasn't involved in that until later on in the fall,
5 in November and December. And during that time, as
6 issues came up, I would, I would deal with them and
7 try and talk to the owners, talk to the consultants,
8 talk to Altus and start resolving the issues.
9 Q. At any point did you have a
10 meeting with various trades and Maria about some of
11 these issues?
12 A. Yes, there was a meeting --
13 there was different -- a different meeting. The
14 meeting with Maria and the trades, there were some
15 trade at a meeting that Maria had to talk about
16 Cresford and other things, that she had at her home.
17 Q. Okay. And roughly when did
18 that occur?
19 A. I think that occurred in the
20 end of October.
21 Q. Okay. And how did that --
22 A. Or November, I think. It was
23 near Halloween.
24 Q. Okay. And how did that
25 meeting come about?

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1 A. So Maria called me - I was on
2 my way out of town at the time - and asked me to
3 attend a meeting, it was very important, at her
4 house. So you know, she said she had asked a number
5 of people, and so I turned around and came into the
6 city and went to her house.

7 Q. And who was at that meeting?

8 A. I don't know everyone at the
9 meeting, but in the trade area, there was Mike
10 Muzzo (ph.) of the drywall company; Danny Verrilli of
11 the Verdi, the forming contractor. There was John
12 Papadakis. There was Maria's brother, Maria's
13 husband. There was -- sorry, yeah.

14 Q. Sorry. Go on. Was there
15 anybody else you recall?

16 A. No. I mean, there were other
17 people. There was, like, I think Maria's -- I think
18 Joy Wang was there, one of the people that worked for
19 Maria. There was some other people there, but they
20 were the major people.

21 Q. Okay. And what do you recall
22 happening at that meeting?

23 A. So it was a strange meeting.
24 It was a meeting in which Maria was upset. She was
25 talking not logically. She was talking about

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1 conspiratory theories, including banks, et cetera. I
2 think each of us that was there was concerned about
3 her state.

4 Q. Okay. During this period of,
5 let's say, in October through December of 2019, was
6 there anybody at Cresford who was working with you on
7 these financial issues you've described?

8 A. I would say Ted, Dave Mann,
9 Joe Bolla were the main people.

10 Q. And you've already described
11 Ted and Joe Bolla. Who was Dave Mann?

12 A. So Dave Mann was my financial
13 accountant.

14 Q. And was Maria working on
15 these financial issues for Cresford?

16 A. She really -- when the
17 Dovigi -- when the idea of selling and the Dovigi
18 situation came up, she focused on that by my request.
19 It was the most important job in the company, really.

20 Q. At any point did you instruct
21 anybody to report to you, rather than to Maria with
22 respect to their responsibilities?

23 A. Yes. I had a meeting with a
24 number of reports and said that I'd like them to
25 report directly to me, that Maria was working on this

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1 other project, and that could they directly report to
2 me.

3 Q. Could we pull up document
4 Number 5 from the joint book. Do you recognize this
5 document, Mr. Casey?

6 A. Yes. It's a proforma.

7 Q. Okay. And you will see,
8 according to the document, the date on it in the top
9 right-hand corner is October 20th, 2019?

10 A. Yes.

11 Q. So can you just explain to
12 me, in your own words, what the purpose of this
13 document is?

14 A. So when you're looking at a
15 project, you -- from the time you start to think
16 about a project, you draw a plan as to how the
17 project would work, and you put it in what we in the
18 trade we call kind of a proforma of the project. And
19 so -- and that begins at the conceptual part of a
20 project, and then gets more -- gets more, more
21 information as you go along.

22 Q. And as you get more
23 information, what, if the anything, happens to the
24 proforma?

25 A. They change. They always

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1 change.

2 Q. Okay. Is a proforma expected
3 to be extremely accurate at the stage of a project
4 before construction has begun?

5 A. No. I mean, you hope it's
6 accurate, but you know that things will change.

7 Q. Do your lenders rely on this
8 proforma?

9 A. Well, they -- the proforma
10 and the budget. So they rely on the budget, which is
11 the same -- really kind of the same thing as a
12 proforma. And they really rely on the reports as
13 given to them by their cost consultants.

14 Q. Okay. Who was the cost
15 consultant?

16 A. I think I mentioned their
17 name. Altus.

18 Q. Yes. And to your knowledge,
19 does Altus simply rely on the proforma, or do they do
20 their own investigation as to the potential cost and
21 revenue of a project?

22 A. Yeah, they do a lot of due
23 diligence.

24 Q. Okay. In March of 2020, we
25 saw the COVID-19 pandemic affect Canada, was it -- I

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1 know that the project didn't proceed, and we'll come
2 to that -- but could the COVID-19 pandemic have had
3 any impact on the costs and revenues set out in the
4 proforma?

5 A. Yes.

6 Q. Okay. And can you describe
7 some of those potential impacts?

8 A. So everyone -- the costs were
9 under stress by, for example, the working conditions
10 on the sites were less, less efficient than they
11 would have been without the pandemic, and without the
12 restrictions on distancing, et cetera. So the
13 trades, et cetera, had a hard job adjusting to this.
14 The market for value of sales at times had dropped
15 and at times had gone up. It varied, depending on
16 the -- as we all know, the pandemic lasted a long
17 time, and there were times when people were more
18 optimistic and less optimistic. And so that would
19 affect the project.

20 Q. Could it have had an impact
21 on the timetable of the schedule?

22 A. It definitely would, yes.

23 Q. Okay. And does delay have
24 any potential impact on costs?

25 A. Yes. A major cost is

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1 interest, and that would affect it.

2 Q. And what was YSL's plan for
3 registration of the -- or Cresford's plan for
4 registration of the YSL project?

5 A. So we had an aggressive plan,
6 which was to register it in separate phases. Because
7 it was so tall, the building -- the suites in the
8 lower part of the building would be finished for a
9 year or two before the suites in the top of the
10 building were finished. So the plan was to divide
11 the building into two condominiums, and then close
12 one condominium, and thus decrease your borrowing and
13 finish off the above condominium.

14 Q. And had that plan been
15 pre-approved by the City or any other necessary
16 authorities?

17 A. So there was an agreement
18 that it could be done. The City would never say for
19 sure that they would do anything, but they indicated
20 that it had been done, I think, before, in a project
21 across the street, I believe. Anyhow, it had been
22 done, and we were going to -- we believed we could
23 achieve that.

24 Q. And what would the impact be
25 if it was not permitted to proceed?

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1 A. There would be a considerable
2 increase in costs because of the advantage of
3 preclosing had an advantage of costs, and those
4 advantage would be lost.

5 Q. You've described for me how
6 the various conditions of financing on the YSL
7 project had been satisfied. Did the construction
8 financing ultimately close and was funding provided?

9 A. No, it was not. It was -- we
10 were pushing to have it closed before the end of the
11 year, Christmas, but the institutions didn't feel
12 they had enough time, so they were going to close at
13 the beginning of the next year. And then what
14 happened was we had severe problems with our lenders.

15 Q. Okay. And how did those
16 severe problems with your lenders arise?

17 A. So there was a letter sent to
18 our lenders under the name of Dave Mann reporting
19 various issues, and Dave Mann never sent the letter.

20 Q. Well --

21 A. And as well, Maria sued me
22 and it was put in the papers. And so the lenders had
23 lost faith.

24 Q. Could you pull up joint
25 document Tab 38. And if we scroll forward to the

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1 letters that are attached as part of this motion
2 record. There's the first. So is this one of the
3 letters that you were referring to, Mr. Casey?

4 A. Yes.

5 Q. And just skip forward to the
6 second letter. And is this the second letter that
7 was sent?

8 A. Yes. Yes.

9 Q. And you've said that these
10 letters were not sent by Dave Mann. Do you
11 understand who did send these letters?

12 A. Yes.

13 Q. And who was that?

14 A. Maria Athanasoulis.

15 Q. Okay. And did you know that
16 on January 2 when these letters were sent, did you
17 know that Maria had sent them?

18 A. No.

19 Q. And were you able to give an
20 explanation to the lenders as to who had sent them,
21 if it wasn't Dave Mann?

22 A. No. So we first learned
23 about the letters later in January at a meeting in
24 our office with the lenders to try and sort out where
25 we were. And we -- that was the first we had ever

1 heard of that.
 2 Q. And you referred to the
 3 statement of claim as well. Were the allegations in
 4 the statement of claim consistent with the
 5 allegations in these letters?
 6 A. I'm not -- there was an
 7 aggressive statement of claim, and these were an
 8 aggressive letters, but I didn't...
 9 Q. So these letters being sent,
 10 absent the statement of claim, and as you referred to
 11 the publicity in the newspapers and the lenders
 12 losing faith, absent those issues taking place, do
 13 you believe the YSL project would have been able to
 14 proceed?
 15 A. Yes.
 16 Q. And as a result -- I
 17 shouldn't -- let me take a step back. You're aware,
 18 of course, that instead of proceeding with the
 19 project, you wound up in proposal proceedings that
 20 have given rise to this arbitration?
 21 A. Yes.
 22 Q. Okay. And that as part of
 23 those proposal proceedings, a proposal was put
 24 forward by Concord Developments?
 25 A. Yes.

1 Q. And you're aware that the
 2 proposal made by Concord was ultimately accepted,
 3 following a series of amendments?
 4 A. Yes.
 5 Q. As a result of the proposal
 6 with Concord, has YSL or Cresford -- I should say has
 7 Cresford earned a profit off the YSL project?
 8 A. No.
 9 MR. DUNN: I didn't get to my
 10 button in time, Mr. Horton. And I suppose the
 11 easiest is to simply disregard. Whether Cresford has
 12 earned a profit is a damages issue, about which there
 13 has been no disclosure of any kind, and which is not
 14 before you in this phase of the proceeding. So
 15 until -- unless and until we have the information to
 16 test that assertion, I'm going to ask that it be
 17 disregarded.
 18 MR. MILNE-SMITH: That's fine.
 19 That was my last question in any event. So,
 20 Mr. Casey, I thank you for your time, and I suspect
 21 Mr. Dunn may wish to take a break, but I'll leave
 22 that to him and the reporter and Mr. Horton as to
 23 whether they want to dive into cross-examination or
 24 whether you want to have a little break. But thank
 25 you for your time.

1 MR. DUNN: The time is slightly
 2 earlier than we otherwise would break. I have no
 3 preference. I'm happy to do 20 minutes of
 4 cross-examination and then break, or I'm happy to
 5 break now.
 6 ARBITRATOR HORTON: Yeah, I think
 7 it makes a little more sense to break and then start,
 8 rather than to start and then try to find a good
 9 point to break. Sometimes that's difficult too,
 10 especially at the beginning. So we will break.
 11 As to the last exchange between
 12 counsel, I think this is not the first time in this
 13 hearing so far that this issue has arisen, where we
 14 have evidence that may have a bearing on cost --
 15 sorry, on the damages phase, more likely has a
 16 bearing on the damages phase, may have some slight
 17 bearing on this phase that we're in now. And I would
 18 just like to reiterate that, if we get to the damages
 19 stage, my expectation is that we would have a full
 20 procedure with respect to damages that would air all
 21 the relevant issues there, regardless of whether or
 22 not they were touched upon previously. And
 23 certainly, in terms of any findings I make in this
 24 phase, I would try to be as careful as I could not to
 25 preempt the issues in the second phase, you know,

1 unless it was absolutely necessary.
 2 So with that, we'll take our
 3 morning break and we will make it 15 minutes. And we
 4 will be back at roughly, I think, five past eleven.
 5 Thank you very much.
 6 MR. MILNE-SMITH: Thank you.
 7 MR. DUNN: Thank you.
 8 --- Recess at 10:52 a.m.
 9 --- Upon resuming at 11:10 a.m.
 10 ARBITRATOR HORTON: Okay. Sorry
 11 for the brief delay. Do we have a witness? There he
 12 is. Okay. Thank you, Mr. Casey. Mr. Dunn, please
 13 proceed.
 14 CROSS-EXAMINATION BY MR. DUNN:
 15 Q. Thank you. Good afternoon,
 16 Mr. Casey.
 17 A. Good afternoon.
 18 Q. I'm going to ask you some
 19 questions. If you don't understand anything, if you
 20 need me to repeat anything, please don't hesitate.
 21 It can be tricky in this format, okay?
 22 A. Yes. Thank you.
 23 Q. I also may put up some
 24 documents for you. If you need me to blow anything
 25 up or scroll up or scroll down, feel free to let me

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1 know, okay?
 2 A. Yeah.
 3 Q. Can I ask, before we get
 4 going, what do you have there with you in the room?
 5 A. I have nothing. I mean, I
 6 have a piece of paper in front of me with your name
 7 on it and other people's names. I have some water
 8 and a cup of tea.
 9 Q. Okay. Thanks. I meant
 10 documents, but thank you for your completeness. I
 11 want to start sort of where you ended, and then we'll
 12 circle back. Ms. Athanasoulis filed a statement of
 13 claim against the Cresford Group in January of 2020,
 14 right?
 15 A. Yes.
 16 Q. Okay. And that was a big
 17 event for Cresford, right?
 18 A. Yes.
 19 Q. It was widely publicized, her
 20 statement of claim, and the allegations that had been
 21 made?
 22 A. Yes.
 23 Q. And that caused concerns to
 24 lenders?
 25 A. Yes.

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1 provided information.
 2 Q. Okay. But there was --
 3 obviously, there may be other sources of information,
 4 but the final product reflected, I assume, your
 5 input?
 6 A. Yes.
 7 Q. And you made sure that it was
 8 accurate, right?
 9 A. To the best of my ability,
 10 yes.
 11 Q. Okay. And you would agree
 12 that probably, just in the natural -- this is nothing
 13 specific to you, but in the natural order of things,
 14 your recollections might have become less -- well,
 15 let me start at the beginning.
 16 You probably had a better
 17 recollection of these events then, when they had just
 18 happened, than you do today. Would you agree with
 19 that?
 20 A. Yeah, sure. But -- yes.
 21 Q. Okay. Thank you. And I want
 22 to walk through some different parts about -- because
 23 you called yourself and Cresford a developer, which
 24 is kind of a generic term. I just want to make sure
 25 we're using these things in the right sense. So

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1 Q. And also to others -- other
 2 stakeholders, I assume, that had a relationship with
 3 Cresford?
 4 A. Yes.
 5 Q. Okay. And Cresford filed a
 6 statement of defence?
 7 A. Yes.
 8 Q. And the statement of defence,
 9 that too was an important document for Cresford,
 10 right?
 11 A. Yes.
 12 Q. Because that was Cresford's
 13 opportunity to tell its story about these events
 14 that, frankly, threatened its very existence, right?
 15 A. Yes.
 16 Q. Okay. And I assume, given
 17 the importance of all this, you were involved in the
 18 preparation of the statement of claim?
 19 A. A defence.
 20 Q. Defence, I mean.
 21 A. Yes, I was -- yes.
 22 Q. And you provided the facts
 23 that were subsequently incorporated into the
 24 statement of defence?
 25 A. Yes. Some, and others

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1 would you have the same understanding as me, that
 2 when you refer to the term "development," what you're
 3 usually referring to is the process of getting
 4 permission to build something on land; is that fair?
 5 A. I would say that's a
 6 narrower -- I use the word "development" as someone
 7 involved in the industry, and it's a large industry
 8 with many parts. So you could be a part of any part
 9 of the industry and be a developer.
 10 Q. Okay. So I just want to make
 11 sure there's a distinction, and I think we're saying
 12 the same thing. But when you think about the process
 13 of development, you acquire a piece of land, right?
 14 A. Yes.
 15 Q. And then you design something
 16 that you want to build on that land, right?
 17 A. Yes.
 18 Q. And then you get permission
 19 to build that thing on that land, right?
 20 A. Yes.
 21 Q. Okay. And that sort of --
 22 each of those steps is at least somewhat discrete.
 23 And then you sell. If you're dealing with a
 24 condominium project, you would typically have
 25 pre-sale agreements?

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1 A. Yes.
 2 Q. So you sell the project. And
 3 once that, and whatever else has been satisfied that
 4 allows you to access your construction financing,
 5 then you can start construction in earnest, right?
 6 A. Yes.
 7 Q. Okay. And going back to the
 8 acquisition stage, when you're looking at acquiring a
 9 piece of land, especially these sorts of pieces of
 10 land that we're talking about now for a large and
 11 complex development, at a very high level what you're
 12 going to look at is, what can I earn from this if I'm
 13 successful in developing and building, right?
 14 A. Yes.
 15 Q. And then what you're going to
 16 do is you're going to take that and you're going to
 17 discount it to account for various risks, right?
 18 A. Yes.
 19 Q. So, for example, you would
 20 assess and discount the price to reflect the risk
 21 that you won't get permission to build what it is
 22 that you want to build, right?
 23 A. Yes, in a -- yes.
 24 Q. Okay. You're also going to
 25 discount to reflect the risk -- and I know this is

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1 really general; I'm not trying to say it's the same
 2 analysis every time. But you're also going to
 3 discount to reflect the risk that you might buy
 4 something and get permission to build something, but
 5 miss the market and nobody wants to buy it, right?
 6 A. Yes.
 7 Q. Okay. And then you're also
 8 going to discount for construction risk, right, the
 9 construction costs are going to be higher than
 10 anticipated, and timelines are going to get extended,
 11 right?
 12 A. Yes.
 13 Q. Okay. And all else being
 14 equal, and I know that there could be a lot of moving
 15 parts, every time you overcome one of these risks,
 16 the value of the land, the value of the asset
 17 increases, right?
 18 A. Well, not really, because the
 19 value is only there if you sell it, right? I mean,
 20 you can -- if --
 21 Q. That's a fair point. You may
 22 not realize the value, but the value does increase,
 23 correct?
 24 A. You're saying -- would you
 25 repeat the question again?

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1 Q. Sure.
 2 A. In the simplest form, you can
 3 say yes. If you do something positive, is it worth
 4 something; in theory, yes. But in reality, you do a
 5 lot of positive things and until you realize the end,
 6 then it's just theory, right.
 7 Q. I understand. I understand.
 8 I think we're talking about the expectation versus
 9 the reality. And sometimes the expectation matches
 10 reality and sometimes it doesn't.
 11 A. Okay.
 12 Q. But what you would expect to
 13 happen, for example, is once you buy a piece of land
 14 that is not zoned to build the thing that you want to
 15 build, right, once you get the zoning to build that
 16 thing, you would expect an increase, right?
 17 A. Well, usually you have the
 18 expectation of what you're going to eventually build
 19 built into the value of the land.
 20 Q. Right.
 21 A. It's not like you're buying a
 22 farmer's field. It's like in our business, with
 23 condominiums, there are all kind of rules and city
 24 plans, et cetera. So you look at where it fits into
 25 that network, and that the seller of the land knows

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1 that. And we, as a purchaser, would know that so...
 2 Q. Right. I think what you're
 3 saying is that sometimes the risk that you're not
 4 going to be able to build what you want to build is
 5 great, and sometimes it's small, right?
 6 A. Okay. Yes.
 7 Q. And if it's a higher risk,
 8 that will have a greater impact on the price than if
 9 it's a lower risk, right?
 10 A. Yes.
 11 Q. Okay. And it is possible, as
 12 you said -- sorry, I just want to -- are you familiar
 13 with the term "appraisal surplus"?
 14 A. Yes.
 15 Q. And what's an appraisal
 16 surplus?
 17 A. So if you buy something for
 18 X, and you can justify a higher price, you can value
 19 it at a higher number.
 20 Q. Right. So when you do your
 21 project budget, you can incorporate the increased
 22 value of the land into the budget, right?
 23 A. Sometimes, yes.
 24 Q. And that will count towards
 25 equity?

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<p>1 A. Yeah.</p> <p>2 Q. Typically, right?</p> <p>3 A. Yes.</p> <p>4 Q. And what that means, in terms</p> <p>5 of counting the appraisal surplus towards equity, is</p> <p>6 that there has been an increase to the value of your</p> <p>7 asset, and you're allowed to contribute notionally</p> <p>8 that increased value to the project?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And it certainly is</p> <p>11 possible, you mentioned, at different stages, to sell</p> <p>12 the property and realize whatever gains you've</p> <p>13 achieved so far?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And that's why when I</p> <p>16 started this, talking about developers, you would</p> <p>17 agree that there is something of a distinction</p> <p>18 between developers and builders, and many developers</p> <p>19 are also builders, but there's not -- but not all.</p> <p>20 There are developers who simply acquire land, get it</p> <p>21 zoned and then sell it, right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So you were the</p> <p>24 ultimate decision maker for the Cresford Group?</p> <p>25 A. Yes.</p>	<p>1 Q. And so you had the ability to</p> <p>2 enter into contracts on behalf of the Cresford Group?</p> <p>3 A. Yes.</p> <p>4 Q. And all of the entities that</p> <p>5 are part of the Cresford Group?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And that includes YSL?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. So you had the</p> <p>10 authority to enter into contracts on behalf of YSL,</p> <p>11 and YSL would be bound by those contracts, right?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And I just want to</p> <p>14 make sure that I have your evidence from your</p> <p>15 evidence in-chief, and I want to make sure that I</p> <p>16 have this right. You never, at any time, agreed to</p> <p>17 pay Ms. Athanasoulis the net profits realized on the</p> <p>18 successful completion of future projects?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. So I'm going to show</p> <p>21 you something, and I'm pulling up Tab 19 of the joint</p> <p>22 book of documents, which is the statement of defence</p> <p>23 filed by Cresford?</p> <p>24 A. Yes.</p> <p>25 Q. I'm showing you paragraph 51</p>
<p>Page 448</p> <p>1 of the statement of defence that was filed by</p> <p>2 Cresford?</p> <p>3 A. Yes.</p> <p>4 Q. And it says here:</p> <p>5 "After the Vox Project,</p> <p>6 Casey agreed to pay</p> <p>7 Athanasoulis 10% of the net</p> <p>8 profits realized on the</p> <p>9 successful completion of</p> <p>10 future projects."</p> <p>11 So that statement is untrue, sir?</p> <p>12 A. I'm just reading around it.</p> <p>13 Q. Sure.</p> <p>14 A. I believe that's incorrect,</p> <p>15 yes.</p> <p>16 Q. Okay. Even though we just</p> <p>17 talked about how important it was to Cresford that</p> <p>18 this pleading be accurate, right?</p> <p>19 A. Yeah.</p> <p>20 Q. And this was a substantial</p> <p>21 component of Ms. Athanasoulis' claim?</p> <p>22 A. Yes.</p> <p>23 Q. She was seeking, I believe,</p> <p>24 \$48 million for breach of a profit sharing agreement,</p> <p>25 correct?</p>	<p>Page 449</p> <p>1 A. Yes.</p> <p>2 Q. And so whether that agreement</p> <p>3 existed or did not exist was a pretty important</p> <p>4 point, wasn't it?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Can you explain to me</p> <p>7 how it is that Cresford got that point completely</p> <p>8 wrong in its statement of defence?</p> <p>9 A. No.</p> <p>10 Q. Okay. I'm going to suggest</p> <p>11 to you, sir, that this statement is correct, and the</p> <p>12 testimony that you gave today is not. Would you</p> <p>13 agree with that?</p> <p>14 A. No.</p> <p>15 Q. Okay. Is it possible,</p> <p>16 because we discussed how you probably had a better</p> <p>17 recollection in 2020, is it possible that this</p> <p>18 statement is correct and your evidence today is not?</p> <p>19 A. I believe the evidence I gave</p> <p>20 today is correct and true.</p> <p>21 Q. That's not my question. Is</p> <p>22 it possible that what you said in 2020 is correct,</p> <p>23 and the evidence that you gave today was not?</p> <p>24 A. It's possible.</p> <p>25 Q. Okay. I want to talk a</p>

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1 little bit about Ms. Athanasoulis. She joined in
2 2004?
3 A. Yes.
4 Q. And she rose very quickly,
5 despite having little formal education?
6 A. Yes.
7 Q. Okay. And she had a
8 particular talent relating to sales and marketing?
9 A. Yes.
10 Q. Okay. And you considered her
11 a friend?
12 A. I did, yes.
13 Q. You considered her a valued
14 employee?
15 A. Yes.
16 Q. Sometimes you called her your
17 partner?
18 A. Probably, yes.
19 Q. Okay. And you also testified
20 today, sir, that she was never entitled to any
21 commission that was calculated as a percentage of
22 gross sales?
23 A. Yes, that I never agreed to
24 that.
25 Q. Well, is there a difference

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1 between those two things? I just want to make sure I
2 have your evidence right.
3 A. I never agreed that Maria
4 would achieve -- get a percentage of sales.
5 Q. Okay. But when I said was
6 she entitled to receive a percentage of sales, is
7 that different?
8 A. No, I don't think so.
9 Q. Let me put it to you
10 differently. Could she be entitled to a
11 percentage -- a commission based on a percentage of
12 sales without your agreement?
13 A. No.
14 Q. Okay.
15 A. It would, it would be --
16 there was a period when -- no, the answer is no.
17 Q. Okay. I'm going to show you
18 Tab 1 of the joint document book, and this is sent by
19 Jessica Harrison.
20 A. Yes.
21 Q. And you know who she is?
22 A. Yes.
23 Q. And she was a consultant that
24 had been brought in to document roles and
25 compensation at Cresford?

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1 A. She is -- yeah, she was a
2 consultant, yeah.
3 Q. Okay. And she was a
4 consultant specifically brought in to document roles
5 and compensation at Cresford. You would agree with
6 that?
7 A. She was a -- I don't think
8 so. I mean, I wouldn't say -- she worked for another
9 consultant that we had.
10 Q. Who is that?
11 A. I'm trying to remember his
12 name.
13 Q. Okay. I don't want to get
14 held up on it. Ken Marshall, I assume, you know?
15 A. Yes.
16 Q. And he was the president of
17 Cresford at the time?
18 A. Yes.
19 Q. And he was, for lack of a
20 better term, Ms. Athanasoulis' boss in 2013?
21 A. Yes.
22 Q. Okay. And so Mr. Marshall
23 you would expect to communicate accurate information
24 with Ms. Athanasoulis about what she was entitled to,
25 right?

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1 A. Yes.
2 Q. Okay.
3 A. I would have hoped that was
4 the case.
5 Q. Okay. So this went. Can
6 you -- and I'm showing you at the bottom -- sorry, we
7 can start at the top. And just let me know if you
8 need anything bigger. This refers to a 2012 bonus
9 based on 0.15 percent of total sales?
10 A. Yes.
11 Q. To December 31. And it's
12 your evidence, sir, that Ms. Athanasoulis was never
13 entitled to this, to 0.15 percent of total sales?
14 A. This was a memo, right?
15 Q. Yes.
16 A. From who to who?
17 Q. It -- well maybe I'm not sure
18 that it's -- I'm not -- it looks like a memo to me.
19 It says what it says. It says name Maria
20 Athanasoulis, reports to Ken Marshall, date January
21 30th, 2013.
22 But to come back to my question,
23 sir, it's your evidence, when it says 0.15 percent of
24 total sales, that Ms. Athanasoulis was never entitled
25 to that, correct?

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1 A. That's correct.
 2 Q. Okay. And then at the
 3 bottom, where it says New Launch/Casa III
 4 Compensation Structure:
 5 "0.125% to 0.175% of total
 6 sales (with current deposits
 7 and mortgage commitments)
 8 based on achieving the
 9 required threshold and
 10 percentage of units sold
 11 within the agreed upon
 12 timeframe."
 13 Do you see that, sir?
 14 A. Yes.
 15 Q. And it is your evidence
 16 today, sir, is that Ms. Athanasoulis was never
 17 entitled to that either, correct?
 18 A. I don't believe that was part
 19 of her compensation. I think it was a memo. I don't
 20 think it was a contract.
 21 Q. Okay. That wasn't my
 22 question.
 23 A. I'm sorry.
 24 Q. My question was: It's your
 25 evidence that she was never entitled to any kind of a

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1 commission, correct?
 2 A. That's correct, yes.
 3 Q. Because she couldn't be
 4 entitled to it unless you agreed to it, right?
 5 A. Correct.
 6 Q. And you never agreed to it?
 7 A. Correct.
 8 Q. Okay. And yet, that's what
 9 it says here. Do you know why that is?
 10 A. No.
 11 Q. Okay. Did Ken Marshall go
 12 rogue and send this without your approval?
 13 A. I don't know what the
 14 document is. I don't know whether it's a real
 15 document. I don't know whether Ken Marshall was
 16 doing a memorandum to discuss. I know that I never
 17 wanted to have Maria, in her position, to be part of
 18 a sales operation where she got paid for the sales
 19 that happened, as an outside consultant would.
 20 MR. MILNE-SMITH: I just wanted to
 21 register a brief objection to the form of the
 22 question. I have no objection to the answer that was
 23 given. But my friend, Mr. Dunn, I'm sure by
 24 inadvertence, referred to Ken Marshall going rogue
 25 when he sent this. Just for the record, Ken Marshall

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1 was the recipient of this document. Jessica Harrison
 2 sent it. So I hope we can catch that going forward.
 3 MR. DUNN: No, no problem.
 4 BY MR. DUNN:
 5 Q. You would expect, sir, that
 6 if Ken Marshall, in his capacity as president,
 7 received something that was incorrect, that he would
 8 correct that, right?
 9 A. Yes.
 10 Q. Okay.
 11 A. Sorry. This was, I think, a
 12 memo from a consultant to our consultant to Ken
 13 Marshall about a proposed structure of compensation.
 14 Q. Okay. Have you seen this
 15 before, before you started preparing for this
 16 arbitration?
 17 A. No, I hadn't seen it before
 18 this arbitration.
 19 Q. Okay. So you didn't see it
 20 in 2013?
 21 A. No.
 22 Q. So when you say it was a memo
 23 about a proposed form of compensation, you're really
 24 just speculating, based on what you think might have
 25 happened, right?

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1 A. Yes.
 2 Q. Okay. I'm going to suggest
 3 to you it's equally possible that this is a memo that
 4 memorializes what Maria Athanasoulis was, in fact,
 5 entitled to?
 6 A. It didn't come up in our
 7 discussions with -- it didn't come up in our
 8 discussions. Maria never showed me the memo and
 9 talked about it. And with John Papadakis, when we
 10 wanted to make sure we had a way forward, it wasn't
 11 tabled.
 12 Q. That wasn't quite my
 13 question, sir. My question was, it's equally
 14 possible that this memorialized what Maria
 15 Athanasoulis was, in fact, entitled to, right?
 16 A. I can't say. I don't know.
 17 Q. Right. And is it possible,
 18 sir, that you did receive this all the way back in
 19 2013 and that you've forgotten about it since then?
 20 A. It's possible.
 21 Q. Okay. And Ms. Athanasoulis
 22 never had a written employment agreement, right?
 23 A. No.
 24 Q. Okay. And despite that, she
 25 was paid - let me just stop the screen sharing -

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1 quite a bit over the years; is that fair?
 2 A. Yes.
 3 Q. Okay. Do you remember
 4 approximately how much she was paid and when?
 5 A. In the -- in what I reviewed
 6 at the beginning when it had a series of numbers on
 7 the page, that would be my recollection. And they
 8 varied up to, I think, at the end, eight or nine
 9 hundred thousand.
 10 Q. And is that your recollection
 11 of her total compensation?
 12 A. Yeah.
 13 Q. Okay. And how certain are
 14 you that that was her total compensation?
 15 A. Well, it would depend on
 16 whether she had -- if she got certain bonuses against
 17 condominium, did she claim that in her income tax.
 18 I'm not sure of that.
 19 Q. Right. So it's actually
 20 possible that she made more than that, right?
 21 A. Yes.
 22 Q. Okay. And you don't recall
 23 one way or the other?
 24 A. I just accepted the numbers
 25 were correct.

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1 Between 2014 and 2019 Ms.
 2 Athanasoulis and her husband received a minimum of
 3 \$3.7 million. And it's actually much more specific
 4 than that. So somebody did a calculation, I assume,
 5 of 3.717378?
 6 A. Yes.
 7 Q. Okay. And you don't know how
 8 that number is arrived at?
 9 A. Okay.
 10 Q. And what was her base salary?
 11 A. I think it was \$300,000,
 12 350,000, something like that.
 13 Q. Okay. And I take it, sir,
 14 that it's your evidence that everything between
 15 the -- everything above the \$300,000 was -- well,
 16 first of all, do you know -- sorry, I just want to be
 17 clear.
 18 Do you know whether -- and I'm
 19 going to show you again the calculation from
 20 Ms. Athanasoulis' T4 slips, the 300,000, which starts
 21 300,000 in 2014 and then goes up to 889. Do you see
 22 that, sir?
 23 A. Yeah.
 24 Q. And do you know if that is --
 25 if any part of that is captured in the condominium

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1 Q. Okay. And if I told you that
 2 she had got condominium discounts between 2014 and
 3 2019 totaling \$3.7 million, would you agree or
 4 disagree?
 5 A. What dates?
 6 Q. 2014 and 2019.
 7 A. I wouldn't -- so that's a
 8 complicated question.
 9 Q. Okay.
 10 A. And so if you got a -- if you
 11 bought a condominium at the beginning of a project
 12 and you took the best value of the project at the
 13 time, the best value of the number, and you then
 14 closed and there was a profit, if you sold it, that
 15 would -- there could be a various set of numbers. So
 16 I'm not disagreeing that there could be extra
 17 compensation in condominiums. I have no ability to
 18 judge whether \$3 million was the right or wrong
 19 number.
 20 Q. Okay. And I apologize, sir,
 21 I should have asked you -- I should have asked this a
 22 little bit differently. Let me just show you where I
 23 got the 3.7 number from. And I'm going to show you,
 24 once again, Tab 19 of the joint document book,
 25 paragraph 43 from the Cresford statement of defence.

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1 discounts at paragraph 43?
 2 A. I don't know.
 3 Q. Okay. So it's possible that
 4 she made the amount in paragraph 40, plus the amount
 5 in paragraph 43, or it's possible that there was some
 6 overlap, right?
 7 A. Yes.
 8 Q. Okay. But those are all --
 9 that's all compensation that you knew about and you
 10 authorized, right?
 11 A. Yes.
 12 Q. And your evidence is that
 13 every single one of those bonuses during this time
 14 period was just ad hoc and discretionary?
 15 A. So I think the bonuses we
 16 would discuss, Maria and I.
 17 Q. Right.
 18 A. And agree what was fair for
 19 the effort, and then that would happen.
 20 Q. But what I'm asking you, sir,
 21 is to confirm that your evidence is her bonuses,
 22 which total several million dollars, however you
 23 count it, were not tied to anything in particular.
 24 It was just you guys would talk, and then you would
 25 decide to pay a bonus or not pay a bonus?

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1 A. They were tied to things,
2 right, to value. Like, you wouldn't just -- you
3 would pay a bonus based for some achievement, and the
4 achievement would be agreed upon by Maria and myself.
5 Q. But there was no agreement in
6 advance: Once you do X, you get Y?
7 A. No.
8 Q. So she was working, and then
9 she would come to you and say, I think the stuff I
10 just did is worth X, and you would say, yes or no,
11 depending on what you thought?
12 A. Yes.
13 Q. Okay. And so if at any point
14 you decided she was entitled to no bonus, too bad for
15 her?
16 A. That's correct, but it's not
17 fair. And Maria and I basically had an understanding
18 that we would agree upon what a fair number was.
19 Q. Right. But ultimately, if
20 you didn't agree, she got nothing. Because she had
21 no -- according to you, she had no right to anything
22 over \$300,000?
23 A. That's correct.
24 Q. Okay. Others at Cresford,
25 their bonuses were tied to specific events, right?

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1 A. Yes.
2 Q. Okay. And Maria was the only
3 one whose bonuses just sort of were discretionary,
4 right?
5 A. Yes.
6 Q. Okay. And I just wanted to
7 make sure that I had your evidence right. Was it
8 your evidence that everyone at Cresford had to remain
9 employed in order to get whatever bonuses they were
10 entitled to?
11 A. That was the -- that was one
12 of the principles of a bonus.
13 Q. Okay. I'm going to show you
14 Tab 4 of the joint document book, which is an
15 employment agreement between Cresford and
16 Sean Fleming?
17 A. Yeah.
18 Q. And Mr. Fleming is, I believe
19 his title is vice president of development or
20 something like that?
21 A. Yeah.
22 Q. Okay. And this is an
23 agreement with Cresford Developments. And that's not
24 a legal entity, right?
25 A. That's correct.

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1 Q. Because Mr. Fleming was
2 working for the Cresford Group as a whole, right?
3 A. He worked for -- I forget his
4 employer. But yes --
5 Q. Okay.
6 A. -- he worked for whoever he
7 worked for, yeah.
8 Q. Okay. Well, I'm going to
9 suggest to you he was paid by East Downtown
10 Redevelopments Partnership. Does that ring a bell?
11 A. Yes. That would make sense,
12 yeah.
13 Q. That's who paid his salary.
14 But you would agree with me, sir, that East Downtown
15 Redevelopments corporation is not actually mentioned
16 here, right?
17 A. No.
18 Q. Okay. And what is mentioned
19 here is Cresford Developments. Now, Mr. Fleming's
20 bonuses -- I'm just showing you schedule B to
21 Mr. Fleming's agreement. And they are -- he's
22 entitled to a bonus of 200,000 on the purchase of any
23 Cresford site purchased after the start date?
24 A. Yes.
25 Q. Okay. I'm going to suggest

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1 to you that bonus is not eliminated if Mr. Fleming
2 ceases to be an employee at the time of project
3 completion?
4 A. No. That's a specific bonus
5 to do something specific. I agree that that's what
6 it was for, yes.
7 Q. Okay. So -- and you still --
8 Cresford is still a functioning entity, right?
9 A. Cresford was a marketing name
10 for a group of companies.
11 Q. Yeah. Let me be a little
12 more specific. You still have control of Cresford's
13 records?
14 A. I think we do. It's in quite
15 a shambles after all that we've gone through.
16 Q. The employment agreements,
17 for example, that's something that Cresford still has
18 access to?
19 A. I hope so, yeah.
20 Q. Okay. And this principle
21 where everybody would only get bonuses if they
22 remained employed at the date of completion, you
23 can't show me today an example of that, can you?
24 A. So when I was talking about
25 the bonuses on completion, that was for project

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1 bonuses. There were bonuses or payments for
 2 different things. But usually they were not
 3 collected, unless at the time they were payable you
 4 were an employee of Cresford.
 5 Q. Okay. Usually, but you can't
 6 give me an example of that usual practice?
 7 A. I'm sorry?
 8 Q. Well, you say that that was
 9 the usual practice, right?
 10 A. Yeah.
 11 Q. But we're looking at an
 12 agreement that says something else, right?
 13 A. So --
 14 Q. And you can't give me an
 15 example of the usual practice. That's all I'm
 16 saying.
 17 A. Can we go to the beginning of
 18 this document?
 19 Q. Sure.
 20 A. Okay. Just let me look at it
 21 for a second. Can you scroll up for me? Down for
 22 me, I guess, is what I want. Okay, hold on. Keep
 23 going. Keep going down. Keep going. Keep going,
 24 please. Sorry, I skipped a bunch there. Okay, yes,
 25 keep going, please. Yeah. Yes, keep going. Keep

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1 going, please. Keep going. Please keep going.
 2 Thank you. Keep going. Okay. Yeah. Thank you.
 3 Thank you, yeah.
 4 Q. Okay. Thank you. So if you
 5 could answer my question, now that you've had an
 6 opportunity to review. This usual practice of
 7 requiring that employees be employed at the time of
 8 project completion in order to receive their bonus,
 9 you can't point me to an example of that practice?
 10 A. I believe that the
 11 construction people's contracts were like that. I
 12 believe that other people contracts, I mean, were
 13 like that. But --
 14 Q. Sorry, let me just ask you a
 15 question. You believe that, but you can't say for
 16 sure sitting here today. And that's not your fault;
 17 we don't have them, right?
 18 A. Without something else, I
 19 can't say, no. But I can tell you that, as a
 20 principle, I believed, was that you would be employed
 21 at the time of the project's completion, and then
 22 that would justify the bonuses.
 23 Q. Right. That's a principle --
 24 I think -- here's where I think we've landed, sir.
 25 That's a principle that you believed it. You can't

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1 say today to what extent that principle actually
 2 governed Cresford's operation?
 3 A. I think it governed it, but I
 4 can't say for certain that there weren't exceptions,
 5 and this is an example of a bonus earned for some
 6 specific work.
 7 Q. Okay.
 8 A. Did it say in that, that if
 9 the person was not an employee, that they would still
 10 get the bonus?
 11 Q. I don't believe that it said
 12 anything about it. I mean, we can all read it. The
 13 document is there. We've already sort of scrolled
 14 through it. I'd rather not repeat that exercise. So
 15 let's move on to the next.
 16 A. Sorry, just -- the sense was
 17 that if you weren't working there when the project
 18 was finished, then you weren't entitled to it. There
 19 are exceptions, I'm sure, because there was lots of
 20 different people in lots of different ways.
 21 Q. Right. And we don't know how
 22 many exceptions there were, as compared to how many
 23 that people followed this --
 24 A. Right. And it depended upon
 25 the seniority at the company, your seniority, yes.

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1 Q. Okay. So I want to turn
 2 now -- you agree, sir, that you had discussions about
 3 a profit sharing agreement with Ms. Athanasoulis when
 4 the Vox project was launched, right?
 5 A. I've had --
 6 Q. At the time?
 7 A. I've had discussions with
 8 Maria at different times about profit sharing.
 9 Q. Okay. But the first one, you
 10 would agree, was around the launch of the Vox
 11 project?
 12 A. I can't remember
 13 specifically, but if you're saying that's what
 14 your -- if that's what you're saying, I'm not
 15 disagreeing with you.
 16 Q. Okay. You don't know one way
 17 or the other. And I take it, then, that if I told
 18 you that the Vox project launched in 2014 --
 19 A. Yes.
 20 Q. -- does that sound about,
 21 right?
 22 A. Yes.
 23 Q. Okay. And I take it, sir --
 24 and give a beat, just in case someone wants to object
 25 to it. I don't think anyone will, but just in case,

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1 okay? We've discussed your involvement in the
2 preparation of Cresford's defence. I don't believe I
3 asked you. I assume, sir, that you provided
4 information to the trustee, KSV or its counsel, to
5 allow it to draft its defence, correct?
6 A. Sorry.
7 Q. I see the thumbs up from my
8 friend, so go ahead. So, Mr. Casey, you provided
9 information to KSV to allow it to prepare its
10 statement of defence, correct?
11 A. Yeah, I would provide the
12 information that was requested. Yes.
13 Q. Okay.
14 A. And other people did too,
15 like our team.
16 Q. Who's on the team?
17 A. It's a small team. Well, Ted
18 Dowbiggin and Dave Mann.
19 Q. Okay. And I take it that you
20 reviewed the statement of defence filed in this
21 matter to make sure that it was accurate?
22 A. I probably did, yes.
23 Q. Okay. And that would have
24 been in or around the time that it was filed, so --
25 sorry, I'm just going to check the date of it. So it

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1 That came from you, correct?
2 A. Yes.
3 Q. Okay.
4 "Athanasoulis was never
5 compensated on a commission
6 basis or otherwise
7 conditional on completion of
8 the Cresford Developments."
9 That came from you, correct?
10 A. Yes.
11 Q. Okay.
12 "In addition, Cresford
13 agreed to pay Athanasoulis
14 10% of the net profits
15 realized on the successful
16 completion of certain
17 projects, including YSL."
18 That came from you, right?
19 A. Well, that's the -- that
20 statement is -- must have been from my team, from me.
21 Q. The people who were parties
22 to these discussions were you and Ms. Athanasoulis,
23 correct, leaving aside for a second Mr. Papadakis.
24 You and Ms. Athanasoulis, they know -- those were the
25 two people who know what the two of you discussed

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1 was filed on December 20th of 2021. I'll pull it up
2 for you. And I don't want any particulars of your
3 discussions, unless I ask for them. So this was
4 filed December 20th of 2021, and so I assume you
5 would have reviewed it at some point in the fall of
6 2021; is that fair?
7 A. Yeah. So I would review it
8 with my lawyers. I'm not -- I've never trusted my
9 ability to read a document like a lawyer, so I would
10 discuss with my lawyer, you know, et cetera.
11 Q. But and I don't -- I want to
12 make sure that I'm not -- again, just take a breath
13 before you answer these questions to make sure that
14 nobody wants to jump in. I'm going to try and stay
15 away from anything that will raise an objection. I
16 assume, though, however it came to be the case, what
17 we find here is your version of the facts as it
18 related to the profit sharing agreement, correct?
19 A. Yes. It appears so, yes.
20 Q. Okay. So one thing about
21 this:
22 "At all material times
23 Athanasoulis was fairly
24 compensated by Cresford for
25 her services."

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1 about the agreement to pay a share of profits, right?
2 A. Yes, but there would be
3 others, because I would have spoken to others.
4 Q. Okay. Either way, whoever
5 put -- but the ultimate source of that information
6 would either be Ms. Athanasoulis or it would be you,
7 right? Those are the two options?
8 A. Yes.
9 Q. And it's safe to say that
10 Ms. Athanasoulis did not have any input into what
11 went into the statement of defence in this matter,
12 correct?
13 A. Correct.
14 Q. Okay. So you told someone,
15 in the fall of 2021, that Cresford had agreed to pay
16 Ms. Athanasoulis 10 percent of the net profits
17 realized on the successful completion of certain
18 projects, including YSL, correct?
19 A. I don't recall doing it. I
20 recall my agreements with Maria were conceptual. I
21 recall that my discussions with Maria, with
22 John Papadakis was the, was the -- trying to get to a
23 deal. And I don't believe we had a documented
24 agreement of profits. This statement, obviously,
25 troubles me, but it is a statement.

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1 Q. Okay. So I just want to make
2 sure that we focus on my question, okay.
3 A. Yes.
4 Q. In the fall of 2021, you
5 conveyed this information, whether directly to Davies
6 or to your lawyers to convey to Davies, you told
7 someone that you, on behalf of Cresford, had agreed
8 to pay Ms. Athanasoulis 10 percent of the net profits
9 realized on the successful completion of certain
10 projects, including YSL, correct?
11 A. I don't recall it, but it's
12 there.
13 Q. Okay.
14 A. So --
15 Q. Okay.
16 A. I would ask -- can I ask
17 counsel for, for the -- can I ask...
18 Q. So I think the short answer
19 is no, you can't ask for confirmation in the middle
20 of cross-examination. But my friend has unmuted, so
21 I'll let him speak.
22 MR. MILNE-SMITH: No, I'm not here
23 to provide any information to the witness. I just
24 wasn't sure what the witness was going to ask.
25 MR. DUNN: Yes. I wasn't either.

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1 And I apologize, Mr. Casey. I said no before
2 hearing. Finish your request and then we can deal
3 with it.
4 ARBITRATOR HORTON: Generally, I'm
5 one that rules on objections or requests for
6 assistance. But, Mr. Casey, you'll have to do your
7 best on your own on this one. But if there's
8 anything, any document that you think might assist
9 you in refreshing your recollection or in answering
10 the question, I'm not sure whether or not it would be
11 available, but you can certainly do that. You can,
12 you can indicate if there's some particular document
13 that you want to see that may help you answer a
14 question.
15 THE WITNESS: Thank you. I can't
16 think of any. I wish I could. But I just have to
17 accept what's there. I'm not -- I mean, I would say
18 there were other people giving information. I would
19 say that that -- I did not have, in my understanding,
20 an agreement with Maria Athanasoulis on a specific
21 deal or percentage, but that statement is different.
22 BY MR. DUNN:
23 Q. Okay. And turning forward to
24 paragraph 14:
25 "While Casey and

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1 Athanasoulis did discuss
2 increasing her 10% of net
3 profits upon the successful
4 completion of the YSL
5 Project and future Cresford
6 projects to 15%, [that]
7 increase was never agreed to
8 between the parties."
9 Do you see that, sir?
10 A. Yes.
11 Q. Okay. And I assume, as well,
12 that you were, in one way or another, the source of
13 that information, correct?
14 A. So this is an area that is
15 troubling me. I stand by my statement that we never
16 had a specific deal, and that it was never finalized.
17 There was never a clear understanding of profits,
18 what 10 percent meant, what her duties were, et
19 cetera, et cetera. And so I would say that if I gave
20 that information, it was incorrect.
21 But if someone else gave it for
22 me, you know, as you say, I should have maybe read
23 the document or been fully informed of it. But I,
24 essentially, believe my -- and I've sworn to it, that
25 we never had a specific deal on percentages.

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1 Q. Well, I think, to be fair to
2 you, sir, your evidence is -- and I just want to make
3 sure that I have this right -- your evidence is that
4 you never had a specific deal on anything, right?
5 A. No. We had a deal on her
6 compensation, you know, her salary, her expenses, et
7 cetera. And we had a series of deals throughout the
8 piece of coming together on issues of extra
9 compensation for work done. We had a long
10 relationship, in which case it was, you know -- there
11 were no, there were no issues.
12 Q. Right. Sorry. And you're
13 quite right, you did have an agreement on some
14 things. But I just want to make sure that I
15 understand your evidence today to be that you didn't
16 reach any agreement with her on any aspect of a
17 profit sharing agreement?
18 A. That's right.
19 Q. Okay. You would agree, or
20 certainly you would expect that Ms. Athanasoulis had
21 an expectation and an understanding that she was
22 going to get a share of the profits, right?
23 A. When we finalized our
24 agreements, yes.
25 Q. Okay. So you didn't

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1 expect -- sorry. So you would say yes -- I just want
2 to break that down, because I think there was two. I
3 think the answer to -- so answer the first question
4 first.

5 You would agree with me that
6 Ms. Athanasoulis had an expectation and an
7 understanding that she was going to get 10 percent of
8 the profits, correct?

9 A. So I would say that Maria and
10 I, on a conceptual basis, talked about her role, her
11 role going forward, and her compensation going
12 forward.

13 Q. Okay. But you would expect
14 her to have a share -- to have an expectation and an
15 understanding that she was going to get -- and you
16 say 10 percent, I appreciate we have a
17 disagreement -- to get 10 percent of the profits,
18 correct?

19 MR. MILNE-SMITH: I'm going to
20 object to the question. It's already been answered a
21 couple of times. And I have some discomfort with my
22 friend asking what Maria's understanding or
23 expectations were. It calls for insight into her
24 state of mind. If you want to ask about specific
25 conversations they had, I have no objection to it,

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1 but I do have an objection to the questions about her
2 understanding or expectations.

3 MR. DUNN: Sure. Let me move on.

4 BY MR. DUNN:

5 Q. Because you would expect her
6 to have that expectation and understanding, because
7 that's what you told her, correct?

8 ARBITRATOR HORTON: I'm sorry,
9 I'll have to just interject here, Mr. Dunn. I've
10 lost the thread of what exactly you're asking the
11 witness at this point.

12 MR. DUNN: Sure.

13 ARBITRATOR HORTON: Because we've
14 had so many variables going. I think you're going to
15 have to be a little bit more surgical in how you
16 frame the question, so we all know what we've got by
17 the way of evidence.

18 MR. DUNN: Sure. Sure.

19 BY MR. DUNN:

20 Q. I'm going to suggest to you,
21 sir, that Ms. Athanasoulis had an expectation and an
22 understanding that she was going to get 10 percent of
23 the profits from Cresford's projects, because that's
24 what you told her. Would you agree with that?

25 A. No.

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1 Q. Okay. Do you recall being
2 examined for discovery in this matter?

3 A. Yes.

4 Q. And you gave an affirmation
5 and agreed to tell the truth, correct?

6 A. Yeah. Yes.

7 Q. And you did tell the truth?

8 A. I hope so.

9 Q. Okay. I'm going to bring up
10 question 500 from your examination for discovery.
11 And she, talking -- I'm going to read you the
12 question and your answer, because there's actually
13 two that have to be put together, okay. 500:

14 "She had an expectation and
15 an understanding that she
16 was going to get 10 percent
17 of the profits, right?"

18 And you answered:

19 "You would have to -- yes, I
20 would expect so, but you
21 would have to ask her."

22 Do you recall giving that answer?

23 A. Yes. I don't recall it, but

24 I read it, yes.

25 Q. Okay. And that answer is

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1 true, correct?

2 A. The answer is, yeah. Yes.

3 Q. Okay. And then at

4 Question 501, I asked you:

5 "You would expect so because
6 that is what you told her,
7 right?"

8 And your answer was:

9 "That's... that is a little
10 harsh but, yes, in the
11 context of other issues,
12 yes."

13 You gave that answer, sir?

14 A. Yes.

15 Q. And that answer was true?

16 A. Yes. Well, it was a muddled
17 answer, as you see.

18 Q. Okay. Your answer was true?

19 A. I'm having a technical issue

20 here.

21 Q. Well, let's pause to have the
22 technical issue resolved.

23 A. Yeah, I think I'm back.

24 Q. Thank you. So is it fair to
25 say, sir, that you had at least a conceptual

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1 agreement with Ms. Athanasoulis that she would get a
 2 share of the profits from Cresford's projects?
 3 A. Yes.
 4 Q. Okay. But in your mind, that
 5 was subject to fleshing out all the terms in a
 6 written agreement, right?
 7 A. Yes.
 8 Q. Okay. And once she had that
 9 fleshed out, she would have something that could
 10 potentially be very valuable, right?
 11 A. We both would, yes.
 12 Q. Right. You would get the
 13 benefit of her services, correct?
 14 A. Yes.
 15 Q. And she would get the right,
 16 potentially, to earn tens of millions of dollars,
 17 right?
 18 A. Yes.
 19 Q. Okay. So between 2014 -- and
 20 you had -- you were fine with that agreement
 21 conceptually, right?
 22 A. Yes.
 23 Q. Okay. And between 2014 and,
 24 let's say, the beginning of 2019, because I know you
 25 have some criticisms of her from that -- sort of that

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1 point on, you got the benefit of her services, right?
 2 A. Yes.
 3 Q. Okay. So -- and in exchange,
 4 throughout the period, right, from 2014, you did
 5 nothing to move from what you say is a conceptual
 6 agreement to an actual agreement, correct?
 7 A. Yes.
 8 Q. Okay. So she was your
 9 friend, right?
 10 A. Yes.
 11 Q. And someone who trusted you?
 12 A. Yes.
 13 Q. Okay. And it's fair to say
 14 you strung her along, right?
 15 A. No. Absolutely not.
 16 Q. Well, you discussed this
 17 issue for five years, right?
 18 A. Yeah.
 19 Q. And according to your
 20 evidence, there were some steps required to make it
 21 concrete, right?
 22 A. Yes.
 23 Q. And you wanted to take care
 24 of her, right?
 25 A. I wanted to pay her, yeah.

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1 Q. Right.
 2 A. Yes.
 3 Q. Except, it just so happens,
 4 that you never took the steps that you say were
 5 needed to implement this conceptual agreement, right?
 6 A. Both Maria and I did not take
 7 the steps.
 8 Q. You never took the steps,
 9 right?
 10 A. I think I didn't take my side
 11 of the steps; she didn't take her side of steps.
 12 Q. Right.
 13 A. To make the agreement.
 14 Q. And I'm going to suggest to
 15 you, sir, that if she had known that these rights
 16 didn't exist until they were down on paper, it would
 17 have been a very important and urgent matter to put
 18 them down on paper, right?
 19 A. So you're saying yes -- it
 20 would make sense, yes.
 21 Q. Right. Because this a
 22 critical agreement for her?
 23 A. Yeah. For both sides.
 24 Q. But not putting it down on
 25 paper gives you quite an advantage, doesn't it, sir?

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1 A. No.
 2 Q. Well, because it allows you
 3 to come here today and say there never was any
 4 agreement?
 5 A. Maria was paid a lot of
 6 money. She was happy with her deal. When, as
 7 happened, when I got a scare on health, we had an
 8 agree -- we had a meeting with counsel to try and do
 9 an agreement. If I was -- and the counsel was asked
 10 to help us do this agreement and the counsel was an
 11 experienced person. And the answer was that we never
 12 had an agreement on these specific things. And the
 13 project --
 14 Q. Sorry, go ahead.
 15 A. The projects we're talking
 16 about were in the future, you know, YSL, for example,
 17 and it was time for an agreement. And there were
 18 discussions in the fall of '19 of the role of Maria
 19 if we sold the company with her new employer, what
 20 her role would be, et cetera. And there was not a --
 21 the issue wasn't brought up at the time by her, nor
 22 myself, about finalizing the contract. The time was
 23 focused on going forward, selling the company, or
 24 going forward owning the company, and solving some
 25 issues that were outstanding. And then, obviously,

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1 the relation deteriorated.
 2 Q. Right. And once the
 3 relationship deteriorated -- well, I'll get back to
 4 that. But I think you would agree with me, at least,
 5 you let her down, right?
 6 A. No, I don't think so.
 7 Q. So you say that before you
 8 had any obligations to her at all about the profit
 9 sharing, there had to be an agreement, right?
 10 A. Yes.
 11 Q. And you had this conceptual
 12 understanding with her, you say, from 2014 to 2019,
 13 correct?
 14 A. Yes.
 15 Q. And in all that time, you
 16 did -- you had one meeting?
 17 A. No, we had lots of
 18 discussions, you know.
 19 Q. Right.
 20 A. And Maria would have chosen
 21 to have a bonus here or a bonus there, and she was
 22 quite happy.
 23 Q. I'm not talking about whether
 24 she's happy. I'm talking about you had this
 25 understanding and you just let it drift away, because

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1 you were getting what you wanted?
 2 A. I can agree up to I was
 3 getting what I wanted. I wanted a good management
 4 team. I wanted a management team that was committed
 5 to the projects. I wanted a management team that was
 6 competent and capable of doing their jobs and
 7 executing contracts. I wanted to be in the position
 8 that if things changed, and I couldn't continue, that
 9 the company could continue in good standing. I
 10 wanted all those things.
 11 And a good relationship with Maria
 12 was important. And I don't look at it as I was
 13 putting her at a disadvantage and gaming her anymore
 14 than she was gaming me, you know. I just -- it
 15 wasn't, it wasn't an -- it was not a huge difference
 16 in equality. If she had said to me, Dan, I want to
 17 deal with this, let's get John in, or let's get some
 18 other lawyer in, let's sit down today and deal with
 19 it, I would have.
 20 Q. Okay. And she did say that,
 21 right, in 2019?
 22 A. Yes.
 23 Q. Okay. And, in fact, you met
 24 with Papadakis, correct?
 25 A. Yes. Yeah.

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1 Q. Nothing got resolved, right,
 2 according to you?
 3 A. Yes.
 4 Q. And then it just drifted
 5 away?
 6 A. Yes.
 7 Q. Okay. I'm going to suggest
 8 to you, sir, that this story doesn't make much sense.
 9 Because if this agreement really was missing key
 10 pieces, and if it really needed to be written down,
 11 then the only logical thing to do is resolve those
 12 pieces and write it down. Letting something this
 13 important float around for five years makes no sense,
 14 right?
 15 A. So our relationship was
 16 healthy until the fall of '19. There was no issues
 17 outstanding that were of a nature that we felt we had
 18 to address. We did have the meeting with John.
 19 Maria could have called John and asked him to draft
 20 an agreement, and I would have dealt with that.
 21 We had a full discussion. It was
 22 not a discussion with John that was unfair to either
 23 side. They -- if Maria had -- if we had finalized
 24 those agreements, right, of these projects going
 25 forward, and if they were all built out for Cresford

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1 and things were successful, that would be wonderful.
 2 The circumstances is that's not the case.
 3 Q. Right. So I just wanted to
 4 come back to something --
 5 ARBITRATOR HORTON: I'm not sure
 6 he finished.
 7 BY MR. DUNN:
 8 Q. Sorry. Go ahead. I
 9 apologize. I didn't mean to interrupt you.
 10 A. I don't think -- what
 11 happened to Cresford was tragic, you know, in a
 12 sense. What happened to a bunch of employees, what
 13 happened to myself and others was unfortunate, very
 14 bad. I don't, I don't look at my relationship with
 15 Maria as one of me abusing her in her, in her roles
 16 and her job.
 17 I was her -- I fostered her growth
 18 and helped foster her growth, and paid her what she
 19 wanted to be paid. And the fact that we didn't come
 20 to an agreement is a fact. It's -- you could
 21 criticize me; you could criticize her, you know.
 22 But -- and that criticism might be correct. But the
 23 fact is we didn't -- we tried and we didn't.
 24 And after that meeting with
 25 John Papadakis, we didn't, we didn't have another

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1 meeting, you know. We didn't have a follow-up
 2 meeting. You know, I -- that's...
 3 Q. Okay. I'm going to suggest
 4 to you, sir, that the reason why -- you keep saying
 5 that Maria didn't follow-up with you. I'm going to
 6 suggest to you that the reason why Maria didn't
 7 follow-up with you is that she thought you already
 8 had a deal?
 9 A. That's not correct.
 10 Q. It's not possible?
 11 A. Absolutely -- well, I mean,
 12 you have a meeting with a lawyer to discuss putting
 13 the documents together, right, to put a document
 14 together, to work on all the details of these complex
 15 documents, right. The document for her with a profit
 16 sharing would define so many -- it would be a large
 17 and difficult document, right. And it's just not --
 18 you don't go from wanting -- you don't go from
 19 discussing that with a lawyer to saying, oh, I have a
 20 general agreement.
 21 It wasn't beneficial to Cresford
 22 not to have a profit sharing that would be fulfilled
 23 for, for Maria or paying her a good wage, I mean, big
 24 wages for which she did. It was a -- you know, you
 25 can say it was a flaw from my standpoint, and I think

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1 508. And Question 508, I asked you, and I'll read
 2 the whole question:
 3 "Right. Let me just put
 4 that a little bit
 5 differently from Ms.
 6 Athanasoulis' perspective.
 7 She trusted you to carry out
 8 your understanding with her
 9 that you had reached with
 10 her over these many years,
 11 correct?"
 12 Did you give that answer, sir --
 13 sorry, you said, "Yes"?
 14 A. Yeah, but that doesn't say we
 15 had an agreement on percentage. The one thing I
 16 remember about re-reading my transcript was how
 17 inarticulate I was, and how you asked me the same
 18 question a number of times. I truly mean to tell the
 19 truth here.
 20 And, you know, Maria -- when we
 21 talk about trust. We had a good relationship, so we
 22 trusted each other, we liked each other. We worked
 23 together. It wasn't perfect, but it was good.
 24 And she knew, I would think, when
 25 the, when the meeting with John didn't work, or it

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1 it's fair to say it was a flaw from her standpoint.
 2 Q. Okay. And I'm going to say
 3 that she trusted you to carry out the understanding
 4 with her that you had had over the course of many
 5 years, correct?
 6 A. No, I don't think that's
 7 fair.
 8 Q. Okay.
 9 A. I mean, you use the word
 10 "trust," you use words that are, you know,
 11 incendiary, kind of difficult. But Maria and I had a
 12 good relationship for a long time. When things went
 13 off the rails, the relationship deteriorated. There
 14 was no, there was no time that Maria couldn't talk to
 15 me and say, Dan, I'm uncomfortable about this or
 16 whatever, you know, until it got to point where that
 17 was the case, which was the fall of '19.
 18 Q. Okay. I'm just going to ask
 19 you -- I'm just going to pull up something else for
 20 you to look at. I take it, sir, that you still
 21 recall having been discovered --
 22 A. Yes.
 23 Q. -- in this matter?
 24 A. Yes.
 25 Q. And I'm showing you question

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1 didn't create a document, she, at that point, to me,
 2 was -- could have well said, like, Dan -- like, in
 3 front of John or without John, say, you know, I want
 4 to get this document done. At this stage, when it
 5 was -- was it '19 with --
 6 Q. February of 2019.
 7 A. Yeah. You know, I was really
 8 focused on just looking at -- you know, I had, I had
 9 not been well and was just getting -- like, I
 10 didn't -- wasn't, you know. Like I, I obviously, in
 11 hindsight, it would have been better to really drill
 12 down on all the relationships and your strengths and
 13 weaknesses, I should have. And it was a mistake.
 14 But we never came to an agreement, and I never tried
 15 not to come to an agreement.
 16 Q. And do you know, sir, that
 17 Mr. Papadakis and Ms. Athanasoulis tell a very
 18 different story about this meeting, right?
 19 A. No.
 20 Q. Okay. So we heard from
 21 Mr. Papadakis that his understanding of the purpose
 22 of the meeting was that he was there to formalize an
 23 agreement that already existed. I take it you
 24 disagree with that?
 25 A. I'm not going to -- I mean, I

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1 don't know how -- what John thought. I mean, what
2 he's saying that the -- there was no documents there,
3 if I recall. Like, it wasn't that Maria brought a
4 document. You showed me several things.

5 And I don't know what he said. I
6 would be happy to have a discussion with John in
7 front of the -- this -- the court, or the
8 proceedings. I don't think John and I disagree that
9 the purpose of the meeting was to come up with a
10 document that reflected the relationship on an
11 employment contract with Maria and myself. That's
12 what I think we were there for. That's what I was
13 there for, and I think that's what John was there
14 for.

15 Q. Okay. I'm not going to --
16 you would agree that you can have an agreement
17 without it being written down, right?

18 A. Not like this. This is a
19 different kind of agreement. There's so many
20 problems with this kind of an agreement, you know.

21 Q. Okay.

22 A. It's just, it's just 10
23 percent of what? It's just profits as defined by
24 what? And I'm not -- I think it really -- this, it
25 requires -- as things got bigger and, you know, these

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1 projects got bigger, and I got older, it required a
2 good agreement, a fulsome agreement.

3 It's just like the idea, you know,
4 the kind of discussion at the meeting also was if I
5 got hit by a bus, you know. Like, and that was, you
6 know, what would happen, who would be responsible.
7 So it was, you know -- and, and...

8 MR. DUNN: I'm going to -- we've
9 been going for a while. Mr. Horton, and Madam
10 Reporter, now may be -- and for you, Mr. Casey, now
11 may be an appropriate time to take a lunch break.

12 ARBITRATOR HORTON: Yes, I think
13 it is. And may I ask, particularly you, Mr. Casey
14 and Mr. Dunn, do you have a preference as to whether
15 we take 45 minutes or an hour?

16 MR. DUNN: I'll let Mr. Casey
17 decide. I'm happy either way.

18 THE WITNESS: I am too. Whatever
19 you prefer.

20 ARBITRATOR HORTON: All right.
21 Well, let's do 45 minutes, then, and we'll be back
22 at --

23 MR. MILNE-SMITH: Mr. Dunn,
24 obviously, not to hold you to this, but based on your
25 progress through the notes to date, do you have any

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1 time estimate for the afternoon?

2 MR. DUNN: I've made it about
3 halfway through my notes.

4 MR. MILNE-SMITH: Okay.

5 MR. DUNN: I'm hoping I can be
6 about an hour. Things are going a little bit slower
7 than I had hoped, so it may be longer. But we'll be
8 comfortably finished today, I think.

9 MR. MILNE-SMITH: All right.

10 Thank you.

11 ARBITRATOR HORTON: We'll be back
12 at twenty past one.

13 THE WITNESS: Thank you.

14 --- Recess at 12:35 p.m.

15 --- Upon resuming at 1:22 p.m.

16 ARBITRATOR HORTON: Welcome back.
17 Please proceed, Mr. Dunn.

18 MR. DUNN: Thank you.

19 BY MR. DUNN:

20 Q. Mr. Casey, I wanted to drill
21 down a little bit on something that you said before
22 the break. In order to do that, I'm going to pull up
23 a document. Sorry, I'm having a small technical
24 issue. You were shown, Mr. Casey, a draft agreement
25 prepared by Ms. Athanasoulis. Do you recall being

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1 shown that document, sir?

2 A. No.

3 Q. Okay.

4 A. I don't know -- sorry.

5 Q. I'm now going to pull it up.

6 This is Tab 4. And Tab 4 of the -- sorry, Tab 3 of
7 the joint document brief. And this is an unsigned
8 draft agreement from November 1st of 2014, and you
9 were shown this in-chief. Do you recall, sir?

10 A. Yes, I've seen this draft
11 recently.

12 Q. Right. And your evidence,
13 and I just want to be clear, was that you had not
14 seen it before this litigation started, correct?

15 A. That's what I believe.

16 Q. Okay. Now, Ms. Athanasoulis
17 has testified that she prepared it and gave it to
18 you, and I'm going to suggest to you, sir, that it's
19 possible that you did see this at the time, and that
20 you've subsequently forgotten; is that possible?

21 A. It's possible.

22 Q. Okay.

23 A. I don't think that's the
24 case, but it's possible.

25 Q. Right. Okay. And I wanted

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1 to show you Tab 5:
 2 "A bonus of 10% of final
 3 profits will be paid on
 4 final closing of any future
 5 site Cresford acquires."
 6 And I take it, sir, that you
 7 didn't see this at the time. But I wanted to drill
 8 down, because one of the things that you said before
 9 lunch was 10 percent of what, as an issue that had to
 10 be resolved in order to have an agreement. Do you
 11 recall giving that testimony?
 12 A. Yes.
 13 Q. And so what I understood you
 14 to be saying is that one of the things that was a
 15 question, at least in your mind, is what 10 percent
 16 of profits meant; is that fair?
 17 A. When I was -- when I said
 18 that, I was explaining -- I was attempting to explain
 19 the need for a specific understanding of all the
 20 complexities around an employment contract to make
 21 sure that there was no misunderstandings or -- yeah,
 22 misunderstandings.
 23 Q. I understand. But you would
 24 agree with me that a profit is revenue less expenses?
 25 A. Yeah, profit is -- there's

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1 lots of -- a profit is tax profit, non-tax profit,
 2 profit, cash flow profit. So we all agree that a
 3 profit is a profit, and it only becomes a problem
 4 when someone wants to differ on it.
 5 Q. Okay. But the project
 6 profit, right, is the project revenue less the
 7 project expenses, right?
 8 A. Yeah. Sure. Yes.
 9 Q. And that's something that
 10 Cresford obviously tracked, project revenue and
 11 project expenses, right?
 12 A. Yes.
 13 Q. And the place where Cresford
 14 tracked those things was in the budgets, the project
 15 budgets and the proformas, correct?
 16 A. It would be reflected in
 17 those, but I'm sure there were other documents.
 18 Q. Okay. What other documents?
 19 A. Books, trial -- just looking
 20 into the issue of where we were and what other costs
 21 there were.
 22 Q. Okay. But certainly you
 23 would expect the project proforma to include all the
 24 costs and all the revenue for that project, correct?
 25 A. Yes. Best estimate, yes.

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1 Q. Right. It might change;
 2 correct?
 3 A. Yes, it would probably change
 4 for sure.
 5 Q. But the intention would be to
 6 capture the project revenue, all the project revenue,
 7 and all of the project expenses, correct?
 8 A. Yes.
 9 Q. Okay. And so if I wanted to
 10 know what revenue should be counted in calculating
 11 the project costs, the best place for me to look is
 12 at the proforma, correct?
 13 A. It's a good place, yes.
 14 Q. Okay. And if I wanted to add
 15 up all of the costs that would be deducted from
 16 revenue to arrive at net profits, the best place to
 17 look would be the proforma, correct?
 18 A. Yes, again.
 19 Q. Okay. And the proforma gets
 20 updated as new information is available, correct?
 21 A. Yes.
 22 Q. Okay. And so what happens is
 23 an evolution, where you start with information that
 24 is all projections, and then as events occur,
 25 projections are replaced with actual results,

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1 correct?
 2 A. Yes.
 3 Q. Okay. And at the end of a
 4 project, you have no projections and only actual
 5 results, correct?
 6 A. Yes.
 7 Q. Okay. And at a very basic
 8 level, you would agree with me, that's how you
 9 calculate net profits from a project, correct?
 10 A. Yes.
 11 Q. Okay. And as you mentioned,
 12 Cresford tracked its profits, correct?
 13 A. Yes.
 14 Q. And this, it's safe to
 15 assume, is that you and Ms. Athanasoulis, the two
 16 most senior people at Cresford, discussed project
 17 profits on a fairly regular basis?
 18 A. We discussed them, yes.
 19 Q. Okay. And I take it that you
 20 had a shared understanding of what you meant when you
 21 talked about project profits?
 22 A. Yes.
 23 Q. Okay. I think another point
 24 that you mentioned, sir, was the need for an
 25 agreement, if one was drafted, to set out

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1 Ms. Athanasoulis' responsibilities?
 2 A. Yes.
 3 Q. Okay. But I'm going to
 4 suggest to you, sir, that Ms. Athanasoulis had been
 5 working without a draft agreement for many years,
 6 correct?
 7 A. Yes.
 8 Q. And so clearly -- and her
 9 responsibilities changed over time, right?
 10 A. Yes.
 11 Q. And she carried out those
 12 responsibilities, right?
 13 A. Yes.
 14 Q. And she did all that without
 15 there ever being a written employment agreement,
 16 right?
 17 A. Yes.
 18 Q. So we can agree that you
 19 don't need a written employment agreement to set out
 20 Ms. Athanasoulis' responsibilities, correct?
 21 A. Yes. In the simplest of
 22 forms, yes.
 23 Q. Okay. Perfect. So you
 24 mentioned something that was obvious to you as a
 25 condition, was that this profit share would only

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1 that it could to make the project profitable, right?
 2 A. Yes.
 3 Q. Okay. And that's sort of an
 4 obvious fact that both you and Ms. Athanasoulis
 5 likely shared, right?
 6 A. Yes.
 7 Q. Okay. I want to turn to a
 8 slightly different topic, and fast forward to the
 9 fall of 2019, okay? And you had a discussions with
 10 Ms. Athanasoulis about potentially selling what you
 11 called the company, the business, selling Cresford to
 12 Mr. Dovigi, right?
 13 A. Yes.
 14 Q. And you gave in your
 15 evidence, as I understood what you said this morning,
 16 what you said was that Ms. Athanasoulis' exclusive
 17 role was to negotiate that agreement, correct?
 18 A. To work on it, yes.
 19 Q. Okay. And can you recall for
 20 me approximately when that became her exclusive role?
 21 A. No, I can't.
 22 Q. Could it have been October?
 23 A. It could have been October or
 24 November.
 25 Q. Okay. Well, let's put it

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1 exist if Ms. Athanasoulis was employed when the
 2 project was completed, correct?
 3 A. Yes.
 4 Q. You recall giving that
 5 testimony? And I just want to make sure, you can't
 6 recall a specific discussion with her where she
 7 agreed to that condition, can you?
 8 A. I can recall a number of
 9 discussions where when we talked about people's
 10 bonuses or extras, that they should be employed at
 11 the time of the, of the finalization of the work.
 12 And so that was a presumption in our discussions. I
 13 can't recall a specific day or moment when we talked
 14 about it.
 15 Q. Right. So you can recall
 16 discussing this as it related to others, right?
 17 A. Mm-hmm.
 18 Q. But you can't recall a
 19 specific discussion where Ms. Athanasoulis agreed to
 20 this condition, can you?
 21 A. No.
 22 Q. Okay. And I take it, sir,
 23 that you understood that Cresford -- or sorry, it was
 24 your assumption, in approaching all of these various
 25 projects, that Cresford was going to do everything

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1 this way. She, I take it, was given that exclusive
 2 role certainly before things, according to you - I'm
 3 just trying to get your version of this here - before
 4 there was tension between the two of you, right?
 5 A. I don't -- no, not
 6 necessarily. I'm not sure about that statement.
 7 Q. Okay. Was it as soon as the
 8 issues -- as soon as this sale became a possibility,
 9 did that become her exclusive role?
 10 A. I think it, it merged out of
 11 discussions with Patrick Dovigi, and into that
 12 process. So I'm not sure when it made sense to make
 13 sure that she was fully focused on that process.
 14 Q. Okay. So what's your -- so
 15 it could be November, it could be October, it could
 16 be September?
 17 A. No, I think it was either
 18 October or November.
 19 Q. Okay. Let me see if I can
 20 refresh your memory in terms of the timeline. So I'm
 21 showing you a text message between you and
 22 Ms. Athanasoulis. And I think blue is her and grey
 23 is you, right?
 24 A. Yeah. What's the date of
 25 that, can you tell me?

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1 Q. So it appears here and it's
2 in small font, I will blow it up, it seems to be
3 November 22nd of 2019.
4 A. Yeah.
5 Q. Okay. Do you want to take a
6 second to review your text message, it's kind of
7 long, and let me know if you want me to blow it up.
8 A. Okay.
9 Q. Just let me know, sir, when
10 you're done reading.
11 A. I'm getting there. Yeah, I'm
12 a slow reader.
13 Q. All right. No problem, sir,
14 I just wanted to make sure you weren't waiting for
15 me.
16 A. Yes. Yeah. Yes. I've read
17 that.
18 Q. Okay. So this is on November
19 22nd, and you're giving her an update on your
20 negotiations with Mr. Dovigi?
21 A. Yes.
22 Q. Okay. And at this point, was
23 it Ms. Athanasoulis' sole responsibility to negotiate
24 the deal?
25 A. That was her main, main

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1 Q. And the reason why she wasn't
2 is because, from your perspective, she was on the
3 other side of this deal, right?
4 A. In a -- yes. It's a, it's a
5 thin line that you have to walk between when the
6 senior management team is going with the deal, that
7 they have to both protect the company's position, as
8 well as make sure their own position works. So
9 you're in that grey area of, you know, fiduciary --
10 you know, responsibility and et cetera.
11 Q. Right. And just from Maria's
12 perspective, from Ms. Athanasoulis' perspective, she
13 was the only one -- the whole staff was supposed to
14 go with the deal, but only Ms. Athanasoulis was going
15 to be an owner under the deal, right?
16 A. I don't know that. I'm not
17 sure if anyone else was, but.
18 Q. But you knew that she was
19 going to be an owner?
20 A. Or a participant -- yes,
21 something. Yes.
22 Q. Okay. And she was going to
23 have, just to use a neutral term, she was going to
24 have a financial stake in the borrower, right -- or
25 in the purchaser?

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1 focus, yes.
2 Q. Okay. So whatever -- just in
3 terms of nailing down the timeline, right, the point
4 at which you told Ms. Athanasoulis to focus solely on
5 negotiating the deal was at some point before
6 November 22nd of 2019, correct?
7 A. Yeah. That appears, yes.
8 You know, it could be a week either way, but yes, in
9 that time zone.
10 Q. Okay. And at this point,
11 there's a discussion between Joe Bolla, who we know
12 is your advisor, with Sheri, Sean and Taylor, and
13 they're the finance team at Cresford, or finance and
14 acquisitions.
15 A. Yes.
16 Q. These are all Cresford
17 people, right?
18 A. Yes.
19 Q. And you were meeting with
20 them to help formulate your strategy, right?
21 A. Yeah.
22 Q. And to the extent
23 Ms. Athanasoulis -- and Ms. Athanasoulis wasn't
24 participating in that meeting, right?
25 A. No.

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1 A. Yes.
2 Q. Okay. And because of that,
3 you told her to go work on the deal?
4 A. Yes.
5 Q. Exclusively, right?
6 A. Yes.
7 Q. And she wasn't working for
8 Cresford on the deal, right?
9 A. I think there's a kind of
10 a -- as I said, it's a thin line between being
11 responsible for your employer and working to make the
12 deal work, which is for the advantage of your
13 employer, but at the same time recognizing that you
14 would have a role in the purchaser.
15 Q. Right.
16 A. So it's a finesse, you know.
17 Q. And the way you say that
18 decided to walk that line was to put her on the
19 sidelines for a period of time to finalize the Dovigi
20 deal from his and her standpoint, fair?
21 A. To put her in the position of
22 focusing fully on that, yes.
23 Q. Right. And this happened --
24 okay, so -- and because she was on the sidelines, you
25 took over -- or, sorry, you told her that you would

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1 deal with the lenders, right?
 2 A. Yes.
 3 Q. Okay. And that was a fairly
 4 significant change, because until you told her that,
 5 it was her responsibility to deal with the lenders,
 6 right?
 7 A. Yes.
 8 Q. And you really only spoke to
 9 them on more of a social level, right?
 10 A. Yeah.
 11 Q. Okay. And I think you told
 12 me that the most important thing happening during
 13 this time period, from your perspective, was trying
 14 to close the YSL financing, right?
 15 A. Yeah. So I would think there
 16 are two things, and I think the advice I got from
 17 outside people was focus on the YSL financing, not
 18 the sale. I thought the sale was the more important,
 19 but...
 20 Q. Okay. So leaving -- those
 21 two things are happening in parallel, right, the YSL
 22 financing and the sale?
 23 A. Yeah.
 24 Q. And you decided to negotiate
 25 with them at the same time. But from Cresford's sort

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1 of operational perspective, the sale of the retail
 2 component was the most important piece?
 3 A. It was the last, it was the
 4 last condition that was unfulfilled.
 5 Q. Right. And Ms. Athanasoulis
 6 was excluded completely from those negotiations,
 7 right?
 8 A. Yes.
 9 Q. Okay.
 10 A. She wasn't as much excluded
 11 as but -- but, she was. But that, as I mentioned,
 12 the purchaser was Gary Stanoulis, who Joe Bolla and I
 13 had done a deal with before, who was a friend of
 14 Joe Bolla's, so it was the best -- and it was Gary's
 15 desire to work with us on it.
 16 Q. Right. He wanted to work
 17 with you, but he didn't tell you that you couldn't
 18 tell Ms. Athanasoulis anything about this, right?
 19 A. I don't think he said that,
 20 but it's a small community and he wanted to keep it
 21 private.
 22 Q. So in any event, you made the
 23 decision that Ms. Athanasoulis was going to know
 24 nothing about this, right?
 25 A. Yes.

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1 Q. Okay. And you also told
 2 senior Cresford staff that they would report directly
 3 to you and no longer to Maria, right?
 4 A. Yes, I said Maria was working
 5 on the purchase, and in the meantime they would work
 6 with me, yeah.
 7 Q. Okay. And you also told
 8 Ms. Athanasoulis not to deal with trades; is that
 9 right?
 10 A. Yes. I'm not sure about
 11 that, but it's consistent with the sense that she's
 12 focused on the, on the project of the sale, and that
 13 I'm in charge of the -- I'm acting in charge of other
 14 areas of the company.
 15 Q. Right. You took over her
 16 role, right?
 17 A. No. My role is as the CEO.
 18 Q. Sorry, go ahead.
 19 A. I just said I did my role,
 20 and she was working on the special project.
 21 Q. Right. But all of the things
 22 that we talked about just now - trades and lenders,
 23 and negotiating the LOI - those are all things that
 24 Maria -- or Ms. Athanasoulis would have been involved
 25 in previously, right?

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1 A. Yeah.
 2 Q. Okay. And you were also, at
 3 the time, negotiating to purchase a new site at the
 4 Delta Chelsea, right?
 5 A. Yeah.
 6 Q. And she didn't know anything
 7 about that either, correct?
 8 A. I'm not sure if she didn't at
 9 the time. We had discussions with the Chelsea
 10 before, so.
 11 Q. Right. Sorry. She knew --
 12 you had actually flown with her to Hong Kong to talk
 13 to the owners of the Chelsea, right?
 14 A. As part of a trip that we
 15 were in China, yes.
 16 Q. And then when the opportunity
 17 to negotiate a purchase of the Chelsea came up again,
 18 she wasn't on the team, right?
 19 A. No, she was on the -- she was
 20 doing what we wanted her to do, yes.
 21 Q. Okay.
 22 A. They were fairly, they were
 23 fairly preliminary discussions on the Chelsea.
 24 Q. Okay. And so this decision
 25 to put Ms. Athanasoulis on leave, you would agree

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1 with me it wasn't communicated to staff, right?
 2 A. So I would disagree with the
 3 word "leave," and I would disagree with the "was not
 4 communicated." I think we communicated to those that
 5 had -- it was a had-to-know basis, and it was looked
 6 on by us as temporary, right. It wasn't intended to
 7 be a long term issue. Hopefully we could have
 8 completed the deal with Patrick Dovigi, and she would
 9 have been fully involved in finalizing the deal with
 10 Patrick and doing her -- taking over the role of her
 11 responsibilities.

12 Q. Sorry, I just wanted to be
 13 clear. So are you saying she wasn't on leave?

14 A. I don't -- I think the word
 15 "leave" sounds -- you could use the word "leave," but
 16 I looked at it more that she was on an assignment for
 17 the company. But you could use the word "leave." I
 18 don't disagree. I think a better sense was that she
 19 was, she was working on this project. If the project
 20 had succeeded, she would then revert back to her
 21 other responsibilities going forward.

22 Q. Okay. So I'm curious, sir.
 23 She wasn't attending the meetings between you and
 24 Mr. Dovigi, was she?

25 A. Some, yes.

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1 Q. Okay. But the text message
 2 that we looked at a second ago is you reporting to
 3 Ms. Athanasoulis about a meeting that she had --

4 A. She didn't attend all the
 5 meetings, but she attended a number of meetings.

6 Q. If this was her sole
 7 responsibility, shouldn't she be at all the meetings?

8 A. It was probably a request of
 9 Dovigi.

10 Q. So Mr. Dovigi didn't want her
 11 there?

12 A. Well, I'm not sure I would
 13 say want or not want. But if Mr. Dovigi wanted her
 14 there, she would have been there, because we were
 15 trying to do a deal. So if, for some reason, we had
 16 a meeting with Patrick, Dino Keyasa (ph.) and I think
 17 myself -- I'm not sure who else... so the three of us
 18 met. I mean, Patrick is -- Dovigi is head of his
 19 company, me as head of my company, and Dino is
 20 someone who we both know and, and trusted.

21 Q. Right. And so her only job
 22 is to negotiate this deal. And I'm still a little
 23 unclear, who was she negotiating for?

24 A. So she was negotiating for a
 25 deal that would work. So that meant she was

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1 negotiating for a deal for Cresford, so they got a
 2 deal that would work; she was negotiating for the
 3 purchaser, Mr. Dovigi, so that would work; and she
 4 was negotiating, I guess, for herself and who else,
 5 and her team, with Mr. Dovigi, so that would work.

6 Q. Okay. So I just want to make
 7 it clear, you knew that she was going to have an
 8 interest in the business, right? That's one of the
 9 reasons why she was on leave, right?

10 A. I knew, yes, that she was
 11 going with the business. She would take forward with
 12 the employees of Cresford to the purchase, yes.

13 Q. Okay. You have an
 14 outstanding lawsuit against Ms. Athanasoulis. I
 15 assume you know that?

16 A. Yeah, we talked about it
 17 earlier.

18 Q. Okay. And you've sued her
 19 for breaching her fiduciary duty. Do you know that?

20 A. Is that the response to her
 21 lawsuit?

22 Q. Yes.

23 A. Yes. Well, whatever is there
 24 is the way it is, yes.

25 Q. Well, let's walk through so

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1 that I can make sure that we all have the same
 2 understanding. I'm going to start -- I'm going to
 3 take you through a couple of paragraphs, just so I
 4 can make sure that we have -- we're on the same page.
 5 So I'm going to pull it up on the screen. You've
 6 sued her for damages for breach of fiduciary duty,
 7 breach of contract, intentional interference in the
 8 amount of \$10 million. Do you see that, sir?

9 A. Yeah.

10 Q. And that's at paragraph 197.
 11 And then you've -- at paragraph 198, you rely on what
 12 you've said in your statement of defence --

13 A. Yes.

14 Q. -- right? And you would
 15 agree with me -- well, let's -- I'll take it one step
 16 at a time.

17 One of the things that you're
 18 suing her for is failing to disclose to you that she
 19 had an interest in the purchaser. Are you aware of
 20 that?

21 A. I think there's a lot of
 22 semantics on timing and everything else in this.

23 Q. Okay. So I just want --
 24 because I think you've been pretty clear. I'm
 25 showing you paragraph 71 -- or I'll start at

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1 paragraph 70. And if you look in the middle, I'm
2 just going to highlight it for you. I assume -- I
3 mean, we confirmed earlier, that this reflects your
4 version of events, at least as you understood them in
5 January of 2020, right?

6 A. Right.

7 Q. And what it says here is:

8 "Athanasoulis never informed

9 Casey that the potential

10 purchaser offered her an

11 interest in the business to

12 incentivize her to

13 participate in the

14 transaction and remain with

15 Cresford after the sale."

16 That's not true, is it?

17 A. Well, it depends -- okay. So

18 I don't think Maria told me that, so I think that
19 statement is clear. And I was not clear as to her
20 interest, other than she had an interest -- you know,
21 would be involved.

22 Q. So what it says here:

23 "Athanasoulis never informed

24 Casey that the potential

25 purchaser offered her an

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1 interest in the business to

2 incentivize her to

3 participate in the

4 transaction..."

5 So you're saying that is true
6 because somebody else told you?

7 A. We learned about it but, you
8 know, yes.

9 Q. Okay. Even though you told
10 me that you were fully aware of this, and that's why
11 you say you put her on leave?

12 A. Yeah. So the issues -- the
13 issue I'm having with this is it's a period of
14 time -- when, when did you say it was? In, in '20,
15 right? So whether we -- I'm not sure how -- this is,
16 again, above my legal understandings. But we did a
17 statement -- a response to the statement. We did the
18 best we could on it, and before -- I think you can
19 revise these things, can you?

20 Q. Forgetting about that for a
21 second.

22 A. No, so, so --

23 Q. Did you try to put the truth
24 into your statement of defence?

25 A. Yes.

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1 Q. Or did you just say things
2 that were bad about Ms. Athanasoulis without paying
3 attention to whether they were true or false?

4 A. So at the time I was ill, Al
5 O'Brien was ill. Our team put it together, and I
6 don't disagree with it.

7 Q. And --

8 A. Just a second. Are there
9 issues that now, two years later, I would be clearer
10 on, yes. Have I told you the truth today about the
11 information when I -- what the role of
12 Ms. Athanasoulis that I knew she would profit -- be
13 part to the deal, yes.

14 Q. Sorry, I asked you at the
15 outset of this, sir, whether you were involved in
16 preparing this statement of defence, and you said
17 yes. Do you remember giving that answer?

18 A. Yes.

19 Q. Okay. You didn't share
20 anything with me, at that time, about how you were
21 ill and you always planned to revise this?

22 A. Sorry, I'm not trying to be
23 difficult here. I'm just trying to be further --

24 ARBITRATOR HORTON: Mr. Dunn,
25 you've got to let the witness speak.

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1 MR. DUNN: Yes, I apologize.

2 ARBITRATOR HORTON: He's been
3 trying to say something for a little while.

4 BY MR. DUNN:

5 Q. Go ahead.

6 A. So what -- with more
7 knowledge and more understanding of everything, you
8 get more clarity. I haven't tried at all today, nor
9 in my examination by you, but to tell the truth.

10 There are a couple of statements
11 in the countersuit that, that I think, you know, we
12 would need to tighten up before we go to court. I
13 think we've got a very strong countersuit. But, you
14 know, at the time, it went through as is, and it was
15 not meant to misinform or disrespect or anything. It
16 was the best we had at the time.

17 Q. Okay. I just want to
18 clarify, when this says:

19 "Casey was never informed,
20 nor ever anticipated, that
21 Athanasoulis and the
22 potential purchaser had made
23 an agreement whereby the
24 potential purchaser had
25 promised her an interest in

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1 the business to incentivize
 2 her to participate and
 3 promote his interest in the
 4 purchase and sale
 5 transaction."
 6 That statement is false, correct?
 7 A. It's incorrect, yes.
 8 Q. Okay. Paragraph 71:
 9 "At no time did Athanasoulis
 10 ever divulge the arrangement
 11 that she made with the
 12 potential purchaser."
 13 That statement is false, correct?
 14 A. That's correct. She never
 15 did.
 16 Q. Sorry. And by that you mean
 17 the specific arrangement?
 18 A. Yes. I have no idea what the
 19 specific arrangement was.
 20 Q. Do you recall, sir, that you
 21 also are suing Ms. Athanasoulis for mismanagement?
 22 A. Yes -- I mean, I don't
 23 recall, sorry. But if you say I did, I agree. And
 24 this is in the same --
 25 Q. So you don't recall one way

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1 --- Whereupon the witness exits hearing.
 2 MR. DUNN: Sure. So I'm happy to
 3 outline the relevance, and I think my friend will
 4 understand why it's relevant, but we'll go from
 5 there.
 6 This idea that Ms. Athanasoulis
 7 was on leave - and Mr. Horton, you'll hear this from
 8 me in closing argument - didn't exist anywhere until
 9 Mr. Casey came up with it on discovery. And the
 10 story he's now telling that he had -- that he put
 11 Ms. Athanasoulis on leave so that she could focus on
 12 the deal is inconsistent with what he pleaded, I will
 13 argue, and my friend will disagree.
 14 It's not that I'm -- because --
 15 and I'm going to take -- so one way in which it's
 16 inconsistent is that he now says he put her on leave
 17 because she had this interest, right? Except before,
 18 he said he didn't know that she even had an interest.
 19 What we're going to see now is that he sued her for
 20 mismanagement for not doing things during the period
 21 where he now says she was on leave.
 22 So to my mind, it's quite
 23 relevant. It's not going to take terribly long to go
 24 through it. And my friend will have plenty of
 25 opportunity to explain it all the way in closing.

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1 or the other?
 2 A. This is in the return suit.
 3 Q. In the same lawsuit.
 4 A. Well, there was
 5 mismanagement, so it's quite correct that we should
 6 sue on that point.
 7 Q. Okay. Do you recall what
 8 you're suing her for?
 9 MR. MILNE-SMITH: I'm sorry,
 10 Mr. Dunn, I've tried to be patient with this, but I'm
 11 at a bit of a loss as to what the relevance of any of
 12 it is. It seems to me, you're impeaching him on a
 13 pleading that has nothing to do with this lawsuit.
 14 We intentionally stayed away from these issues of
 15 mismanagement, breach of fiduciary duty. In fact, we
 16 were at pains last week to make sure that I didn't go
 17 into them.
 18 MR. DUNN: I'm happy to exclude
 19 the witness and explain why these questions are
 20 relevant, or I can continue. It's -- Mr. Horton, I
 21 apologize, you're muted.
 22 ARBITRATOR HORTON: Mr. Casey,
 23 we'll just excuse you for a few minutes while the
 24 lawyers have a discussion with me.
 25 THE WITNESS: Thank you.

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1 MR. MILNE-SMITH: Okay. It seems
 2 what you're trying to do is impeach him on a prior
 3 inconsistent statement, but a pleading is not a prior
 4 statement of Mr. Casey. It's a pleading. It's not
 5 his sworn statement.
 6 When you say the first time he
 7 made it up was in his discovery, that's the first
 8 time he was ever examined on this, and he gave the
 9 evidence that he gave. Now, we'll have our own
 10 arguments about whether this is inconsistent at all.
 11 I don't think it is. I think it's perfectly
 12 consistent with what his evidence is.
 13 But I still don't see how
 14 effectively impeaching him on the prior pleading is
 15 proper. But if you're almost done with it, I will
 16 leave it to the Arbitrator what you want to do with
 17 this.
 18 ARBITRATOR HORTON: I think it's
 19 properly set up based on, you know, the usual
 20 preliminary questions about him being the source of
 21 the information, and having read the information, and
 22 having confirmed the information. And if he is now
 23 putting forward a different version of events, or, in
 24 particular, an inconsistent version of events, I
 25 think it goes to my evaluation of the constructive

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1 dismissal claim, in particular. At least, it's in
 2 the ballpark, close enough for me to hear the
 3 evidence, I think.
 4 So let's have the witness back.
 5 --- Whereupon the witness re-enters hearing.
 6 ARBITRATOR HORTON: Thank you. We
 7 will proceed. Mr. Dunn, I would like to just ask
 8 you, when you are putting positions to the witness on
 9 the basis that they're inconsistent, that you clearly
 10 identify the part of the pleading that you're
 11 referring to, and read it into the record and read it
 12 to the witness and so on, rather than starting with
 13 the very general comments about, you know, as you
 14 know, you made such and such an allegation.
 15 Can we try and keep it as textual
 16 as possible, at least when you introduce the subject?
 17 I think it will also help the witness to be more
 18 focused and understand your question, and be better
 19 prepared to answer it when it comes, all right?
 20 MR. DUNN: Absolutely, and I
 21 apologize.
 22 ARBITRATOR HORTON: With that
 23 guidance, I would ask you to proceed.
 24 BY MR. DUNN:
 25 Q. Mr. Casey, I'm showing you

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1 paragraph 197(b) of your statement of defence and
 2 counterclaim. Do you see that, sir?
 3 ARBITRATOR HORTON: It's not on
 4 the screen.
 5 BY MR. DUNN:
 6 Q. Mr. Casey, can you see it
 7 now?
 8 A. I can see, yes.
 9 Q. And what you see is that you
 10 have -- it says "the defendants" and you are one of
 11 the defendants personally, correct?
 12 A. Yes.
 13 Q. And YSL is another one of the
 14 defendants, the two YSL entities?
 15 A. Yes.
 16 Q. Okay. And so they are suing:
 17 Damages suffered as a result of Athanasoulis'
 18 mismanagement in the amount of \$7.5 million. Do you
 19 see that?
 20 A. Yes.
 21 Q. And that is a claim that you
 22 are asserting today, correct?
 23 A. Yeah. That's a claim that
 24 originally we put in. As you know, Al passed away
 25 last year, and we have new lawyers on the file. And

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1 obviously, we'll re-look at everything from that
 2 standpoint, and look at the damages under also the --
 3 what's happened in -- over time, right, the damages
 4 are worse.
 5 Q. But as of today, this is what
 6 your case is, right?
 7 A. Yes.
 8 Q. Okay. I'm showing you
 9 paragraphs 160 to 162. And what it says is that:
 10 "On November 26, 2019, when
 11 advised by Athanasoulis of
 12 the potential lease of these
 13 three floors, Casey agreed
 14 with her recommendation and
 15 directed her to proceed as
 16 soon as possible with the
 17 lease to Humber College."
 18 Do you see that, sir?
 19 A. Yes.
 20 Q. Okay. And my question to you
 21 is this: Hadn't she been put on leave on
 22 November 26th, 2019?
 23 A. Well, it wasn't a leave. She
 24 was assigned to the other thing. Certain people
 25 would have responded directly to her and, maybe

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1 that's what this is about.
 2 Q. Okay. But when you told me
 3 that her only focus was to be on negotiating the
 4 transaction, right?
 5 A. Yeah.
 6 Q. And certainly the
 7 transaction -- that's the transaction with
 8 Mr. Dovigi, right?
 9 A. Yeah. Mm-hmm.
 10 Q. So if that was true, then it
 11 would not be part of her job to negotiate a lease
 12 with Humber College, correct?
 13 A. So the Humber College lease
 14 was in the middle of all this, and, and -- what am I
 15 seeing here? What does it say here? Yeah. So I
 16 think this is, again, tuning up after we know the
 17 history of the situation, exactly what happened.
 18 Q. But how can she be guilty of
 19 mismanagement when she was supposed to -- sorry.
 20 Didn't you know when you drafted
 21 this pleading that you had put her on leave?
 22 A. Sorry, the pleading happened.
 23 If there are inconsistencies in the pleading, they'll
 24 be corrected. I think the damages that
 25 Ms. Athanasoulis did to the company are huge, much

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1 bigger than anything we had thought of at the time.
 2 And I don't want to -- at the time, this seemed to be
 3 the right situation; there were a couple of mistakes.
 4 But I don't see -- I think I would say today that she
 5 was guilty of gross mismanagement.
 6 Q. Okay. But that's not my
 7 question, sir.
 8 A. I'm sorry.
 9 Q. My question is: You said
 10 that she had failed to negotiate a lease with Humber
 11 College. That's what you said in the pleading. And
 12 what you're telling me today is that she was on leave
 13 to negotiate the deal with Mr. Dovigi. So did you
 14 not know when the pleading was drafted that you had
 15 put her on leave?
 16 A. So just to be specific, Sean
 17 Fleming was dealing with Humber College. Humber
 18 College, in this period - I don't know exactly when -
 19 complained about Cresford non-response to their
 20 concerns. And so there was a muddle up of all this
 21 situation, which is, you know, in the end, not
 22 unsurprising, due to the fact that we were
 23 negotiating on all these fronts. And if this
 24 pleading is inaccurate, then we will correct it.
 25 Q. Okay. So we can agree today

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1 that it was not her job on November 26th to negotiate
 2 with Humber College, correct?
 3 A. No.
 4 Q. Because you --
 5 A. In hindsight, yes, you're
 6 correct. Yeah.
 7 Q. Okay. Well, not just in
 8 hindsight. Because if you put her on leave, it was
 9 not her job to negotiate with Humber College,
 10 correct?
 11 A. I think you're making too
 12 harsh a distinction here. She was -- her major focus
 13 of her job was to deal with the Dovigi deal, right?
 14 That was not known to the outside world, right. They
 15 didn't know we were selling the business and that.
 16 So people might call her up and say, you know, what
 17 about this or what about that, right? So she still
 18 had to send over, say, you know, deal with it, or
 19 somehow we had to work on that. We're just talking a
 20 few weeks here. And, you know, as I said, it was --
 21 we were in private consultations to sell the
 22 business. It was not known.
 23 Q. Right. So what she should
 24 have done is asked you for directions, and you would
 25 have taken it from there, because she was only

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1 supposed to be working on the Dovigi deal, right?
 2 A. If she was notified and I,
 3 myself, or someone else in the office should have
 4 been working on it, then she should have notified --
 5 she might have notified us. I don't know.
 6 Q. Okay. Do you recall this
 7 coming up and what you told her?
 8 A. No, I don't think -- no, I
 9 don't recall.
 10 Q. Okay. I'm going to ask
 11 Ms. Stothart -- I apologize for -- I think, actually,
 12 if we could exclude Mr. Casey for a minute.
 13 ARBITRATOR HORTON: Okay.
 14 Mr. Casey, we'll get back to you in a moment.
 15 THE WITNESS: Thank you.
 16 MR. DUNN: If I could --
 17 THE WITNESS: I'm still here. I'm
 18 sorry.
 19 ARBITRATOR HORTON: We need to put
 20 Mr. Casey in the breakout room, please.
 21 --- Whereupon the witness exits hearing.
 22 ARBITRATOR HORTON: Mr. Dunn.
 23 MR. DUNN: Yes, I just wanted to
 24 confirm, we have an agreement -- I have an agreement
 25 with my friend that we would provide documents in

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1 advance that weren't in the joint document book, and
 2 I just wanted to bring this on the screen and confirm
 3 that I had already sent it to him before putting it
 4 to the witness.
 5 MR. MILNE-SMITH: Are these the
 6 ones that you sent last night?
 7 MR. DUNN: I believe it was
 8 yesterday morning.
 9 MR. MILNE-SMITH: Or yesterday,
 10 okay. So just while we're waiting to come up,
 11 Mr. Dunn, I didn't want to object and interrupt your
 12 cross-examination again, but while we're in this
 13 setting without the witness, in your questions you've
 14 been repeatedly referring to the proposition that Mr.
 15 Casey is supposed to have accepted that
 16 Ms. Athanasoulis was on leave. I think he's
 17 repeatedly rejected that proposition and said that
 18 she was on assignment. He told you about the nature
 19 of that assignment. You can go back and forth as
 20 long as you want about that. I'm sure it's
 21 inadvertent, but I would ask that you not keep on
 22 putting to him that he had put her on leave when he
 23 has repeatedly denied that.
 24 MR. DUNN: Sure. I'll use the
 25 "assignment".

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1 MR. MILNE-SMITH: Thank you.
 2 MR. DUNN: So what we could do is
 3 take the -- so I believe this was sent yesterday
 4 afternoon, and I just want my friend to make sure
 5 there's no issue.
 6 MR. MILNE-SMITH: Yeah. If I
 7 could just see it, I could confirm.
 8 MR. DUNN: Sorry, it was sent at
 9 7:04.
 10 ARBITRATOR HORTON: Are you
 11 putting it up on the screen?
 12 MR. DUNN: It should be. Oh,
 13 sorry. We were confused.
 14 ARBITRATOR HORTON: Proceed as you
 15 like, but I thought you were about to put it up on
 16 the screen.
 17 MR. DUNN: Yeah, sorry.
 18 MR. MILNE-SMITH: Right. Yeah,
 19 we've seen this.
 20 MR. DUNN: Okay. So we can bring
 21 the witness back in.
 22 MR. MILNE-SMITH: Should we make
 23 this a tab in the joint documents brief?
 24 MR. DUNN: Yes, if you wouldn't
 25 mind. We could make it the next tab.

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1 A. I don't think they're
 2 inconsistent. I think I've -- let me try and say it,
 3 and if I'm inarticulate, I apologize.
 4 Maria's job was to get the deal
 5 done. She still had people calling her about
 6 responsibilities, because they didn't know that we
 7 were selling the business and she was focusing on
 8 that. And so there were incidents, and I presume
 9 this is one of them, where someone from Humber
 10 College would have called and said, where are we on
 11 this.
 12 ARBITRATOR HORTON: Sorry,
 13 Mr. Milne-Smith, we can hear you. You might want to
 14 just go on mute, unless you want us to hear you. All
 15 right. Continue, Mr. Casey.
 16 THE WITNESS: So this is a good
 17 example of something that someone might have called
 18 her directly and said, what do we do here. So it
 19 made sense for her just to -- at this time I think I
 20 was saying, go ahead, so she would have said to the
 21 agent, go ahead, rather than say, I'm on assignment
 22 because we're selling the business, you know, et
 23 cetera, et cetera.
 24 So her main role was on the
 25 assignment of doing a deal with Patrick Dovigi. It

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1 MR. MILNE-SMITH: I think that
 2 will be Tab 46.
 3 MS. YU: We'll allow the witness
 4 back in then?
 5 ARBITRATOR HORTON: Yes, please.
 6 MR. DUNN: Yes.
 7 --- Whereupon the witness re-enters hearing.
 8 BY MR. DUNN:
 9 Q. Mr. Casey, I'm showing you an
 10 email chain between you and Ms. Athanasoulis. And I
 11 just want to ask a fairly specific question here.
 12 November 29th, 2019, at 2:19, you emailed -- and I'm
 13 happy to show you the rest of the chain, if it would
 14 be helpful. You emailed Ms. Athanasoulis and said to
 15 her:
 16 "I agree with your position
 17 to proceed with the lease to
 18 Humber College. Please
 19 proceed to finalize the
 20 lease as soon as possible."
 21 Do you see that, sir?
 22 A. Yeah.
 23 Q. Okay. And so at least at
 24 this point, Ms. Athanasoulis was not on assignment,
 25 as you say, right?

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1 wasn't perfectly crisp. So if there was information
 2 requests from her or Sean and her, they would have --
 3 I think the understanding was that they would respond
 4 and talk to me, et cetera. So I think this is an
 5 example of that.
 6 BY MR. DUNN:
 7 Q. Okay. So it wasn't the case
 8 that she was solely responsible for negotiating the
 9 deal with Mr. Dovigi, right?
 10 A. Solely in the sense of
 11 solely, only, ever, nothing else, that's correct.
 12 Q. Okay. And you never told her
 13 when you took over these responsibilities from
 14 Ms. Athanasoulis so she could be on assignment, you
 15 never said this is temporary, right?
 16 A. It was temporary because of
 17 success, right? So the business was going to be
 18 sold, and she was going to go with the purchaser. So
 19 we weren't talking if we weren't successful, then
 20 we'd would regroup, et cetera, and go forward.
 21 Q. You never told her that this
 22 would be temporary, correct?
 23 A. I never said to her this is
 24 temporary because we failed to sell the business,
 25 we'll have to go back to the way we were. I didn't

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1 say that. It was on a positive note, we were going
2 to sell the business.
3 Q. Okay.
4 A. If, if business -- if the
5 business were not sold, Maria would be a key part of
6 the business going forward or it being sold to
7 someone else. So I didn't say specifically, but the
8 whole intent was we were going to do a deal with
9 Dovigi.
10 Q. That's what you had in mind,
11 but you now know she didn't see it that way, right?
12 A. No, I don't.
13 Q. Okay.
14 A. No, I don't, I don't agree
15 with that statement.
16 MR. DUNN: Okay. Now might be a
17 convenient time to take the afternoon break. I'm
18 nearing the end, so if we take 10 minutes.
19 ARBITRATOR HORTON: Sure.
20 MR. DUNN: That would be helpful.
21 ARBITRATOR HORTON: Yeah. All
22 right. Let's just come back at 20 to three.
23 THE WITNESS: Okay. Thank you.
24 ARBITRATOR HORTON: Thank you.
25 --- Recess at 2:26 p.m.

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1 A. So if I focused -- I asked
2 her to focus on the deal, which, which I did, and if
3 that's putting her on an ethical wall, I did.
4 Q. Okay. I want to talk to
5 you -- you mentioned Mr. O'Brien?
6 A. Yes.
7 Q. Mr. O'Brien was a very close
8 friend of yours?
9 A. Yes.
10 Q. You've known him since
11 university?
12 A. Yes.
13 Q. Okay. And Mr. O'Brien, you
14 asked him to write to Ms. Athanasoulis on
15 December 16th?
16 A. Yeah.
17 Q. Okay. And this is the email
18 that she sent on your behalf?
19 A. Yes.
20 Q. Okay. And you didn't speak
21 with Ms. Athanasoulis about this, right? You just
22 had Mr. O'Brien send her this email?
23 A. Yes, I believe that's the
24 case, yes.
25 Q. Okay. And you would agree

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1 --- Upon resuming at 2:44 p.m.
2 ARBITRATOR HORTON: All right.
3 May we resume? Mr. Casey, are you ready with the
4 help you've received?
5 THE WITNESS: Yeah. Thank you.
6 ARBITRATOR HORTON: Thank you.
7 MR. DUNN: Thank you.
8 BY MR. DUNN:
9 Q. We're almost done, Mr. Casey.
10 Are you familiar with the term "ethical wall"?
11 A. No, not as a -- no.
12 Q. So then, I think, it follows
13 that you never put Ms. Athanasoulis behind an ethical
14 wall. I just want to confirm?
15 A. No. I mean, it may be
16 something similar. I have never heard this. I
17 haven't heard the term.
18 Q. Okay. Let me -- I just want
19 to make sure that we're not confused about
20 terminology. I'll tell you my understanding, and
21 then tell me if that's what you did, okay? An
22 ethical wall is when a person is denied access to a
23 part to information relating to something because of
24 a conflict of interest. Is that what you did with
25 Ms. Athanasoulis?

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1 with me -- and I'm happy to have you -- I'm happy to
2 have you read it. This doesn't say anything about
3 Ms. Athanasoulis being on assignment, right?
4 A. I presume you're saying -- I
5 don't know. I haven't read it recently.
6 Q. Okay. But when -- and, in
7 fact, you would agree with me that, as far as you
8 know, there was no written communication at all with
9 Ms. Athanasoulis, telling her that she's on
10 assignment and she's supposed to focus only on the
11 deal, right?
12 A. Right.
13 Q. Okay. You mentioned that
14 Otera did not ultimately fund the construction loan,
15 right?
16 A. Yes.
17 Q. And, in fact, Otera took the
18 position that YSL had breached the construction loan,
19 correct?
20 A. I'm not sure.
21 Q. Okay. I take it then that
22 you're also not sure what steps Otera took before
23 concluding that YSL had breached the loan?
24 A. Excuse me, Otera was a joint
25 venture lender in 33 Yorkville.

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1 Q. Okay.
 2 A. And, therefore, was aware of
 3 the issues that came up on those projects with -
 4 excuse me - the lenders, and so I think that's why
 5 they didn't go forward. I know that's why they
 6 didn't go forward.
 7 Q. Okay. But I take it before
 8 doing that, before deciding not to go forward with
 9 the 630-odd million dollar loan, Otera asked for
 10 Cresford's version of events?
 11 A. Yes. We had a meeting. Yes.
 12 Q. And you explained your side.
 13 And I take it that they investigated whether the
 14 issues that were alleged had some meat to them?
 15 A. No, I don't think so. I
 16 mean, the issue was that their co-lender was not
 17 going to fund. And then, so in 33 Yorkville, we were
 18 in default, and that was a breach of our agreements
 19 going forward with Otera.
 20 Q. Right. So you had defaulted
 21 on your loan on 33 Yorkville, right?
 22 A. Yeah.
 23 Q. And Otera, because you
 24 defaulted on the loan on 33 Yorkville, was not
 25 prepared to proceed with the loan on YSL; is that

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1 Q. Okay. And so I'm going to
 2 suggest to you -- sorry, and this meeting that you
 3 talked about, did this happen after the lenders had
 4 seen Ms. Athanasoulis' statement of claim?
 5 A. I don't know.
 6 Q. So you don't recall if you
 7 were discussing the letters and the statement of
 8 claim, or just one or just the other?
 9 A. The issue was just the mess,
 10 so I presume it was after, but I don't know.
 11 MR. DUNN: Okay. Thank you very
 12 much. Those are my questions, Mr. Casey.
 13 RE-EXAMINATION BY MR. MILNE-SMITH:
 14 Q. Mr. Casey, I just have a
 15 couple of short questions in re-examination. You
 16 recall you were asked a series of questions by my
 17 friend, Mr. Dunn, about various pleadings and
 18 instructions you gave in the preparation of
 19 pleadings. Do you recall that line of questioning?
 20 A. Yes.
 21 Q. Just to be clear, Mr. Dunn,
 22 has the Davies law firm ever been counsel to you
 23 personally or to any of the Cresford companies?
 24 MR. DUNN: Sorry, I think my
 25 friend said "Mr. Dunn"; I think he meant Mr. Casey.

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1 what you're telling me?
 2 A. Yes.
 3 Q. Okay. And we don't have a
 4 dispute -- well, no.
 5 I'm showing you a copy of the
 6 letter that was sent, and I've just highlighted
 7 something for you. The loan arranged on
 8 December 17th, 2019 was for 10 million?
 9 A. Sorry, this is Dave Mann's
 10 letter?
 11 Q. Yes, this is -- it's dated
 12 January 2nd. It was sent a couple of weeks after
 13 that.
 14 A. Okay.
 15 Q. And you did, in fact, take
 16 out a \$10 million loan on December 17th of 2019?
 17 A. The loan arrangement... and I
 18 have enclosed the front page... yes.
 19 Q. Okay. So at least that
 20 piece of this is accurate?
 21 A. I beg your pardon?
 22 Q. So it's accurate to say that
 23 you took out a \$10 million loan on December 17th,
 24 2019?
 25 A. Yes.

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1 MR. MILNE-SMITH: Oh, I'm sorry,
 2 I'm sorry.
 3 MR. DUNN: I can confirm Davies
 4 has never represented me either, but I don't think
 5 that's the question.
 6 MR. MILNE-SMITH: I expect I'll
 7 get the same answer.
 8 BY MR. MILNE-SMITH:
 9 Q. Have you, Mr. Casey, or
 10 anyone in the Cresford Group, ever been represented
 11 by the Davies Ward law firm in relation to these
 12 matters?
 13 A. Not these matters, no.
 14 Q. And have you and I ever met
 15 personally?
 16 A. No.
 17 Q. In person?
 18 A. No.
 19 Q. And have we ever met by Zoom?
 20 A. Sorry?
 21 Q. Have we ever met by Zoom?
 22 A. Yes.
 23 Q. Okay. And you've also, I
 24 believe, met by Zoom my colleague, Mr. Li?
 25 A. Yes.

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1 Q. And when was the first time
2 you ever met myself or Mr. Li by Zoom?
3 A. Recently.
4 Q. Okay. What was the purpose
5 of your meetings with us by Zoom?
6 A. It was to, to talk about
7 this, your --
8 Q. Sorry, you froze for a second
9 there. You said to talk about?
10 A. Your role in the, in the
11 proceedings and explain what was happening.
12 Q. Okay. Did you ever have a
13 meeting by Zoom or a telephone conversation with
14 myself or Mr. Li about the pleadings in this matter,
15 about preparing the pleadings in this matter?
16 A. The pleadings meaning?
17 Q. Meaning the written documents
18 that Mr. Dunn took you to and was showing you where
19 the positions of the parties were set out. Did you
20 assist us in preparing those documents, through
21 either a direct conversation by phone or by Zoom?
22 A. I don't know. I'm sorry, I'm
23 getting confused on pleadings or what. Like, the
24 O'Brien pleadings?
25 Q. Okay. Obviously, not the

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1 O'Brien pleadings.
2 A. I'm sorry.
3 Q. Let me try and help you be
4 more clear. Do you recall when you were examined for
5 discovery in this case, Mr. Casey?
6 A. Yes.
7 Q. And was the first time that
8 you met with us by Zoom or over the phone before or
9 after that discovery?
10 A. You know, I'm really bad at
11 dates, but I think it was after. I don't know. I
12 don't -- I had lawyers with me on the discovery.
13 Q. Okay. So to the best of your
14 recollection, the first time you would have met with
15 us would have been around the time of that discovery?
16 A. Yes.
17 Q. Okay. And did you have any
18 direct email communications -- so I don't want to
19 know about anything that anybody else might have
20 forwarded to you. All I'm asking about is any direct
21 communications where somebody from Davies emailed
22 directly to you or you emailed directly to someone at
23 Davies? To the best of your recollection, were there
24 any such communications before that first meeting via
25 Zoom?

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1 ARBITRATOR HORTON: Okay.
2 MR. DUNN: Can I ask that the
3 witness be excused so I can make an objection,
4 please?
5 ARBITRATOR HORTON: Fine. Ms. Yu,
6 can you put the witness in a breakout room for a few
7 minutes.
8 MS. YU: Yes, of course.
9 --- Whereupon the witness exits hearing
10 MR. DUNN: The difficulty that I
11 have with this line of questioning is that it is
12 going -- the fair response, what I think my friend is
13 trying to elicit, is that there has been no direct
14 input by Mr. Casey directly to Davies into the
15 pleading. If we're going to go down that road, it
16 will only be fair for me to see the communication
17 between Davies and Paliare, and to know the
18 communications between Davies -- between Mr. Casey
19 and Paliare about the pleading.
20 So I just want to make sure that
21 my friend is being intentional in the privilege that
22 is being waived here. Because I don't think it's
23 fair to ask question only about direct communications
24 without waiving privilege over indirect
25 communications.

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1 MR. MILNE-SMITH: I disagree,
2 obviously, because I have not -- very specifically
3 not asked about the content of any communications.
4 You certainly in the cross-examinations there was
5 implication made that Mr. Casey was directly involved
6 in the preparation of pleadings by the trustee, which
7 just is not the case, and I didn't want the tribunal
8 to be misled as to whether that was the case or not.
9 That goal, I think, already having been accomplished,
10 I'm happy to let the question drop, not having him
11 answer the question. And that was my last question
12 in any event. So hopefully this all becomes
13 irrelevant.
14 MR. DUNN: That's fine with me.
15 ARBITRATOR HORTON: If it's of
16 assistance to either of you, I've been -- the
17 Rubik's Cube there reminds me -- puts me in mind of
18 the exercise I've just been going through, trying to
19 eliminate all the different possibilities between the
20 Zoom, and the in person, and the before the
21 discovery, and after the discovery, and exactly how
22 it all lines up. I mean, I would have to read the
23 transcript to see whether -- see exactly what was
24 established and what, you know, what avenue still
25 remained for the witness to have contributed to the

1 pleadings or to have viewed them after they were
 2 finalized.
 3 Anyway, I'm really not much
 4 further ahead. I think I'm left with the witness'
 5 evidence at this point, Mr. Milne-Smith. The other
 6 point being, of course, that we have a witness who is
 7 not strong on these kinds of details. So trying to
 8 establish what you're trying to establish from him,
 9 without asking leading questions and effectively
 10 giving him the answer is a very difficult task.
 11 MR. MILNE-SMITH: Yes. I think we
 12 all understand each other. I don't think Mr. Dunn
 13 certainly is wanting you to be misled as to, you
 14 know, there being any direct communications, which
 15 simply did not occur.
 16 ARBITRATOR HORTON: All right.
 17 MR. MILNE-SMITH: That's the first
 18 time I met him was a week ago.
 19 MR. DUNN: That's not my, that's
 20 not my point. So I think we can move on. I think
 21 we're ad idem.
 22 ARBITRATOR HORTON: I think so,
 23 you know. And I didn't think that was the point that
 24 was being made. And, frankly, the assertion you've
 25 just made, Mr. Milne-Smith, I would accept from

1 counsel regardless.
 2 MR. DUNN: As would I.
 3 ARBITRATOR HORTON: Yeah. All
 4 right.
 5 MR. MILNE-SMITH: Thank you.
 6 ARBITRATOR HORTON: Okay. So I
 7 think we can excuse Mr. Casey?
 8 MR. DUNN: I think we can bring
 9 him back.
 10 ARBITRATOR HORTON: I mean once we
 11 bring him back, we'll excuse him. Yeah. All right.
 12 Okay. Very good.
 13 MS. YU: Okay. I'll admit him.
 14 --- Whereupon the witness re-enters hearing.
 15 ARBITRATOR HORTON: Okay. Thank
 16 you very much for your attendance, Mr. Casey. I'm
 17 advised that counsel have no further questions for
 18 you.
 19 THE WITNESS: Thank you.
 20 ARBITRATOR HORTON: You're free to
 21 go.
 22 MR. MILNE-SMITH: Thank you, Dan.
 23 THE WITNESS: Good afternoon.
 24 Bye-bye.
 25 ARBITRATOR HORTON: Good

1 afternoon. And so let's just have a quick word about
 2 tomorrow. We're going to start at 9:30. I would
 3 like it -- maybe, just to be clear, do either of you
 4 plan to give me anything in writing before we start?
 5 MR. DUNN: I can start, because I
 6 think I'll be starting tomorrow --
 7 ARBITRATOR HORTON: Mm-hmm.
 8 MR. DUNN: My hope is to give you
 9 an outline of the argument that I'll be making in
 10 writing. Given the timing of finishing the cross
 11 relative to the opening.
 12 ARBITRATOR HORTON: Yeah.
 13 MR. DUNN: If it's in advance, it
 14 will not be very much in advance of tomorrow,
 15 unfortunately.
 16 ARBITRATOR HORTON: I anticipated
 17 that, but that's why I'd just like to, if possible,
 18 to be clear about it. What are your intentions,
 19 Mr. Milne-Smith, on that count?
 20 MR. MILNE-SMITH: The same. If we
 21 have something, it will just be by way of an outline.
 22 It will not be a fully written closing submission. I
 23 think we also will plan to put together a compendium
 24 of evidence for you, which will included, obviously,
 25 key excerpts from the trial evidence, as well as what

1 we consider to be the key evidence from the joint
 2 documents brief.
 3 ARBITRATOR HORTON: Okay. And
 4 it's two and a half hours per side. Mr. Dunn, will
 5 you be reserving some time for reply?
 6 MR. DUNN: I will be trying to
 7 reserve some time for reply.
 8 ARBITRATOR HORTON: Trying to
 9 reserve some time for reply, okay. And then how are
 10 we leaving it in terms of what happens after we
 11 finish tomorrow? Will it -- you will leave it with
 12 me. And then if, if I have any questions or need any
 13 supplementary submissions, I would come back to you
 14 and ask you some questions and seek further
 15 assistance, is that how we're going to leave it?
 16 MR. MILNE-SMITH: Yes, that's
 17 certainly how I had understood it. We've been trying
 18 to do this whole proceeding on the most efficient way
 19 possible. As I keep on reminding everyone, I act for
 20 the trustee. The trustee is custodian of other
 21 people's money; they don't like to spend it unwisely,
 22 so we've tried to be as efficient as possible in
 23 this, and not build in excessive procedures.
 24 But something that is desired by
 25 the arbitrator is not excessive by definition, and so

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1 we would be absolutely happy to make further
2 submissions either in writing or in person on any
3 subject that you may feel the need for assistance on.

4 ARBITRATOR HORTON: Okay. That's
5 fine. I think that's the best way to go. And by the
6 way, I do want to congratulate you on having
7 conducted a very efficient proceeding. I often say
8 when -- in fact, I think this is maybe the very first
9 arbitration in which the parties have had
10 discoveries, examinations for discovery, and still
11 hit the hearing date. So normally, you know, the
12 examinations for discovery are a kiss of death on
13 meeting a hearing date. So that's good.

14 And I honestly feel that in
15 situations like this where there has been an
16 efficient process, you know, you can go for another
17 three months or go for another year, you wouldn't
18 necessarily have a more effective presentation of the
19 evidence. You know, if anything, it just gets a
20 little more convoluted and complicate,
21 over-complicated. So that's all fine.

22 I'm looking forward to the
23 submissions tomorrow. We'll start at 9:30. One of
24 the reasons I ask about reserved time is just in
25 terms of breaks and so on, but -- oh, one more thing:

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1 Do you want the submissions transcribed? I think
2 it's best if they are, but if they --

3 MR. MILNE-SMITH: My position is
4 going to be whatever is helpful to you.

5 MR. DUNN: I was going to say
6 thing, Mr. Horton. If you find it helpful to have
7 them, it may be helpful. It also, frankly, may be
8 helpful if, as I'm hoping we do, we move onto a
9 damages phase. You never know when we might -- when
10 it might matter.

11 ARBITRATOR HORTON: If you need to
12 go back. I mean, we will have the recording as well,
13 and it's not unusual for me to just replay the
14 recording, kind of while I'm working on the award.
15 It's kind of going on in the background, and just
16 certain things catch my attention once again. So
17 that is useful. The only thing is it can slow things
18 down a bit if counsel are not -- you know, don't
19 govern their pace accordingly, so that the reporter
20 can get it all down. So I think --

21 MR. MILNE-SMITH: By comparison to
22 my partner, Mr. Thompson, both Mr. Dunn and myself
23 are very well paced and will not pose the same kind
24 of problems we've seen with my partner.

25 ARBITRATOR HORTON: Absolutely.

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1 Well, I'll certainly agree with the complementary
2 comments about you and Mr. Dunn. I don't want to
3 cast aspersions on anyone else, who is not here to
4 defend themselves. But I will say I think another
5 first in quite a while, is I think this is the first
6 hearing where we've never had the reporter cry for
7 help at some point. So that attests to the fact that
8 it has been well paced.

9 All right. Well, I'm looking
10 forward to your submissions tomorrow, and have as
11 good an evening as you can salvage --

12 MR. DUNN: Thank you, Mr. Horton.

13 ARBITRATOR HORTON: -- with
14 whatever else you have in front of you.

15 MR. MILNE-SMITH: Thank you.

16 --- Whereupon proceedings adjourned at 3:08 p.m.
17
18
19
20
21
22
23
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25

7



YSL RESIDENCES
Toronto, Ontario
MP: 20130.101295.000

Prepared for:
OTERA CAPITAL INC.

Prepared by:
**ALTUS GROUP COST CONSULTING
& PROJECT MANAGEMENT**

Issued: **October 2, 2019**

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YSL RESIDENCES INC.
Preliminary Report
& Report No. 1 on Status of Project
at August 31, 2019

October 2, 2019

Our Ref: 20130.101295.000

Otera Capital Inc.
55 University Avenue, Suite 1701
Toronto,
Ontario,
M5J 2H7

Attention: Mr. Leonard Damiani, Regional Director and Team Head, Real Estate Lending

Dear Sir(s),

**Re: YSL Residences Inc.
Toronto, Ontario**

We submit for your review our Preliminary Report & Report No. 1 on the Status of Project at August 31, 2019.

It should be noted that this report is not intended for general circulation, publication or reproduction for any other person without express written permission to each specific instance. Furthermore, our reports are written for the exclusive use of the project Lenders, Otera Capital Inc. Altus Group Limited does not hold any reporting responsibility to any other party.

Yours truly,

ALTUS GROUP LIMITED


Per: James G. Allen
Associate Director



Per: Colin Doran
Executive Vice President

c.c. Michael Di Cesare, Otera Capital Inc.
Mamo Yumusak, Otera Capital Inc.
Manon Leclerc, Otera Capital Inc.
Karine Robitaille, Otera Capital Inc.
Jim Emanoilidis, Westmount Guarantee Services Inc.
Marlon Brown, Westmount Guarantee Services Inc.
Sean Fleming, YSL Residences Inc.
Vivien Creary, YSL Residences Inc.
Taylor Fiore, YSL Residences Inc.
Shawn Feldon, Kingsett Mortgage Corporation
Jonathan Thomson, Kingsett Mortgage Corporation
Joel Silverman, Altus Group Ltd



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1 Terms of Reference

1.1 Enclosures

The following schedule(s) are enclosed in the appendices:

Appendix A: Executed Term Sheet and Project Monitor's Standard Terms of Engagement (Draft)

1.2 Terms of Reference

We understand the Terms of Reference for the Project Monitor as per the Executed Otera Term Sheet dated February 20, 2019 highlighting the Quantity Surveyor's requirements and the draft Project Monitor's Standard Terms of Engagement provided by Otera on August 8, 2019, enclosed as Appendix A.

1.3 List of Documentation

In the process of completing this mandate, we have reviewed documentation as noted throughout this report. We note here the following notable agreements:

- Executed Term Sheet between Otera Capital & YSL Residences Inc. dated February 20, 2019;
- Draft Credit Agreement between YSL Residences Inc., 9615334 Canada Inc., Cresford (Rosedale) Developments Inc. and Daniel Casey and Otera Capital Inc. (Administrative Agent) dated August 26, 2019;
- Executed Commitment Letter between Kingsett Mortgage Corporation & YSL Residences Inc. dated June 5, 2019;
- Westmount Guarantee Services Inc. Tarion Bond, Deposit Collection Bond, Performance Bond and Deposit Insurance Facility for YSL Residences Inc. dated June 13, 2019 and subsequent amendment dated September 18, 2019; and
- Construction Management Contract – for Services between YSL Residences Inc and 2517516 Ontario Inc. dated November 1, 2018.

We understand that the commitment letter between Otera Capital and YSL Residences Inc. is currently being drafted. We will review a copy upon receipt. We note that major changes are excluded from the budget in relation to the evolution of the loan terms to the commitment letter execution.



2 Executive Summary

All important issues will be highlighted in this Section on an ongoing basis. Notwithstanding the fact that we have highlighted certain issues herein, the Report should be read in its entirety.

2.1 Preamble

We note that the commentary and opinion as noted herein is based on information as provided by the Borrower, up to the date of issuance of this report. Please refer to Section 2.11 for a list of outstanding / ongoing reporting items required.

2.2 Budget

Based on our review of current documentation and discussions with the Borrower and Lender, we have established an agreed project budget of \$1,060,648,832. This budget (less the Mezzanine Interest Reserve of \$80,000,000) is in line with the Otera Capital Inc. Term Sheet dated February 20, 2019 project budget of \$980,648,832. This budget is net of mezzanine interest reserve as noted throughout this report. The budget is subject to ongoing revision should certain assumptions not materialize or if expected trade pricing is not achieved by the Developer. Refer to Section 3 for further details.

2.3 Costs Incurred

We have calculated that gross cost incurred on the project up to August 31, 2019 is \$329,798,607 (including a land value of \$207,673,906 which includes an appraisal surplus of \$37,500,000). After a holdback deduction of \$424,864, the net cost incurred to date is also \$329,373,743. Refer to Section 3 for details.

2.4 Cost-to-Date Reconciliation

A reconciliation of cost-to-date is enclosed as Appendix E.

2.5 Committed Costs

The Otera Capital Inc. Term Sheet dated February 20, 2019 states the following in regard to committed costs:

“Receipt within 10 days prior to forming start, executed fixed-price contracts and/or binding letters of intent with or provided by the relevant contractors representing not less than 65% of hard costs defined as the total of the 16 division budget, net of contingencies and general conditions, acceptable to the Lender, in accordance with the financing program.”

Furthermore, upon discussion with the Lender and review of the draft Project Monitor’s Standard Term of Engagement, dated August 8, 2019, to be included in the final commitment letter states:

“confirming that the Borrower has entered into fixed price contracts or has received binding letter of intent from relevant contractors representing not less than 50% of hard costs defined as the total of the 16 Division Budget, net



of contingencies and general conditions, acceptable to the Lenders, and that such contracts are in form and content acceptable to the Project Monitor.”

We note based on our review of contracted invoices and letters of intent we report on indicative committed cost level of $\pm 59\%$ of the net construction budget.

We note that a detailed breakdown of the committed level is enclosed as Appendix I.

2.6 Schedule

We have received and enclosed as Appendix P, a copy of the detailed Construction Manager’s construction schedule dated August 12, 2019, with initial occupancies for the lower tower scheduled for September 2023 with Registration in February 2024 and initial occupancies for the upper tower scheduled for December 2024 with Registration in March 2025.

Following discussions with the Borrower and review of the milestone projections in the construction schedule, we note that our project cash flow reflects the following milestone projections:

	Lower Tower	Upper Tower
Demolition Start	Commenced	Commenced
Excavation	November 2019	
Footings	July 2020	
Forming to Ground Floor	April 2021	
Windows	March 2022	
Finishes	July 2022	
Initial Occupancy	September 2023	December 2024
Registration	February 2024	March 2025
Final Closings	March 2024	April 2025

We have reviewed the proposed schedule in detail and we have highlighted our opinion with the Borrower. The schedule appears achievable, however, it will require close management, competent site supervision and the implementation of the correct allocation of trade resources. The Borrower has provided assurances that the proposed milestones are achievable.

Based on our most recent site visit on September 4, 2019 we can confirm that demolition, heritage restoration and caisson (shoring) works have commenced on site. We will review the major milestones and schedules on a monthly basis and report further as information becomes available. Refer to Section 7 for details.

2.7 Development and Compliance Documentation & Other

We have enclosed as Appendix R, a copy of the demolition, heritage restoration, shoring and excavation permits from the City of Toronto. The Borrower has advised us that they anticipate Site Plan Approval, Notice of Approval Conditions and Site Plan Agreement being in place by Q4 2020. We will report further in due course as more information becomes available.



We have enclosed, as Appendix S, copies of the Section 37 Agreements for the Development and Blocker Lands dated September 13, 2019. The budgetary items included in the agreement are included in the project budget. Furthermore, the Borrower is currently working with the Local Planning and Appeals Tribunal to formalize the approval of the project zoning. A decision is expected imminently, however, we note that this process does not preclude current construction or development progress including excavation and shoring.

We have enclosed as Appendix T, a copy of the insurance documentation as provided by the Borrower, which indicates Builder's Risk, Wrap-Up Liability and Excess Liability. Refer to Section 8.3 for details.

We have enclosed a copy of the legal survey dated June 9, 2016 for the subject property at 363-385 Yonge Street, Toronto as Appendix U.

We have received copies of the Geotechnical and Environmental reports and have enclosed a copy of the reliance letter as Appendix V. Refer to Section 8 for details.

2.8 Sales

The Borrower is reporting 1,106 residential condominium units available for purchase. The Otera Capital Inc. Term Sheet dated February 20, 2019 states the following in regard to project revenue:

"Receipt of evidence satisfactory to the Lender and the Quantity Surveyor of Qualified Condominium Sales with total proceeds of not less than \$569,425,278 net of HST/GST and upgrades."

The KingSett Commitment Letter dated June 5, 2019 states the following as condition precedent 7:

"Receipt and satisfactory review by the Lender of firm and binding agreements of purchase and sale, along with any amendments and waivers thereto, evidencing not less than 752 Qualified Residential Presales generating a total gross sales proceeds inclusive of GST of not less than \$628,854,700."

Following our review of the sales summary provided, we note 784 units have been sold for \$659,040,500 (excluding revenue from parking and lockers) as at September 23, 2019. We note that 322 units remain unsold at a total listed price of \$468,551,500 (excluding parking and locker revenue). We note additional revenue from parking (Residential) of \$35,520,000 (\$9,000,000 sold) and lockers of \$3,705,000 (\$0 Sold). We summarize the following revenue projections as reported by the Borrower;

Revenue	Amount
Residential Units	\$1,123,656,300
Parking and Locker Revenue (Residential)	\$39,225,000
Vendor Incentives	(\$9,600,000)
Commercial Revenue	\$143,866,757
Sale of Guest Suites	\$
Recovery of Section 37/ Parkland	\$15,028,000
Recoveries from Purchasers	\$26,161,478
Total Revenue (Gross)	\$1,338,337,535



HST included above (Borrower Projections)	(\$109,188,467)
Total Revenue (Net)	\$1,229,149,068

We have reviewed the available purchase and sale agreements as at June 30, 2019 and confirm that the Borrower has satisfied the presale requirements as per the Term Sheet as noted in our Pre-Sales Summary, enclosed as Appendix L. We note that \$581,036,798 (755 Units) have been deemed as qualified sales and \$23,260,531 (26 Units) have been unqualified due to bulk, contracted deposit shortfalls for both domestic and foreign buyers and associated missing information.

Furthermore, we note that we have received a copy of the Deposit Collection Bond to the amount of \$55,809,495 from Westmount Guarantee dated, June 13, 2019. We have received and enclosed in Appendix N, copies of the Deposit Trust Summaries as at August 31, 2019 which detail \$100,682,406 of deposits received to date. We note that this is required to meet the \$85,000,000 of purchaser deposits received prior to first advance. We will comment further in due course. Refer to Section 6 for further details.

2.9 Equity

Based on the Otera Capital Inc. Term Sheet dated February 20, 2019, the Borrower's equity requirement is \$187,500,000 including up to \$75,000,000 of mezzanine financing. We note that we have reviewed the intended proposal by the Borrower to meet the required equity component, as follows:

Equity Component - Calculation	Total
Mezzanine Financing	\$75,000,000
Equity – Cash & Land	\$75,000,000
Appraisal Surplus	\$37,500,000
Total Equity	\$187,500,000
Minimum Equity	\$187,500,000
Equity Excess / (Shortfall)	\$0

We advise that we can confirm the equity injection to date of \$76,114,549 based on our review of the Borrower's accounting information, correspondence with the Borrower, transaction and bank statements, and cancelled cheques. The full equity component of \$187,500,000 will be confirmed in future report upon review of the current requested advance of \$75,000,000 under the mezzanine loan facility and disbursement of the current draw request payables.

2.10 Contingency

The Otera Capital Inc. Term Sheet dated February 20, 2019 states the following in regard to change orders:

"The Borrower agrees to maintain at all time during the Facility 1 term a contingency amount of no less than the greater of a) 5% of the cost to complete and b) the value as recommended by the Quantity Surveyor in accordance with the approved project budget, excluding management fees and finance costs."



The agreed project budget of \$980,684,832 (net of mezzanine interest reserve), includes ±\$15,334,000 in development contingency and ±\$23,814,000 in construction contingency, for a combined contingency reserve of ±\$39,148,000 or 6% of the overall project cost to complete (excluding contingencies). We note that the overall contingency appears reasonable based on the assumptions, inclusions and exclusions noted herein.

2.11 Outstanding / Ongoing Items

We note the following outstanding / ongoing items at the issuance of our report:

- Record of Site Condition - (*Upon Completion of Excavation*);
- LPAT Decision – *Expected in the coming weeks*;
- Site Plan Agreement – *expected in Q4 2020*;
- Notice of Approval Conditions – *expected in Q4 2020*;
- Site Plan Approval – *expected in Q4 2020*; and
- Building Permits (As available).



3 Project Budget, Capital Cost & Cost-to-Complete Summary

3.1 Enclosures

The following schedule(s) are enclosed in the appendices:

- Appendix B: Capital Cost & Cost-to-Complete Summary & Project Budget Assumptions
- Appendix C: Draft Margin Calculation
- Appendix D: Deposit Margin Calculation
- Appendix E: Cost-to-Date Reconciliation
- Appendix F: Borrower's Accounting Documents

3.2 Project Budget

3.2.1 Budget Commentary

Altus Group has reviewed all available project related documentation provided and discussed same with the Borrower. We report a net project budget of \$980,648,832, which includes \pm \$15,334,000 in development contingency and \pm \$23,814,000 in construction contingency, for a combined contingency of \pm \$39,148,000. We note that the contingency appears reasonable based on the assumptions, inclusions and exclusions noted herein. The project budget is in line with the budget within the Otera Capital Inc. Term Sheet dated February 20, 2019.

The project consists of an 85 storey, 1,106 unit residential condominium of \pm 1,009,000 sq. ft. GFA with \pm 104,000 sq. ft. GFA of retail, \pm 95,000 sq. ft. GFA of office / institutional, 5-level underground parking garage and associated site works and landscaping located at 363-385 Yonge Street, Toronto, Ontario. We note that the areas reported are as per the Architect Statistics, we are working with the Borrower to reconcile our project statistics and Gross Construction Area. We will comment further as more information becomes available.

We outline a number of the more salient points as follows:

- We have carried a Land Value of \pm \$207,674,000 including an appraisal surplus of \$37,500,000.
- We have reviewed the Borrower's construction budget of \$376,522,603, which includes the Construction Management Fee of \$12,033,682 and construction contingency of \$23,813,718. Once the construction trade packages have been awarded, we will review and carry out further tests and comment herein. Please refer to Section 5 for further details.
- Construction Loan Interest – We have carried an effective interest rate of 5.22%, based on the CDOR + 3.2% (floor rate of 4.75%). We note that the construction loan interest budget is reasonable.
- Mezzanine Loan Interest – We have included a mezzanine interest reserve budget of \pm \$80,000,000 as per the enclosed project budget at 12% per annum compounded, as agreed with the Borrower and Mezzanine Lender.
- We have carried the Borrower's allowances for site remediation of \$700,000. We note we will review these projections upon additional soil testing and defined scope upon the completion of demolition due to soil contaminants identified. We note this initial budget appears reasonable



based on the WSP Preliminary Estimate of Aggregate Increase of Soil Disposal letter dated April 19, 2016; and,

- Please refer to Appendix B for further Budget Commentary.

3.2.2 Exclusions

The following items are excluded from the gross project budget of \$1,060,648,832:

- Interest on equity;
- Purchaser upgrades;
- Additional Soil Remediation Costs not apparent at the time of issuance of this report;
- Construction Cost Escalation;
- Mezzanine Interest and Construction Loan Interest beyond April 2025.

3.3 Capital Cost & Cost-to-Complete Summary

3.3.1 Cost to Date

We have calculated that gross cost incurred to date is \$329,798,607 (including a land value of \$207,673,906). After a holdback deduction of \$424,864, the net cost incurred to date is also \$329,373,743.

3.3.2 Cost-to-Complete

Based on a net project budget of \$980,648,832, the cost to complete including holdback is ±\$652,025,000.

3.3.3 Cost-to-Date Reconciliation

We have enclosed a reconciliation of the net costs incurred to the Borrower's accounting records in Appendix E.

3.3.4 HST

We have included \$895,180 in outstanding HST in the approved cost to date. Our budget and cash flow assume that HST on costs will be funded on an ongoing basis by the Lender and, subsequently, recovered from the Canada Revenue Agency.

3.4 Source & Use of Funds

Based on the Otera Capital Inc. Term Sheet dated February 20, 2019, the Kingsett Commitment letter dated June 5, 2019 and discussions with the Borrower, we understand the source of funding for the Mezzanine and Construction Financing is as noted below:

Item	Current Source of Funds
Borrower Equity	\$75,000,000
Mezzanine Equity/Mortgage (Principal Only)	\$75,000,000
Appraisal Surplus	\$37,500,000
Insured Deposits	\$140,809,495
Deferred Costs	\$28,794,201
Construction Loan	\$623,545,135



Total Source of Funding	\$980,648,832
Net Project Budget	\$980,648,832
Surplus (Shortfall)	\$0
Mezzanine Interest Reserve	\$80,000,000
Gross Project Budget	\$1,060,648,831

The deferred costs are noted below:

Deferred Costs	Amount
FF&E	\$3,000,000
Legal Fees Unit Closings	\$1,056,957
Outside and Lead Broker Commissions	\$20,878,198
Retail Commissions	\$2,444,109
Warranty / Customer Service	\$1,657,500
Interest Due/Earned on Purchaser Deposits	(\$242,563)
Total	\$28,794,201

We note that the Borrower's deferred cost allowance appears reasonable based on the information provided.

We request that the Lender confirm the above source and use of funds.

3.4.1 Draft Margin Calculation

We enclose a draft margin and source of funding calculation as Appendix C, for reference only.

3.4.2 Deposit Funding

The release of deposits per the Westmount Guarantee Inc. Tarion Bond, Deposit Collection Bond, Performance Bond and Deposit Insurance Facility Commitment Letter dated September 18, 2019, is summarized as follows:

"Subject to the:

- i. Registration of the Surety's Security;*
- ii. Adherence by the Principal to all terms and conditions contained within this Commitment Letter, and*
- iii. The Escrow Agent receiving Tarion Deposit Receipts;*

Westmount shall authorize the release of purchaser deposits from the Trust Account in the following manner:

- The Surety acknowledges that \$99,985,553 of deposits have been released to the project and a further \$20,014,000 of future deposits shall be made available to fund project costs as recommended by the cost consultant and/or Principal's internal report.*
- Remaining deposits shall be made available to fund project cost on a 1:3 ratio of construction lender advances to deposits released as recommended by the cost consultant."*

We enclose a draft deposit margin calculation as Appendix D, for reference only and request that the Lender confirm the above deposit source and use of funds.



3.4.3 Borrower's Equity / Accounts Payable

Based on the Otera Capital Inc. Term Sheet dated February 20, 2019, the Borrower's equity requirement is \$187,500,000 including up to \$75,000,000 of mezzanine financing. We note that we have reviewed the intended proposal by the Borrower to meet the required equity component, as follows:

Equity Component - Calculation	Total
Mezzanine Financing	\$75,000,000
Equity – Cash & Land	\$75,000,000
Appraisal Surplus	\$37,500,000
Total Equity	\$187,500,000
Minimum Equity	\$187,500,000
Equity Excess / (Shortfall)	\$0

We advise that we can confirm the equity injection to date of \$76,114,549 based on our review of the Borrower's accounting information, correspondence with the Borrower, transaction and bank statements, and cancelled cheques. The full equity component of \$187,500,000 will be confirmed in future report upon review of the current requested advance of \$75,000,000 under the mezzanine loan facility and disbursement of the current draw request payables

We note that the Lender has confirmed that they require ongoing review of cancelled cheques and accounts payable for draw requests. We will perform this analysis on a monthly basis.

3.5 Overview Comment

This report and its findings are based on the documentation supplied to us by the Borrower. Should any subsequent information arise that materially affects the budget or scope of project, we will report as soon as it becomes available. Furthermore, Altus Group Limited has made reasonable investigation to review the project budget; however, should any information be withheld from us, we cannot be responsible to ensure that it is included in this report.



4 Project Cash Flow

4.1 Enclosures

The following schedule is enclosed:

Appendix G: Projected Expenditure & Revenue Cash Flow

4.2 Assumptions

We note the following assumptions:

Expenditures	<ul style="list-style-type: none"> ▪ Costs Incurred ▪ Initial Occupancy ▪ 	<ul style="list-style-type: none"> • August 31, 2019 • September 2023 (Lower Tower) • December 2024 (Upper Tower)
	<ul style="list-style-type: none"> ▪ Registration 	<ul style="list-style-type: none"> • February 2024 (Lower Tower) • March 2025 (Upper Tower)
	<ul style="list-style-type: none"> ▪ Final Closings 	<ul style="list-style-type: none"> • March 2024 (Lower Tower) • April 2025 (Upper Tower)
	<ul style="list-style-type: none"> ▪ Effective Interest Rate 	<ul style="list-style-type: none"> • CDOR + 3.20% (floor rate of 4.75%)*
Revenue	<ul style="list-style-type: none"> ▪ Current sales ▪ Inventory 	<ul style="list-style-type: none"> • As noted in Section 6 • As noted in Section 6
	Source & Use of Funds	<ul style="list-style-type: none"> ▪ Equity – Cash & Land ▪ Appraisal Surplus ▪ Mezzanine Mortgage ▪ Purchaser Deposits ▪ Construction Loan – First Mortgage ▪ Mezzanine Interest Reserve ▪ Letter of Credit ▪ Letter of Credit Refund ▪ Deferred Costs
Total Project Budget:		\$1,060,648,831

* We will closely monitor interest budget projections on an ongoing basis to ensure accurate projections are maintained and we will provide commentary herein.

The Otera Capital Inc. Term Sheet dated February 20, 2019, states the following under the Financing Terms section:

“The term of Facility 1 shall be 72 months commencing on the earlier of:

(a) August 31, 2019; and

(b) The first day of the month immediately following the Initial Advance (or if the Initial Advance occurs on the first day of a month, then the date of the Initial Advance).

We note that the Construction Loan interest budget is reasonable based on the information received and the schedule assumptions noted herein.

We will review the cash flow as the project progresses and report any significant budget implications or non-adherence to the noted assumptions.



5 Construction Budget & Cost Report

5.1 Enclosures

The following schedule(s) are enclosed in the appendices:

- Appendix H: Construction Budget & Cost Report
- Appendix I: Committed Costs Summary
- Appendix J: Holdback Release Documentation (Not applicable this period)

5.2 Construction Budget

5.2.1 Basis of our Review

Following our review of the current documentation received, we have agreed to report an overall construction budget of \$403,026,739 as follows:

Construction	Current Budget
Hard Cost Construction (Excl. CM Fee) 1,106 Units	\$340,675,203
Construction Management Fee (4%)	12,033,682
Contingency (6%)	23,813,718
Total Hard Construction Budget	\$376,522,603
Cresford – Construction Admin. Fee	1,782,132
Pre-Development Costs	396,400
Demolition	3,415,000
Site Remediation	700,000
Site Connections	1,782,464
Staging Permit	3,016,000
Heritage Restoration	2,935,000
Hoarding	800,000
Fittings, Furnishings & Equipment	3,000,000
Tiebacks	2,525,000
Tarion Enrollment	1,614,600
Tarion Enrollment Recovery (Adj. to Revenue)	0
Building/Misc. Permits	4,537,540
Overall Construction Budget	\$403,026,739

Altus Group was not retained to prepare a construction cost estimate for the project instead we carried out a peer review of the Developer's Budget dated October 1, 2018 and subsequent construction budget as noted herein.

Based on discussions with the Borrower and Construction Manager, assessment of allowances, review of available drawings, and peer review of the Developer's Budget; we have agreed to carry an overall construction budget of \$403,026,739. We note the following salient points in relation to the overall construction budget:

- The construction budget per the summary provided is \$376,522,603 including 7% contingency. This equates to \$337 /sf GCA. In today's dollars, these figures are generally in-line with projects



- of this size and nature. We note that the Borrower is relying on their strong trade relationships to mitigate construction cost escalation and achieve keen tender pricing. We will comment further upon receipt of trade commitments and a detailed review of the scope associated with these commitments.
- Due to the busy residential hi-rise marketplace, we are experiencing construction trade pricing volatility and scheduling pressures. The original agreed construction budget did not include an identified construction escalation contingency, however, we note that the individual budget line items include an escalation allowance and the current committed level of 59%, mitigates interim escalation concerns. We will work with the Borrower to review and manage the uncommitted construction budget line items.
 - We note as part of our review we did review project plans and indicative specifications to ensure the adequacy of the hard cost construction budget. We note that we will continue to work with the Borrower as more up to date information becomes available.
 - The Borrower is using their in-house construction management team (Cresbuild) to construct the project. This budget is subject to ongoing revision should certain assumptions not materialize or if expected trade pricing is not achieved by the Borrower.
 - We will comment as to the impact of delays to the overall project budget on an ongoing basis should they occur.
 - Following a review of the recommendations and findings of the numerous environmental reports provided (See Section 8.7) pertaining to contaminated soils, and a letter from WSP dated April 19, 2016, it has been agreed with the Borrower to carry an allowance of \$700,000 for contaminated soil disposal (Subject to further testing upon demolition)
 - We have carried an allowance of ±\$1,782,000 for site connections (utility connections) budget as outlined in Appendix B. This allowance remains reasonable, however, we will update as more information becomes available.
 - We have carried an allowance of \$2,935,000 for the heritage restoration work.

5.2.2 Committed Cost

The Otera Capital Inc. Term Sheet dated February 20, 2019 states the following in regard to committed costs:

“Receipt within 10 days prior to forming start, executed fixed-price contracts and/or binding letters of intent with or provided by the relevant contractors representing not less than 65% of hard costs defined as the total of the 16 division budget, net of contingencies and general conditions, acceptable to the Lender, in accordance with the financing program.”

Furthermore, upon discussion with the Lender and review of the draft Project Monitor’s Standard Term of Engagement, dated August 8, 2019, to be included in the final commitment letter states”

“confirming that the Borrower has entered into fixed price contracts or has received binding letter of intent from relevant contractors representing not less than 50% of hard costs defined as the total of the 16 Division Budget, net of contingencies and general conditions, acceptable to the Lenders, and that such contracts are in form and content acceptable to the Project Monitor.”



We note based on our review of contracted invoices and letters of intent we report on indicative committed cost level of $\pm 59\%$ of the net construction budget.

We note that a detailed breakdown of the committed level is enclosed as Appendix I.

5.2.3 Change Orders

The Otera Capital Inc. Term Sheet dated February 20, 2019 states the following in regard to change orders:

“The Borrower shall not make any changes to the Approved Project Budget without the prior written consent of the Lender. Notwithstanding the foregoing, the Borrower shall not require the consent of the Lender in order to apply the contingency amount, subject to the following:

- *The financing costs specified in the approved project budget are not amended;*
- *Any change order to an individual budget item does not exceed \$1,000,000;*
- *The aggregate change orders for all budget item do not exceed \$2,500,000 in the aggregate; and*
- *The contingency amount is not reduced below the amount required pursuant to Section 12.2”*

We note no change orders have been received to date.

5.2.4 Offsite Materials

There are no offsite materials to report at this time.

5.3 Construction Holdback

5.3.1 Holdback Retained

The project is being administered on a construction management basis whereby Borrower enters into individual trade contracts for the various portions of the work and issues purchase orders for “supply only” items on an ongoing basis. Notwithstanding the requirements of the Construction Act, holdback is being retained on trade contracts only, as it is a standard practice in the industry. We request the Lender or its counsel to provide further direction if it does not concur with the procedure.

In addition, holdback is not being retained on Design Consultants; notwithstanding these professionals do have lien rights.

At present, \$424,864 in net construction lien holdback has been retained to date.

5.3.2 Holdback Released

We note that we have not received a Holdback Release request as part of this report.

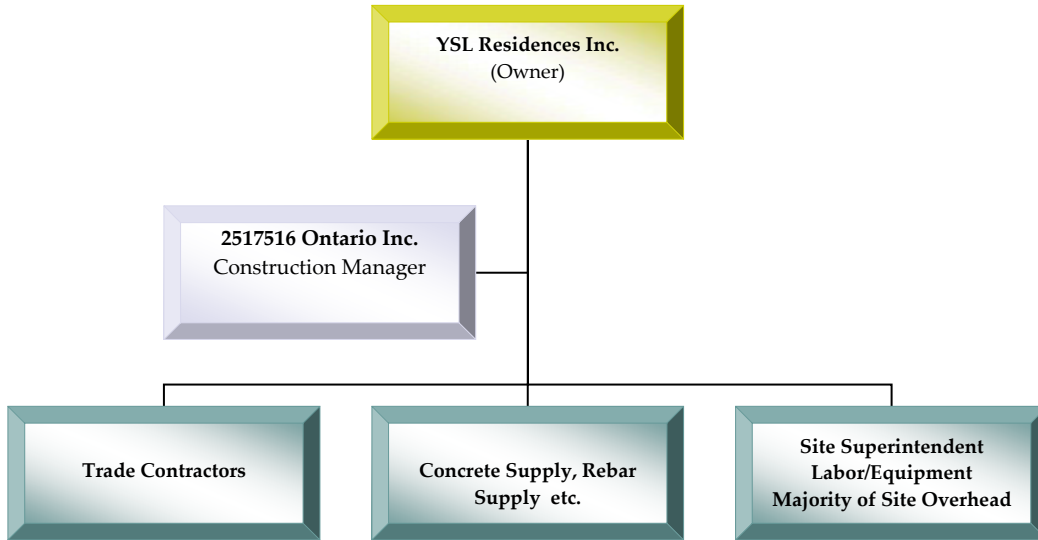
We will enclose as Appendix J, the following supporting holdback release documentation for any future holdback releases:

- Trade invoice for holdback release
- Form 5 – Declaration of Last Supply
- Statutory Declaration
- WSIB Certificate of Clearance



5.4 Form of Administration

The intended form of administration for the construction of the YSL Residences may be represented as follows. The lines represent contractual relationships.



We have received a copy of the executed Construction Management Agreement between YSL Residences Inc. and 2517516 Ontario Inc. dated November 1, 2018. A copy of the Construction Management Agreement is available on request.



6 Sales/Lease Status Report

6.1 Enclosures

The sales status of units, as advised by the Borrower, is enclosed in the appendices:

- Appendix K: Sales Status Summary
- Appendix L: Altus Pre-Sales Summary
- Appendix M: Borrower's Sales and Deposit Summaries as at September 23, 2019
- Appendix N: Deposit Trust Account Statement as at August 31, 2019

6.2 Sales Status Report

6.2.1 Sales Overview

Based on our review of the Borrower's Sales Summaries as at September 23, 2019 and the project budget, we note the following:

- The Borrower is reporting 1,106 units available for purchase.
- 784 of the 1,106 units have been sold for \$659,040,500 (excluding revenue from locker and parking), at an average unit price of \$840,613 and average price per sq. ft. of \$1,432;
- 322 units remain unsold at a total listed price of \$464,615,800 (excluding locker and parking revenue), at an average unit price of \$1,442,906 and average price per sq. ft. of \$1,760;
- Total projected condominium unit revenue as reported by the Borrower is \$1,123,656,300 (Gross);
- The Borrower also reports revenue from commercial and residential parking of \$35,520,000 (\$9,000,000 sold) and Lockers \$3,705,000 (\$0 sold).
- We summarize the following revenue projections as reported by the Borrower;

Revenue	Amount
Residential Units	\$1,123,656,300
Parking and Locker Revenue (Residential)	\$39,225,000
Vendor Incentives	(\$9,600,000)
Commercial Revenue	\$143,866,757
Sale of Guest Suites	\$
Recovery of Section 37/ Parkland	\$15,028,000
Recoveries from Purchasers	\$26,161,478
Total Revenue (Gross)	\$1,338,337,535
HST included above (Borrower Projections)	(\$109,188,467)
Total Revenue (Net)	\$1,229,149,068



6.2.2 Agreements of Purchase & Sale

The Otera Capital Inc. Term Sheet dated February 20, 2019 states that:

“Receipt of evidence satisfactory to the Lender and the Quantity Surveyor of Qualified Condominium Sales with total proceeds of not less than \$569,425,278 net of HST/GST and upgrades.”

“the sale to a purchaser is subject to a fully and duly executed and unconditional Purchase Agreement with an arms-length purchaser specifying: (i) the expiration of any and all rescission periods; (ii) purchase deposits of not less than 25%, of which not less than 10% has been received prior to the initial advance. Deposits shall be staged as follows: 5% within 30 days of the offer, 5% 60 days after the date of the offer, 5% 180 days after the date of offer, 5% 450 days after the date of offer and 5% on occupancy;”

“the sale to a non-resident purchaser is subject to a fully and duly executed and unconditional Purchase Agreement with an arms-length purchaser specifying: (i) the expiration of any and all rescission periods; (ii) purchase deposits of not less than 35%, of which not less than 15% has been received prior to the initial advance. Deposits shall be staged as follows: 5% within 30 days of the offer, 5% 60 days after the date of the offer, 5% 180 days after the date of offer, 5% 240 days after the date of offer, 5% 365 days after the date of offer, 5% 450 days after the date of offer and 5% on occupancy;”

The KingSett Commitment Letter dated June 5, 2019 states that:

“Receipt and satisfactory review by the Lender of firm and binding agreements of purchase and sale, along with any amendments and waivers thereto, evidencing not less than 752 Qualified Residential Pre sales generating total gross sale proceeds inclusive of GST of not less than \$628,854,700.”

“the receipt of contracted residential purchaser deposits of not less than 15% per unit (20% for a non-resident purchaser) of the contracted purchase price at the time of funding the Loan, and to be increase to not less than 20% (30% for non-resident purchaser) within 12 months of the funding of the Loan. The Lender will permit reduced on hand deposits of 10% (15% for a non-resident purchaser) for up to -20% of the gross sale revenue, providing a minimum 15% (20% for a non-resident purchaser) is scheduled to be on hand prior to October 1, 2019 and not less than 20 (30% for a non-resident purchaser) within 12 months of the funding of the Loan;



Based on our review of the Purchase & Sale Agreements provided we summarize the status of Qualified Presales as follows;

	Actual	Otera Requirement	KingSett Requirement	Surplus / Shortfall
Total Number of Qualified Pre-sales	755	N/A	752	3
Net Qualified Pre-sales (Including Parking and Lockers)	\$581,036,798	\$569,425,278	N/A	\$11,611,520
Gross Qualified Pre-sales (Including Parking and Lockers)	\$638,444,400	N/A	\$628,854,700	\$9,589,700
Mortgage Approvals	54%	N/A	50%	4%

We have reviewed the available purchase and sale agreements and confirm that the Borrower has satisfied the presale requirements as per the Otera Term Sheet and KingSett Commitment Letter as noted in our Summary of Purchase and Sale Agreements as at June 30, 2019, enclosed as Appendix L. We note that 755 units in the amount of \$638,444,400 (\$581,036,798 Net of HST) have been deemed as qualified sales and \$25,660,400 (\$23,260,531 Net of HST) (26 Units) have been unqualified due to contracted deposit shortfalls for both domestic and foreign buyers and associated missing information.

6.2.3 HST on Sales

HST payable on sales, estimated in the amount of \$109,188,467 is included as a revenue adjustment.

6.2.4 Deposits

We note \$96,451,841 in purchaser deposits are requested to be utilized in the current recommended advance (Subject to Lender Approval). We note that as of August 31, 2019, there is \$100,682,406 of purchaser deposits in trust as per the deposit trust account statement.

6.2.5 Purchaser Upgrades

Purchaser upgrades are excluded from the project budget and revenues at this time. It is intended that these costs will be funded from other sources.

6.2.6 Purchaser Incentives

We note purchaser incentives are included as cost reducing revenue to the value of \$9,600,000.

6.3 Qualifications

It should be noted that we have carried sales revenue as reported by the Borrower. Altus Group Limited is not qualified to confirm the attainability of the sales revenue.



7 Project Description, Progress Report & Construction Schedule

7.1 Enclosures

The following schedule(s) are enclosed in the appendices:

- Appendix O: Project Statistics
- Appendix P: Construction Schedule as at August 12, 2019
- Appendix Q: Progress Photo Report

7.2 Project Description

The project consists of an 85 storey, 1,106 unit residential condominium of $\pm 1,009,000$ sq. ft. GFA with $\pm 104,000$ sq. ft. GFA of retail, $\pm 95,000$ sq. ft. GFA of office / institutional, 5- level underground parking garage and associated site works and landscaping located at 363-385 Yonge Street, Toronto, Ontario. We note that the areas reported are as per the Architect Statistics, we are working with the Borrower to reconcile our project statistics and Gross Construction Area. We will comment further as more information becomes available.

7.3 Statistical Analysis

We have enclosed as Appendix O a copy of our project statistics. We note the Borrower has advised that they have revised the drawings to reflect one less floor of parking which is not reflected on our current project statistics.

7.4 Construction Schedule

We have received and enclosed as Appendix P, a copy of the detailed Construction Manager's construction schedule dated August 12, 2019, with initial occupancies for the lower tower scheduled for September 2023 with Registration in February 2024 and initial occupancies for the upper tower scheduled for December 2024 with Registration in March 2025.

Following discussions with the Borrower and review of the milestone projections in the construction schedule, we note that our project cash flow reflects the following milestone projections:

	Lower Tower	Upper Tower
Demolition Start	Commenced	Commenced
Excavation	November 2019	
Footings	July 2020	
Forming to Ground Floor	April 2021	
Windows	March 2022	
Finishes	July 2022	



Initial Occupancy	September 2023	December 2024
Registration	February 2024	March 2025
Final Closings	March 2024	April 2025

We have reviewed the proposed schedule in detail and we have highlighted our opinion with the Borrower. The schedule is achievable and will require close management, competent site supervision and the implementation of the correct allocation of trade resources. The Borrower has provided assurances that the proposed milestones are achievable.

Based on our most recent site visit on September 4, 2019 we can confirm that demolition, heritage restoration and caisson works have commenced on site. We will review the major milestones and schedules on a monthly basis and report further as information becomes available.

7.5 Progress Photo Report

We visited the site on September 4, 2019, and have included a report detailing progress photographs and commentary as Appendix Q.



8 Permits, Development Agreements, Insurance, Bonding, Legal Survey, Soils & Environmental Reports

8.1 Enclosures

The following schedule(s) are enclosed in the appendices:

- Appendix R: Permits (As Received)
- Appendix S: Section 37 Agreement(s) (As Received)
- Appendix T: Insurance Certificates
- Appendix U: Legal Survey
- Appendix V: Environmental and Geotechnical Reliance Letter

8.2 Permit(s) and Municipal Agreement(s)

8.2.1 Permits

We have received copies of the following permits:

Permit Type	Permit No.	Date Issued	Comments
Demolition – 369 Yonge St.	18 123143 DEM 00 DM	April 12, 2018	Appendix R
Demolition – 375 Yonge St.	18 123233 DEM 00 DM	April 12, 2018	Appendix R
Demolition – 377 Yonge St.	18 123252 DEM 00 DM	April 12, 2018	Appendix R
Demolition – 379 Yonge St.	18 123260 DEM 00 DM	April 12, 2018	Appendix R
Demolition – 385 Yonge St.	18 233345 DEM 00 DM	May 31, 2019	Appendix R
Demolition – 381 Yonge St.	18 233331 DEM 00 DM	May 31, 2019	Appendix R
Heritage Retention – 385 Yonge St	19 148465 BLD 00 BA	May 31, 2019	Appendix R
Heritage Retention – 381 Yonge St	19 148477 BLD 00 BA	May 31, 2019	Appendix R
Heritage Retention – 367 Yonge St	19 148480 BLD 00 BA	May 31, 2019	Appendix R
Demolition – 367 Yonge St.	18 233320 DEM 00 DM	June 3, 2019	Appendix R
Demolition – 363 Yonge St.	18 233315 DEM 00 DM	June 3, 2019	Appendix R
Shoring – 363 Yonge St.	18 240613 BLD 00 BA	June 4, 2019	Appendix R

Permits will be applied for as the project progresses. The strategy of applying for and receiving staggered permits is standard practice and the issuance of the Final Building Permit will only be subject to 1) the timing required for the City Plans Examiner to complete its review of the drawings, and the design consultants to document any minor amendments and 2) Site Plan Approval.



8.2.2 Status of Municipal Documentation

We note that the Borrower continues to work with the City and its stakeholders to meet the various approval requirements.

We have summarized the latest update from the Borrower as follows:

Municipal Documentation/Approval	Status Update Provided by Borrower
Executed Section 37 Agreement	Received and enclosed in Appendix S.
Demolition Permits	Received and enclosed in Appendix R
Piling & Shoring Permits	Received and enclosed in Appendix R
Notice of Approval Conditions (NOAC)	The Borrower advised the NOAC is expected in Q4 2020
Site Plan Approval	The Borrower advised the Site Plan Approval is expected in Q4 2020

8.2.3 Development Approvals

We note that the Borrower expects to receive the Site Plan Approval, Notice of Approval Conditions and Site Plan Agreement by Q4 2020. We will comment further as more information is available.

Furthermore, the Borrower is currently working with the Local Planning and Appeals Tribunal to formalize the approval of the project zoning. A decision is expected imminently, however, we note that this process does not preclude current construction or development progress including excavation and shoring.

8.2.4 Section 37 Agreement

We have received executed copies of the Section 37 Agreements between YSL Residences Inc. and the City of Toronto dated September 13, 2019. We have enclosed copies as Appendix S. We note that the budgetary elements referenced in the agreements are included in the project budget.

8.3 Insurance

We have received and enclose as Appendix T, copies of the Wrap-Up Liability, Builders Risk and Excess Liability Insurance certificate. We note the documentation provides evidence of the following coverage:

Wrap-Up Liability

- a) Named Insured: YG Limited Partnership a/o YSL Residences Inc, a/o 9615334 Canada Inc. a/o Cresford (Rosedale) Developments Inc.
- b) Loss Payee: Otera Capital Inc, as Agent for the Lenders as First Mortgagee, Westmount Guarantee Services Inc. as Second Mortgagee, and KingSett Mortgage Corporation as Third Mortgagee.
- c) Policy Number 1000024383191
- d) Insurer Starr Insurance & Reinsurance Limited
- e) Amount: \$10,000,000 each occurrence,
- f) Policy Period: August 6, 2019 to August 6, 2024



Excess Liability

- a) Named Insured: YG Limited Partnership a/o YSL Residences Inc, a/o 9615334 Canada Inc. a/o Cresford (Rosedale) Developments Inc.
- b) Loss Payee Otera Capital Inc, as Agent for the Lenders as First Mortgagee, Westmount Guarantee Services Inc. as Second Mortgagee, and KingSett Mortgage Corporation as Third Mortgagee.
- c) Policy Number 1st Layer – 01861867-14000
2nd Layer – UFP0063876-00
3rd Layer – WREX13384
- d) Insurer Starr Insurance & Reinsurance Limited
- e) Amount: 1st Layer - \$10,000,000 each occurrence, \$10,000,000 Aggregate
2nd Layer - \$10,000,000 each occurrence, \$10,000,000 Aggregate
3rd Layer - \$10,000,000 each occurrence, \$10,000,000 Aggregate
- f) Policy Period: August 6, 2019 to August 6, 2024

Builder's Risk

- a) Named Insured: YG Limited Partnership a/o YSL Residences Inc, a/o 9615334 Canada Inc. a/o Cresford (Rosedale) Developments Inc.
- b) Loss Payee: Otera Capital Inc, as Agent for the Lenders as First Mortgagee, Westmount Guarantee Services Inc. as Second Mortgagee, and KingSett Mortgage Corporation as Third Mortgagee.
- c) Policy Number CAE000485190
- d) Insurer Starr Insurance & Reinsurance Limited
- e) Amount: \$397,000,000 Hard Costs,
\$79,000,000 Soft Costs,
\$7,500,000 Delay in Startup,
\$5,000,000 Bylaws.
- f) Policy Period: August 23, 2019 to May 23, 2025

Our comments on the insurance policies are limited to the amounts of insurance and expiry dates. Due to the importance of proper insurance coverage at all times, we recommend the Lender have its legal counsel / insurance consultant review copies of the full policies to ensure its interests are protected.

8.4 Bonding/Surety

We note that due to the strength and experience of the Borrower and its' Construction Manager, the Borrower has the ability to manage its own trade performance risks independent of the need for bonding. In addition to this, it also intends to "self-protect" itself from trade non-performance by carefully selecting each trade contractor and controlling payments and schedule on-site.

We note that Shoring, Excavation, Formwork, Concrete and Rebar Material and Labour, Kitchen and Bathroom Cabinets, Curtain Wall, Appliances and Elevator works have been awarded by reputable trade contractors and controlling payments and schedule on site. We will comment further herein upon receipt of trade contracts.



Our comments on bonding would be limited to our experience dealing with the particular trade contractors in the past as applicable. We do not have any access to the individual financial records and therefore cannot verify the credit worthiness of trades. Bonding mitigates the financial risk and the Lender's should use its discretion in seeking bonds or requesting credit checks as deemed appropriate.

8.5 Confirmation of Location(s)

8.5.1 Legal Survey

We have enclosed a copy of the legal survey dated June 9, 2016 for the subject property at 363-385 Yonge Street, Toronto as Appendix U.

We recommend that the Lender review a copy of this document and have its legal counsel confirm that title is clear and no unauthorized encumbrances exist.

8.5.2 Foundation Survey

Once the foundations are complete, the Lender will require the issuance of a Foundation Survey showing plot dimensions, locations and dimensions of all improvements, easements, rights-of-way and locations of adjacent streets.

8.5.3 As-built Survey

Once the building has been enclosed, we recommend a real property survey and accompanying letter be provided by the surveyor confirming that the building has been located in accordance with the approved site plan, that no encroachments exist, and all setbacks have been adhered to.

8.6 Geotechnical Report

We have received;

- "Report on Geotechnical Investigation – 363-391 Yonge Street & 3 Gerrard Street, Toronto, Ontario" by WSP Canada Inc. dated April 11, 2018

The geotechnical report concludes:

FOUNDATIONS

"We understand that the proposed development will consist of a ninety nine (99) storey (including mechanical) tower with six (6) + one (1) mezzanine levels of basement including two levels of retail space and bicycle parking and five (5) levels of parking. The finished basement floor elevation of the P6 basement floor level of the proposed tower will be about 22.5 m (Elev. 71.28 m) below the existing ground surface. The footings are expected to be about 1.5 to 2.5 m below the P6 basement floor slab.

Based on the information obtained from boreholes, the proposed building can be supported by spread and strip footings/raft foundation founded on the sound shale bedrock at the anticipated footing base levels for a bearing capacity of 5.0 MPa at SLS (Serviceability Limit States), and for a factored geotechnical resistance of 7.5 MPa at ULS (Ultimate Limit States)."



EXCAVATIONS AND GROUNDWATER CONTROL

“Generally the fill is considered unsuitable as backfill material. However, select inorganic fill and native soils free from topsoil and organics can be used as general construction backfill where it can be compacted with sheep’s foot type compactors. Loose lifts of soil, which are to be compacted, should not exceed 200 mm.

Imported granular fill, which can be compacted with hand held equipment, should be used in confined areas.

Underfloor fill should be compacted to at least 98 percent of Standard Proctor Maximum Dry Density (SPMDD).

The excavated soils are not considered to be free draining. Where free draining backfill is required, imported granular fill such as OPSS Granular B should be used.

It should be noted that the excavated soils are subject to moisture content increase during wet weather which would make these materials too wet for adequate compaction. Stockpiles should be compacted at the surface or be covered with tarpaulins to minimize moisture uptake.”

A copy of this report can be provided if required.

8.7 Environmental Report

We have received copies of the following documents pertaining to the environmental condition of the project lands:

- **Phase 1 Environmental Site Assessment (363 to 391 Yonge Street)** – WSP Canada Inc., dated February 11, 2016
- **Phase 1 Environmental Site Assessment Update (363 to 391 Yonge Street)** – WSP Canada Inc., dated February 25, 2019
- **Phase 2 Environmental Site Assessment (363 to 391 Yonge Street)** – WSP Canada Inc., dated February 26, 2019

Phase 1 Environmental Site Assessment Update, (363 to 391 Yonge Street) – WSP Canada Inc., dated February 25, 2019.

- *Based on the information gathered during the site reconnaissance, interviews and records review during this Phase One ESA it was determined that there are potentially contaminating activities (PCAs) contributing to areas of potential environmental concern (APECs) on the Phase One Property.*
- *Phase Two ESA investigations were conducted in 2016, 2017, 2018 and 2019 to investigate the areas of concern. It is our understanding that further investigation will be completed when the on-site buildings are demolished to fill in any data gaps. As part of this investigation a WSP representative visited the Site to document any changes to the Site or within the Study Area that may have additional potentially contaminating activities. No additional potentially contaminating activities were identified on the Site or*



within the Study Area. Therefore, no new Areas of potential concern were determined to exist on the Subject Property.

- *Based on the information collected as part of this Phase One ESA Update, no APECs were identified on the Subject Property. No further investigation is warranted for the Subject Property.*

Phase 2 Environmental Site Assessment, (363 to 391 Yonge Street) – WSP Canada Inc., dated February 26, 2019

Based on the findings of this Phase Two ESA, WSP presents the following conclusions and recommendations:

- *Soils impacted with elevated EC and/or SAR are present on the property at four (4) borehole locations and were found at depths ranging from 0.15 to 0.8 mbgs and 0 to 0.8 metres below basement slab. Soil impacted with Boron (HWS) was identified at one (1) borehole location at a depth of 0.15 to 0.8 mbgs.*
- *Groundwater with elevated PHC F3 and chloroform was identified in one (1) shallow overburden monitoring well near the northeast portion of the property. The PHC impacts in this monitoring well may be associated with historical off-site USTs on north adjoining properties. Further assessment of the groundwater at this location will be required in the future.*
- *Groundwater with elevated chloroform above the Table 3 SCS was found in one (1) monitoring wells analyzed. Elevated chloroform in groundwater has historically been found in situations related to release of municipally supplied water into the ground (i.e., watermain leaks). Further assessment of the groundwater at this location will be required in the future.*
- *As the development to a more stringent land use is proposed, a RSC under O.Reg. 153/04 will be required for the proposed residential development. Remediation of soil (and potentially groundwater) impacts followed by confirmatory sampling would be required to support an RSC filing. Alternatively, if remediation is not considered feasible, a RA can be conducted instead of, or in conjunction with remediation.*
- *Further assessment of the APECs is required for the Phase Two Property when the on-site buildings have been demolished and the site is more accessible.*

We note that following our review of the documentation provided, we understand that further investigation of the subject property is to be carried out once the existing buildings have been demolished. We note an allowance is carried for environmental remediation to the amount of \$700,000, based on the WSP Preliminary Estimate of Aggregate Increase of Soil Disposal letter dated April 19, 2016. We note that the scope of these works will be defined upon full environmental testing following demolition.



8.8 Geotechnical and Environmental Reliance Letter

We have received and enclose as Appendix V, a copy of the Geotechnical and Environmental reliance letter by WSP Canada Inc. dated July 8, 2019 relating to following reports:

- Phase One Environmental Site Assessment, 363 to 391 Yonge Street, Toronto, ON, 3 Gerrard Street, Toronto, ON with Project No. 151-63337-00 (the "Project") prepared by WSP Canada Inc. ("WSP"), dated February 11, 2016 and prepared for Cresford Developments ("Client");
- Phase Two Environmental Site Assessment, 363 to 391 Yonge Street, Toronto, ON with Project No. 171-12975-00 (the "Project") prepared by WSP Canada Inc. ("WSP"), dated March 2, 2018 and prepared for Cresford Developments ("Client");
- Geotechnical Investigation, 363 to 391 Yonge Street, Toronto, ON, 3 Gerrard Street, Toronto, ON with Project No. 171-12975-00 (the "Project") prepared by WSP Canada Inc. ("WSP"), dated October 2, 2018 and prepared for 9615334 Canada Inc. ("Client");
- Phase One Environmental Site Assessment Update, 363 to 391 Yonge Street, Toronto, ON, 3 Gerrard Street, Toronto, ON with Project No. 171-12975-00 (the "Project") prepared by WSP Canada Inc. ("WSP"), dated February 25, 2019 and prepared for Cresford Developments ("Client");
- Phase Two Environmental Site Assessment, 363 to 391 Yonge Street, Toronto, ON, 3 Gerrard Street, Toronto, ON with Project No. 171-12975-00 (the "Project") prepared by WSP Canada Inc. ("WSP"), dated February 26, 2019 and prepared for Cresford Developments ("Client");

We refer the reader to our prior comments associated with the initial geotechnical and environmental reports noted herein. The Borrower has confirmed there is no material change to the comments and conclusions as highlighted by their Geotechnical and Environmental Consultant.



9 Certificates & Declarations

9.1 Enclosures

The following certification(s) and declaration(s) will be enclosed in future reports in the appendices:

- Appendix W: Form A – Project Monitor Certificate (draft)
- Appendix X: Borrower’s Request for Advance (to be provided under separate cover)
- Appendix Y: Consultant Conformance Reports (Future Reports)
- Appendix Z: Contractors’ Statutory Declarations and WSIB Certificates of Insurance (As Available)

9.2 Project Monitor’s Certificate

We have enclosed as Appendix W, a copy of the Form A – Project Monitor Certificate (draft).

9.3 Borrower’s Request for Advance

We note that the Borrower will provide a copy of the request for advance under separate cover.

9.4 Consultant Conformance and Field Review Report

We note that the Consultant’s Certificate will be provided as required. We note that Construction has not yet commenced and we will enclose Consultant Certificates as received.

9.5 Contractors’ Statutory Declaration and WSIB Certificates

Copies of Statutory Declarations and WSIB Certificates from Trade Contractors, as received, will be enclosed for future reports in Appendix Z.

9.6 Qualifications

It should be noted that cost consultants are not qualified to confirm that construction work has been completed in accordance with plans and specifications. In this regard, we will forward certificates provided by the design consultants as available to confirm that the project is being constructed in accordance with the approved plans and specifications, municipal by-laws and regulations and the Ontario Building Code.



10 Reporting Qualifications

This report is written for the exclusive use of Otera Capital Inc. in its capacity as Lender. Altus Group Limited does not hold any reporting responsibility to any other party without express written consent provided herein or under separate letter.

The report or parts thereof are not intended for general circulation, publication, or reproduction without express written permission from Altus Group Limited in each specific instance.

The opinions expressed herein with respect to environmental issues are limited to the anticipated impact on budget and schedule based on the expert reports provided.

Neither Altus Group Limited nor its officers or its employees accepts liability whatsoever for any direct or consequential loss arising from the negligent use of this report.

This report and the findings enclosed are based on the documentation supplied to us by the Borrower and its representatives. Should any subsequent information arise which materially affects the budget or scope of project, we will report as soon as it becomes available. Furthermore, Altus Group Limited has made reasonable investigation to review the project budget; however, should any information be withheld from us, we cannot be responsible to ensure that it is included in this report.

We have included a draft margin calculation and a draft deposit margin calculation for reference. The Lender should confirm the amount available to advance.

We have carried the sales revenue as reported by the Borrower, and no independent verification has been carried out. Furthermore, Altus Group Limited is not qualified to confirm the attainability of the estimated sales revenue.

Due to the importance of proper insurance coverage at all times, we recommend the Lender have its insurance consultant review copies of the full policies to ensure its interests are protected.

Our comments on bonding are limited to our experience dealing with the particular trade contractors in the past. We do not have any access to the individual financial records. Bonding mitigates the financial risk and is ultimately a lending decision.

It should be noted that cost consultants are not qualified to confirm that construction work has been completed in accordance with approved plans and specifications.

The project is being administered on a construction management basis whereby the Borrower enters into individual trade contracts for the various portions of the work and issues purchase orders for "supply only" items on an ongoing basis. Notwithstanding the requirements of the Construction Act / Construction Lien Act, holdback is being retained on trade contracts only, as it is a standard practice in the industry. We request the Lender or its counsel to provide further direction if it does not concur with the procedure. In addition, no holdback has been retained from Design Consultants, as is standard practice, notwithstanding that, these consultants do have lien rights.

Details of our Client Policy are available from our web site www.altusgroup.com.



11 List of Appendices

The following appendices are enclosed:

- Appendix A: Terms of Reference
- Appendix B: Capital Cost & Cost-to-Complete Summary
- Appendix C: Draft Margin Calculation
- Appendix D: Deposit Margin Calculation
- Appendix E: Cost-to-Date Reconciliation
- Appendix F: Borrower's Accounting Documents
- Appendix G: Projected Expenditure & Revenue Cash Flow
- Appendix H: Construction Budget & Cost Report
- Appendix I: Committed Costs Summary
- Appendix J: Holdback Release Documentation (Not applicable in the current period)
- Appendix K: Sales Status Summary
- Appendix L: Altus Pre-Sales Summary
- Appendix M: Borrower's Sales and Deposit Summaries as at September 23, 2019
- Appendix N: Deposit Trust Account Statement as at August 30, 2019
- Appendix O: Project Statistics
- Appendix P: Construction Schedule at August 12, 2019
- Appendix Q: Progress Photo Report
- Appendix R: Permits (As Received)
- Appendix S: Section 37 Agreement(s)
- Appendix T: Insurance Documentation
- Appendix U: Legal Survey
- Appendix V: Environmental and Geotechnical Reliance Letter
- Appendix W: Form A – Project Monitor Certificate (Draft)
- Appendix X: Borrower's Request for Advance (To be provided under separate cover)
- Appendix Y: Consultant Conformance Letters (Future Reports)
- Appendix Z: Contractors' Statutory Declarations & WSIB Certificates of Insurance (As Available)



APPENDIX A – TERMS OF REFERENCE



55 University Avenue, Suite 1701
 Toronto, Ontario M5J 2H7
 Tel. 416 360-1979
 Fax 416 360-8709
 www.oteracapital.com

February 20, 2019

Murray & Company Limited
 40 University Avenue, Suite 502
 Toronto, ON
 M5J 1S3

Attention: Mr. Randy Buckley

Re: Term sheet for proposed construction facility by Otéra Capital Inc. (the "Lender") in respect of YSL Residences, 363-385 Yonge Street and all buildings and improvements thereon from time to time (the "**Property**")

And Re: Loan No. 2019-0005

The Lender hereby submits to you this term sheet for the first mortgage financing in connection with the Property.

This document is not a mortgage commitment but a letter of interest and should not be regarded as creating any firm or binding obligation on the part of the Lender or the Borrower other than the obligation of negotiating in good faith. It is to be held confidential and cannot be assigned or transferred.

1. BORROWER AND OWNERSHIP OF BORROWER

- 1.1 YSL Residences Inc. is the legal owner (registered owner) of the Property (the "**Borrower**").
- 1.2 YG Limited Partnership is the beneficial owner of the Property and holds 100% of the beneficial ownership of the Property (the "**Beneficial Owner**").

2. AGENT

- 2.1 Otera Capital Inc. the "**Agent**".

3. LENDER

- 3.1 Collectively, Otera Capital Inc. and one or more other financial institutions acceptable to the Agent, the "**Lender or Lenders**".

4. PROPERTY AND PROJECT

The Property comprises a 0.93 acre land parcel located at 363-385 Yonge Street in Toronto, Ontario. The Property shall be developed as a mixed-use residential and commercial development that will encompass approximately 1,009,429 sqft of gross buildable area

including approximately 719,253 sqft NSA of residential, 73,378 sqft NSA of retail and 96,832 sqft NSA of office (the "Project").

5. PURPOSE AND USE

5.1 Facility 1 – Construction Facility

The purpose of the construction facility ("Facility 1") is to provide first mortgage financing on a non-revolving basis to assist the Borrower in financing the construction of the Project. The first advance under Facility 1 will include sufficient funds, currently estimated at \$50,000,000, to payout and discharge the current first mortgage in favour of Computershare Trust Company of Canada in the principal amount of \$100,000,000 plus accrued interest and fees.

5.2 Facility 2 – Letter of Credit Facility

The purpose of the letter of credit facility ("Facility 2") is to provide for the issuance of standby letters of credit (each a "Letter of Credit" or a "LC" and collectively, the "Letters of Credit").

5.3 Facility 1 and Facility 2 are, collectively, referred to as the "Loans".

6. AMOUNT OF LOANS

6.1 The aggregate principal amount outstanding under the Loans shall at no time exceed \$631,045,136.

6.2 Facility 1 shall at no time exceed \$623,545,136 on the basis of the cost in place and the cost to complete and shall be funded in multiple advances not less than \$500,000.

6.3 Facility 2 shall at no time exceed \$7,500,000.

6.4 Financing Program

The sources and uses of funds shall be as follows:

Uses of Funds

Land Acquisition Cost	\$	177,557,702
Land Appraisal Surplus	\$	37,500,000
Other Land Costs	\$	81,289,629
Hard Costs	\$	367,571,856
Hard Cost Contingency	\$	24,355,534
Soft Costs	\$	159,111,858
Interest Budget	\$	82,203,162
Other Financing Costs	\$	46,293,767
Soft Cost Contingency	\$	12,538,099
Offsetting Income	\$	(7,772,775)
	\$	<u>980,648,832</u>

Sources of Funds

Equity & Mezzanine Financing	\$	187,500,000
Condominium Purchasers' Deposits	\$	126,144,840*
Retail Deposit	\$	14,664,655
Deferred Costs	\$	28,794,201
Facility 1 - Construction Loan	\$	623,545,136
Total	\$	980,648,832

*Approximately \$56,600,000 of purchasers' deposits have already been released and utilized to payout and discharge previous mortgages on title.

Equity & Mezzanine Financing

Cash Equity & Mezzanine Financing*	\$	150,000,000
Appraisal Surplus	\$	37,500,000
Total	\$	187,500,000

*Mezzanine financing is not to exceed \$75,000,000.

Deferred Costs

Legal Fees on Closings	\$	1,056,957
FF&E	\$	3,000,000
Residential Commissions	\$	20,878,198
Commercial Commissions	\$	2,444,109
Customer Service Cost	\$	1,657,500
Interest Due on Deposits	\$	2,740,143
Interest Earned on Deposits	\$	(3,305,638)
	\$	28,794,201

7. FINANCING TERMS**7.1 Term**

7.1.1 The term of Facility 1 shall be 72 months commencing on the earlier of:

- (a) August 31, 2019; and
- (b) the first day of the month immediately following the Initial Advance (or if the Initial Advance occurs on the first day of a month, then the date of the Initial Advance).

7.1.2 The term of Facility 2 shall be 18 months longer than the Facility 1 term and shall begin on the earlier of the date of the initial advance or August 31, 2019.

7.2 Facility 1 – Interest Rate

7.2.1 The interest rate for Facility 1 will be 3.20% per annum over the one-month CDOR rate quoted daily from time to time by Bloomberg at 11:00 a.m. (Eastern Time) or at any other time determined by the Lender (the "CDOR Rate"), subject to a minimum interest rate of 4.75% per annum.

The Borrower will pay to the Lender a standby fee at the rate of 0.30% per annum on the daily unadvanced portion of Facility 1 (the “**Standby Fee**”). The Standby Fee shall be payable by the Borrower monthly in arrears on the first day of each month commencing on the earlier of (i) August 31, 2019; or (ii) the first day of the month immediately following the Initial Advance (or if the Initial Advance occurs on the first day of a month, then the date of the Initial Advance).

7.3 Facility 2 – LC Fee

The Borrower will pay to the Lender a fee in the amount of 1.50% per annum on the face amount of any LC to be issued (subject to a minimum fee of \$500.00 per issuance or renewal). The LC fee is payable annually in advance on the date of issuance of the relevant Letter of Credit (and each anniversary thereafter). The LC fee paid by the Borrower is non-refundable.

7.4 Method of Payment

With respect to the Loans and provided that no event of default has occurred and is continuing, the Lender shall capitalize all interest payments, the Standby Fee and all LC fees (and add the same amount to the principal balance outstanding under Facility 1 from time to time) and debit the same amount from the Interest Budget set out in the approved project budget (the “**Interest Budget**”), up to the point where the Interest Budget is depleted. Thereafter, the Borrower shall pay all interest payments, the Standby Fee and all LC Fees to the Lender as they become due.

8. SECURITY

8.1 As security for the Loans, the following shall be granted in favour of the Lender, in form and content satisfactory to the Lender and the Lender’s solicitor and in the Lender’s standard form, (as amended and restated from time to time, the “**Security Documents**”):

- 8.1.1 a first-ranking charge/mortgage from the Borrower in respect of the Property in the amount of \$631,500,000 (the “**Mortgage**”);
- 8.1.2 a first-ranking general assignment of present and future rents and leases and deposits;
- 8.1.3 a first-ranking general security agreement;
- 8.1.4 a first-ranking specific assignment of all of the right, title and interest of the Borrower in, to and under all material contracts relating to the Property and the Project;
- 8.1.5 a general assignment of all the Borrower’s rights, title and interest in all insurance policies in respect of the Property;
- 8.1.6 a beneficial owners’ agreement, if applicable;
- 8.1.7 a principal repayment guarantee, on a joint and several basis, limited to \$631,045,136 from the following:

- (a) Cresford (Rosedale) Developments Inc.; and
- (b) Daniel Casey;

Collectively and individually, as the context requires, the “**Guarantor**”.

8.1.8 an unlimited debt service, completion and cost overrun guarantee, on a joint and several basis, from the following in respect of the Project (the “**Completion Covenant and Guarantee**”):

- (a) Cresford (Rosedale) Developments Inc.; and
- (b) Daniel Casey;

8.1.9 an unlimited indemnity agreement that includes, without limitation, misconduct events related to fraud, taxes, misrepresentation and environmental matters (the “**Misconduct Events Indemnity**”), on a joint and several basis, from the following:

- (a) Cresford (Rosedale) Developments Inc.; and
- (b) Daniel Casey;

8.1.10 a priority and standstill agreement with respect to the second ranking charge/mortgage of the Property in favour of the deposit insurer;

8.1.11 a priority and standstill agreement with respect to the third-ranking charge/mortgage of the Property in favour of the mezzanine lender for a maximum mortgage amount of \$150,000,000;

8.1.12 an assignment of condominium voting rights in favour of the Lender;

8.1.13 an assignment of all present and future agreements of purchase and sale (the “**Purchase Agreements**”);

8.1.14 such other security customary in the financing of condominium construction as determined by the Lender acting reasonably;

8.1.15 any other documents, instruments, certificates, agreements or security required by the Lender or the Lender’s solicitor, acting reasonably.

9. INITIAL ADVANCE REQUIREMENTS

9.1 Initial Advance Requirements – Facility 1 and Facility 2

The first advance of Facility 1 or Facility 2 (the “**Initial Advance**”) is conditional upon the receipt by all the Lenders of the following, in form and substance satisfactory to the Lenders:

9.1.1 Syndication

Successful syndication of not less than \$323,545,136 of Facility 1 to one or more financial institutions.

9.1.2 Security, Opinions and Other Matters

- (a) delivery of the Security;
- (b) delivery of a title opinion/title report for the Property issued by a law firm acceptable to the Lender or the Lender's solicitor, indicating that the Borrower is the registered owner of the Property with good and marketable title thereto;
- (c) delivery of an opinion of the Borrower's and the Guarantor's solicitors in respect of the existence, power and capacity of each of the Borrower, the Beneficial Owner and the Guarantor as the case may be, and the authorization, execution, delivery and enforceability of the loan documents;
- (d) a certificate of the Borrower confirming the truth and survival of the representations and warranties;
- (e) evidence that all taxes have been paid in full;
- (f) a chart indicating the ownership structure of the Borrower, the Beneficial Owner and the Guarantor;
- (g) delivery of a copy of all partnership agreements / joint venture / co-ownership agreements if applicable and of all development management agreements with third parties and property management agreements; and
- (h) copies of the constating documents/articles of incorporation of the Borrower, the Beneficial Owner and the Guarantor;

9.1.3 Quantity Surveyor's Preliminary Report and Initial Advance Report

Delivery of a preliminary report by the Quantity Surveyor which shall confirm, validate and report on the completeness, accuracy and adequacy of the following:

- (a) the approved project budget;
- (b) the Borrower's project equity as required herein;
- (c) the hard cost contingency;
- (d) the soft cost contingency;
- (e) the development and construction management fee;
- (f) the interest budget;
- (g) the cost in place and the cost to complete the Project;
- (h) the monthly construction schedule and the monthly cash flow projection for the Project, which shall forecast the amount and timing of draw

requests;

- (i) the construction management contract with an acceptable construction manager and all other material agreements relating to the Project;
- (j) confirmation of fixed price contracts as required herein;
- (k) receipt of all zoning approvals and zoning by-law amendments, authorizations and licenses for the development and construction of the Project (including copies of all applications) it being understood that site plan approval shall be received during construction and not prior to the initial advance;
- (l) receipt of all permits required for the development and construction of the Project (including copies of all applications) as required for the then payable costs, it being understood that all building permits for the Project will be issued in stages as construction progresses; and
- (m) other pertinent aspects which in the Quantity Surveyor's opinion should be known to the Lender.

The preliminary report shall additionally include the following which shall be acceptable to the Lender in its sole discretion:

- (aa) detailed list of the trade contractors, subcontractors, suppliers and other persons involved in the construction of the Project to date;
- (bb) copies of all contracts, letters of intent and quotations;
- (cc) a sales report for residential units, confirming those units sold, available for sale, asking price, sales price and deposits held;
- (dd) a draw request in the Lender's standard form;
- (ee) a draw certificate in the Lender's standard form and
- (ff) any additional details or documentation as required by Lender.

9.1.4 **Equity and Mezzanine Financing**

Receipt of evidence, including cancelled cheques, confirming that the Borrower has injected not less than \$187,500,000 in equity comprised of \$37,500,000 in appraisal surplus, not less than \$75,000,000 in cash equity and not more than \$75,000,000 in mezzanine financing.

9.1.5 **Mezzanine Financing**

Delivery of a current and executed copy, and any amendments thereto, acceptable to the Lender, of the mezzanine financing agreement with a mezzanine lender acceptable to the Lender of not more than \$75,000,000 (excluding interest and fees).

9.1.6 **Appraisal**

Receipt of a current appraisal report by an AACI qualified appraiser, at the Borrower's expense, confirming the current market value of the following:

- a) the Project lands of not less than \$215,057,702,
- b) the residential condominium component of the Project of not less than \$1,036,409,899 net of HST,
- c) the office component of the Project of not less than \$46,866,757 and
- d) the retail component of not less than \$97,764,364.

9.1.7 **Environmental Site Assessment**

Receipt (i) of a Phase I environmental site assessment report for the Property (prepared not more than 6 months prior to the date of execution of the credit agreement) in form and substance acceptable to the Lender from a consultant acceptable to the Lender (which must be addressed to the Lender or accompanied by a reliance letter), and (ii) of a certification from the Borrower to the effect that there has been no site activity since the date of the environmental report which would have an adverse impact on the environmental site conditions. The environmental report shall mention any known contamination and shall indicate whether further tests are required (Phase 2 or others).

9.1.8 **Geotechnical Investigation**

Receipt of a geotechnical report confirming the satisfactory nature of the soil condition to support the Project acceptable to the Lender (which must be addressed to the Lender or accompanied by a reliance letter in the Lender's standard form).

9.1.9 **Financial Statements**

Receipt of a copy of current financial statements, or personal net worth statements as required, for the Borrower (if available) and the Guarantor as well as any other statement the Lender may require acting reasonably.

9.1.10 **Insurance Review**

Receipt of a report from the insurance consultant selected by the Lender, confirming the compliance and sufficiency of the insurance coverage with the Lender's insurance requirements and the requirements of the Project.

9.1.11 **Home Warranty Program**

Receipt of evidence confirming that the Project is registered with Tarion.

9.1.12 **Purchaser Deposits**

Receipt of an agreement with a deposit insurer, acceptable to the Lender, providing for no less than \$126,144,840 of purchaser deposits to be made available to the Borrower as a source of financing for the Project.

9.1.13 Deposit Collection Bond

Receipt of not less than \$85,000,000 of deposits prior to the Initial Advance and receipt of a deposit collection bond from a bonding company in form and content satisfactory to the Lender in its sole discretion for the positive difference between total deposits used as a source of funds of \$140,809,495 and total deposits received. Approximately \$85,000,000 of purchasers' deposits are contracted to be received prior to funding, therefore the deposit collection bond shall be for no greater than \$55,809,495 based upon deposits to be received prior to funding.

The lenders shall be entitled to draw on the deposit collection bond in the event that the required deposit shortfall is not received by the time the lenders have advanced 90% of its loan.

9.1.14 Purchase and Sale Agreement – Office

Receipt of a copy of an executed purchase and sale agreement, and any amendments thereto, acceptable to the Lender pertaining to the sale of approximately 60,870 sqft situated upon floors 4, 5 and 6 to Ryerson University. The purchase and sale agreement shall specify a purchase price of not less than \$23,056,000 net of HST/GST for 60,870 sqft of GFA, if the final space is larger than 60,870 sqft, Ryerson may purchase such additional space for \$568 per sqft. Ryerson shall also have the option, exercisable on or before March 21, 2020, to purchase the 7th floor as additional space at fair market value. A non-refundable purchaser deposit of \$100,000 is to be received and held in trust with Dale and Lessmann LLP and the anticipated closing date is June 2023.

9.1.15 Purchase and Sale Agreement – Retail

Receipt of a copy of an executed purchase and sale agreement, and any amendments thereto, acceptable to the Lender pertaining to the sale of approximately 73,378 sqft situated upon floors B1 to 3. The purchase and sale agreement shall specify a purchase price of not less than \$97,764,364 net of HST/GST, a non-refundable purchaser's deposit of \$14,664,655 that is to be available as a source of financing in the Project and a closing date anticipated in April 2025.

9.1.16 Qualified Condominium Sales

Receipt of evidence satisfactory to the Lender and the Quantity Surveyor of Qualified Condominium Sales with total proceeds of not less than \$569,425,278 net of HST/GST and upgrades.

9.1.17 Purchase Agreement

Receipt of a copy of the Borrower's standard form of Purchase Agreement and all applicable schedules and appendices, which shall be in form and content acceptable to the Lender.

9.1.18 **Qualified Condo Sales and Units Available for Sale Schedule**

Receipt of the Qualified Condo Sales and of the units available for sale Schedule certified by a senior officer of the Borrower.

9.1.19 **Disclosure Statement**

Receipt of a copy of the disclosure statement, including the draft declaration, by-laws and reciprocal agreements, and all amendments thereto, in each case acceptable to the Lender.

9.1.20 **Property Inspection**

An inspection of the Property satisfactory to the Lender must be completed by the Lender prior to the Initial Advance.

9.1.21 **Review of Material Agreements**

Receipt of material agreements including the following:

- (a) fixed price contracts if available;
- (b) management agreements;
- (c) the Plans and Specifications and all planning approvals, permits, licences, development agreements, and other material contracts with respect to the Project as per Section 9.1.3(k) and 9.1.3(l);
- (d) any partnership agreements; and
- (e) land purchase agreement;

9.1.22 **“Know Your Client” Due Diligence**

Receipt of all information and documents requested by the Lender in connection with its “Know Your Client” due diligence requirements.

9.1.23 **Credit reports**

Receipt of a credit report, if available, and information on the Borrower, the Beneficial Owner and the Guarantor.

9.1.24 **Survey/Site plan**

If available, receipt of a survey/site plan of the Project.

9.1.25 **Architect and Engineer Professional Certificates**

Receipt of the professional certificates from the architect and the engineer of the Project, in form and content satisfactory to the Lender, confirming that the Project, as presently constructed and/or its contemplated development and construction as set out in the approved plans and according to the approved

project budget, complies with all applicable construction, zoning and other governmental requirements as applicable to the work that has been completed.

9.1.26 **Other**

All other documents, reports and other information required to be delivered herein or reasonably requested by the Lender and the Lender's solicitor.

10. **SUBSEQUENT ADVANCES REQUIREMENTS – FACILITY 1**

10.1 **Subsequent Advances Requirements**

Subsequent advances of Facility 1 are conditional upon the receipt by the Lender of the following, in form and substance satisfactory to the Lender:

10.1.1 **Quantity Surveyor's Progress Report**

A progress report from the Quantity Surveyor, which shall be prepared by the Quantity Surveyor on a monthly basis (each a "**Progress Report**") confirming, validating and reporting on the accuracy, adequacy, adherence and conformance to the following:

- (a) the Approved Project Budget;
- (b) the hard cost contingency;
- (c) the soft cost contingency;
- (d) the Cost In Place and the Cost to Complete the Project;
- (e) confirmation that any cost overruns that have been incurred on the Project have been funded by the Borrower;
- (f) the contingency amount used in the Project and the accuracy of the residual contingency amount related to the cost to complete;
- (g) the status of the construction schedule and cash flow projection;
- (h) the holdbacks retained and holdbacks released by budget line item; and
- (i) other pertinent aspects which in the Quantity Surveyor's opinion should be known to the Lender.

For the final advance under Facility 1, the Quantity Surveyor shall additionally include the following, which shall be acceptable to the Lender in its sole discretion: (i) an "as-built" survey of the Project, prepared and certified by a qualified land surveyor which will identify, among other things, the location of all encroachments, easements and rights of way affecting the Project; and (ii) a certificate from a qualified architect certifying that construction of the Project has been substantially completed and such construction has been completed in accordance, and complies in all material respects, with the approved plans and all applicable by-laws (including, without limitation, municipal building and

zoning by-laws), building code requirements, licenses, certificates, consents, approvals, minor variances, rights, permits and agreements and the requirements of the home warranty program for Ontario and (iii) a certificate from the Quantity Surveyor certifying that all construction work has been completed, that all costs have been incurred, that all discharges have been obtained and that the final discharge from the general contractor shall be remitted to the Lender following payment of the residual holdback.

As part of each Progress Report, the Quantity Surveyor shall certify: (i) that the Borrower draw request represents work completed on the Property less the required construction lien holdback for which payment has not been made; and (ii) that the Cost to Complete does not exceed the amount of the undisbursed portion of Facility 1.

In connection with the preparation of the Progress Report, the Borrower, on a monthly basis, shall provide the Quantity Surveyor with the following, which shall be acceptable to the Lender in its sole discretion:

- (aa) a detailed list of the trade contractors, subcontractors, suppliers and other persons involved in the construction of the Project;
- (bb) current certificates from the architect and structural, mechanical and electrical engineers confirming that the work completed to date has been completed in accordance with the approved plans and in accordance with the applicable building code;
- (cc) a Project expense summary outlining item, budget, cost in place, application of proceeds from the specific request and cost to complete, a monthly list of accounts payable of the Project certified by the Borrower, which shall correspond to the monthly Borrower draw request;
- (dd) copies of all the Borrower's standard accounting reports as required by the Lender and/or the Quantity Surveyor;
- (ee) copies of all invoices in excess of \$10,000, statutory declarations and workmen's compensation board certificates;
- (ff) copies of all cancelled cheques;
- (gg) copies of all holdback invoices in excess of \$50,000, statutory declarations and workmen's compensation board certificates;
- (hh) an updated sales report for residential units, confirming those units sold, available for sale, asking price, sales price and deposits held;
- (ii) a list of holdbacks retained and holdbacks released by budget line item;
- (jj) a Borrower draw request in the Lender's standard form;
- (kk) a Quantity Surveyor draw certificate in the Lender's standard form; and

(II) any additional details or documentation as required by the Lender.

10.1.2 **Qualified Condo Sales and Units Available for Sale Schedule**

The Borrower shall provide the Lender with a Qualified Condo Sales and units available for sale Schedule and new offers to purchase, which shall be certified by a senior officer of the Borrower if so requested by the Lender.

10.2 **Holdbacks**

The Lender shall make advances of Facility 1 to pay or reimburse the Borrower for costs certified by the Quantity Surveyor that have been incurred by the Borrower in accordance with the approved budget less the holdback required to be retained by the Borrower as owner pursuant to the *Construction Act* (Ontario).

10.3 **Qualified Condominium Sales**

10.3.1 The Borrower agrees to have at all times Qualified Condominium Sales with total proceeds of not less than \$569,425,278 net of HST/GST and upgrades.

10.3.2 “**Qualified Condominium Sale**” means the sale of a unit pursuant to a Purchase Agreement where:

- (a) the Purchase Agreement has been provided to the Lender, is in the standard form approved by the Lender, includes a description of the unit being purchased and the final purchase price, is duly signed by the purchaser, without contingencies or conditions on the part of the purchaser, is binding and enforceable and in full force and effect, is for a purchase price not less than 100% of the price list of the “pre-sold” unit and not less than of 95% of the price list of the “unsold” unit as set out the Borrower’s pro-forma and to be included as a schedule of the credit agreement;
- (b) the Borrower or its solicitor have confirmed to the Lender that the period in which any right of rescission or right to claim a return of a deposit by a purchaser under such Purchase Agreement and pursuant to the provisions of applicable laws shall have expired;
- (c) the purchaser is arm’s length with the Borrower, the Beneficial Owner and the Guarantor;
- (d) the purchaser is a natural person and not a non-resident purchaser that has purchased only 1 unit (and not more than 1 unit);
- (e) the sale is on an all cash basis and does not allow for partial or full payment of the purchase price thereunder by way of a vendor take back mortgage or other debt instrument, such that all net sales proceeds shall only be in the form of money;
- (f) the sale to a purchaser is subject to a fully and duly executed and unconditional Purchase Agreement with an arms-length purchaser

specifying: (i) the expiration of any and all rescission periods; (ii) purchase deposits of not less than 25%, of which not less than 10% has been received prior to the initial advance. Deposits shall be staged as follows: 5% within 30 days of the offer, 5% 60 days after the date of the offer, 5% 180 days after the date of offer, 5% 450 days after the date of offer and 5% on occupancy;

- (g) the sale to a non-resident purchaser is subject to a fully and duly executed and unconditional Purchase Agreement with an arms-length purchaser specifying: (i) the expiration of any and all rescission periods; (ii) purchase deposits of not less than 35%, of which not less than 15% has been received prior to the initial advance. Deposits shall be staged as follows: 5% within 30 days of the offer, 5% 60 days after the date of the offer, 5% 180 days after the date of offer, 5% 240 days after the date of offer, 5% 365 days after the date of offer, 5% 450 days after the date of offer and 5% on occupancy;

being understood that the qualification of a sale being a "Qualified Condominium Sale" will be made by the Lender and the Quantity Surveyor.

10.3.3 A multi-unit individual purchaser is a natural person, who is not a non-resident purchaser, and who has purchased more than one unit. The following conditions shall apply to multi-unit individual purchasers:

- (a) the sale of more than 6 units to any one individual or related individuals is not permitted to be included in Qualified Pre-Sales without the prior written consent of the Lender; and
- (b) the sale of more than 110 units in total to multi-unit individual purchasers is not permitted to be included in Qualified Pre-Sales without the prior written consent of the Lender.

10.3.4 A non-individual purchaser is a non-natural person that has purchased one or more units. The following conditions shall apply to non-individual purchasers:

- (a) the sale of more than 2 units to any one non-individual or related purchaser is not permitted to be included in Qualified Pre-Sales without the prior written consent of the Lender; and
- (b) the sale of more than 20 units to non-individual purchasers is not permitted to be included in Qualified Pre-Sales without the prior written consent of the Lender.

10.3.5 Daniel Casey or any natural or non-natural person in the immediate family or related purchaser of Daniel Casey are considered non-arms length purchasers. The following conditions shall apply to non-arms length purchasers:

- (a) the sale of more than 4 units to a non-arms length or related purchaser is not permitted to be included in Qualified Pre-Sales without the prior written consent of the Lender; and
 - (b) the sale of more than 8 units to non-arms length purchasers is not permitted to be included in Qualified Pre-Sales without the prior written consent of the Lender.
- 10.3.6 A non-resident purchaser is a natural person that is not a Canadian citizen or permanent resident of Canada and that has purchased one or more units. The following conditions shall apply to non-resident purchasers:
- (a) the sale of more than 2 units to any one non-resident or related purchaser is not permitted to be included in Qualified Pre-Sales without the prior written consent of the Lender; and
 - (b) the sale of more than 50 units to non-resident purchasers is not permitted to be included in Qualified Pre-Sales without the prior written consent of the Lender.
- 10.3.7 The Borrower shall be in receipt of all non-refundable purchaser deposits for all of the signed Purchase Agreements which are then due and payable. The Borrower hereby agrees that all purchaser deposits shall be deposited with and administered by an entity acceptable to the Lender at its sole discretion. Lender agrees that Bennett Jones LLP is an acceptable entity with respect to this provision.
- 10.3.8 If purchaser deposits used as a source of financing exceed \$140,809,495, the Facility 1 Commitment shall be automatically reduced by the amount of such excess.
- 10.3.9 A sale of a unit will not qualify or continue to qualify as a Qualified Condominium Sale if at any time: (i) the purchaser has not paid any deposit amount when due under its Purchase Agreement; (ii) the purchaser is otherwise in default under its Purchase Agreement; or (iii) the purchaser has provided written notice to the Borrower demanding the return of its deposit, or advising it does not intend to complete its purchase or alleging that the Borrower is in default under the Purchase Agreement, the disclosure statement or applicable laws.
- 10.3.10 Sales to management, employees or owners of the Borrower, the Beneficial Owner or the Guarantor and any spouse or related person of any of the foregoing are not considered arm's length, and must be approved by the Lender.
- 10.3.11 "**Qualified Condo Sales Schedule**" means a sales summary report in form and content satisfactory to the Lender that includes a list of all sales, including Qualified Condominium Sales, with the purchaser's name, current address, unit number and size of the unit being acquired, purchase price, sales tax, status of purchaser deposits paid and where same is held, and balance of purchaser deposits owing and when due, net sale price, agreement date, closing date, earliest possible and latest possible transaction closing date, and any special terms or conditions, as well as any other confirmation requested by the Lender

or the Quantity Surveyor.

10.4 Fixed Price Contracts

Receipt within 10 days prior to forming start, executed fixed-price contracts and/or binding letters of intent with or provided by the relevant contractors representing not less than 65% of hard costs defined as the total of the 16 division budget, net of contingencies and general conditions, acceptable to the Lender, in accordance with the financing program.

11. PARTIAL DISCHARGES

11.1 Condo

If there is no event of default, the Borrower will be entitled to partial discharges of the mortgage from the Property in respect of any unit sold, upon receipt by the Lender of 100% of net sale proceeds (less legal fees and disbursements, deposits, outstanding realty taxes, amounts paid to clear title matters, real estate commissions and harmonized sales tax) of a unit which proceeds will be applied to reimburse Facility 1.

Gross sale proceeds shall not be less than 100% of the amount for units categorized as "pre-sold" or "sold" in the price list as specified in the credit agreement and not less than 95% of the amount for units categorized as "unsold" or "available" in the price list as specified in the credit agreement.

11.2 Commercial Component

The Borrower shall be entitled to a partial discharge of the Security as it relates to the commercial component (i.e. retail and office) of the Project, upon the sale of the commercial component to a bona fide arm's length third party on terms approved in writing by the Lender as set out in Section 9.1.14 and 9.1.15 and the indefeasible payment to the Lender of 100% of net sale proceeds (less legal fees and disbursements, deposits, outstanding realty taxes, amounts paid to clear title matters and real estate commissions) from such sale.

11.3 Discharge Facility 1 and Facility 2

Upon full payment of Facility 1, net closing proceeds shall be directed towards the cash collateralization (on a dollar-for-dollar basis) of all Letters of Credit outstanding under Facility 2 until such time as the outstanding Letters of Credit are fully cash secured. The Lender shall provide a discharge of the Security upon full repayment and/or cancellation of Facility 1 and cash collateralization on a dollar-for-dollar basis of all Letters of Credit outstanding or cancellation of Facility 2.

12. COST OVERRUNS

- 12.1 All cost overruns will be funded by the Borrower with its own funds at the time they are incurred unless approved by the Lender, at its sole option, to be funded from the contingency reserve in the approved project budget, but in any event on a monthly basis.
- 12.2 The Borrower agrees to maintain at all time during the Facility 1 term a contingency amount of no less than the greater of a) 5% of the cost to complete and b) the value as

recommended by the Quantity Surveyor in accordance with the approved project budget, excluding management fees and finance costs.

13. CHANGE ORDERS

13.1 The Borrower shall not make any changes to the Approved Project Budget without the prior written consent of the Lender. Notwithstanding the foregoing, the Borrower shall not require the consent of the Lender in order to apply the contingency amount, subject to the following:

- (a) the financing costs specified in the approved project budget are not amended;
- (b) any change order to an individual budget item does not exceed \$1,000,000;
- (c) the aggregate change orders for all budget items do not exceed \$2,500,000 in the aggregate; and
- (d) the contingency amount is not reduced below the amount required pursuant to Section 12.2.

14. RESTRICTION ON FURTHER FINANCING AND ENCUMBRANCES

Save and except for a charge in favour of the deposit insurer and the mezzanine lender the Borrower agrees not to enter into any further financing of the Property and the Charged Assets and not to further encumber same in any manner without the prior written approval of the Lender which approval may be withheld in the Lender's sole discretion.

15. REALTY TAXES

The Borrower shall pay Taxes to taxing authorities as they fall due and shall supply the Lender with evidence of such payment.

16. PROCESSING FEE

A non-refundable processing fee in the amount of \$4,053,044 (0.65% of Facility 1) is deemed fully earned upon acceptance of a binding credit agreement and confirmation of a successful syndication of the loan as set out in Section 9.1.1 and shall be payable as follows:

- (a) \$250,000 shall have been paid upon acceptance of the term sheet;
- (b) the balance is payable upon and from the initial advance.

17. AGENCY FEE

A non-refundable agency fee in the amount of 0.10% of Facility 1 is deemed fully earned and payable upon execution of a binding credit agreement and confirmation of successful syndication of the Loans as required herein.

18. ADVANCE FEE

In addition to the foregoing, each advance under Facility 1 shall be subject to an advance fee of \$1,000.00.

19. COSTS, FEES AND EXPENSES

The Borrower agrees to pay, regardless of whether any portion of the Loans is advanced, all costs, fees and expenses in connection with the transaction.

20. ASSIGNMENT BY THE LENDER

The Lender may, without notice to and without the consent of the Borrower, the Beneficial Owner or the Guarantor, assign, syndicate, securitize, transfer or grant participation interests in the whole or any part of the Loans and any and all rights, title, benefits, remedies and obligations relating thereto.

21. PROFESSIONAL ADVISORS

The Lender's solicitors, the quantity surveyor and the insurance consultant will be determined by the Lender.

Notwithstanding the foregoing, the Lender agrees that Altus Group Ltd. is acceptable as the Quantity Surveyor for the Project.

The Lender agrees that CBRE is acceptable as the appraiser for the Project.

The Lender agrees that WSP Canada Inc. is an acceptable environmental and geotechnical consultant for the Project.

22. SCHEDULES

All schedules attached herein shall form part of this term sheet.


23. TIME FOR ACCEPTANCE

In order to proceed, please return to us the duly signed term sheet along with a cheque payable to "Otera Capital Inc." in the amount set forth in Section 16 and the Schedules I and II herein duly completed and signed.

This term sheet is open for acceptance until 5:00 PM Eastern Standard Time on Friday March 29, 2019 after which it shall be null and void.

Signature Pages Follow

OTÉRA CAPITAL INC.

By: 
Name: Leonard Damiani
Title: Authorized Signing Officer

By: 
Name: Paul Chin
Title: Authorized Signing Officer

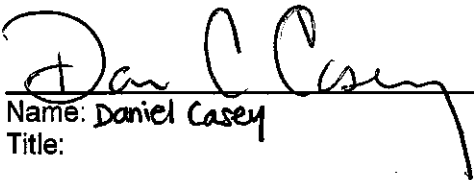
ACCEPTANCE

We understand that the terms and conditions presented herein are subject to final approval by the Lender and that a credit agreement will thereafter be transmitted to us according to the terms of that decision.

By signing this document, the Borrower and, if applicable, the Beneficial Owner and the Guarantor, agree that the Lender may obtain all information about the Borrower and, if applicable, the Beneficial Owner and the Guarantor, including but not limited to, information from credit bureaus or any other information sources and they agree to provide any information necessary for the Lender's due diligence. Personal information provided during the Lender's due diligence process will be kept confidential in accordance with applicable laws and regulations related to the protection of personal information.

BORROWER

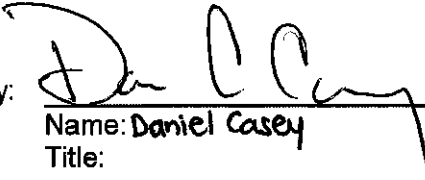
YSL Residences Inc.

By: 
Name: Daniel Casey
Title:

By: _____
Name:
Title:

BENEFICIAL OWNER

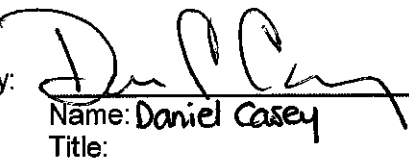
YG Limited Partnership

By: 
Name: Daniel Casey
Title:

By: _____
Name:
Title:

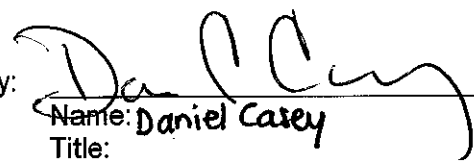
GUARANTORS

Cresford (Rosedale) Developments Inc.

By: 
Name: Daniel Casey
Title:

By: _____
Name:
Title:

Daniel Casey

By: 
Name: Daniel Casey
Title:

By: _____
Name:
Title:

SCHEDULE I

In order to comply with Canada's Anti-Spam Legislation, we would also like to obtain your consent regarding our commercial electronic messages, including:

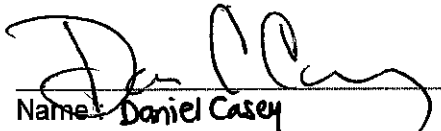
- publications;
- invitations to our conferences and events; and
- news

Please select one of the following boxes to consent to or opt out of receiving future commercial electronic messages mentioned above.

YES

NO

At any time, you will have the option to unsubscribe by contacting us at the following e-mail address publications@oteracapital.com.


Name: Daniel Casey
Title :

dcasey@cresford.com
E-mail
Date : February 21, 2019

Name :
Title :

E-mail
Date :

Name :
Title :

E-mail
Date :

SCHEDULE II

In order to complete the review of your file, the attached KYC Form (Schedule II) has to be duly completed and signed by the appropriate parties.



APPENDIX B – CAPITAL COST & COST TO COMPLETE SUMMARY



APPENDIX C – DRAFT MARGIN CALCULATION



APPENDIX D – DEPOSIT MARGIN CALCULATION

WESTMOUNT GUARANTEE MARGIN

	RECOMMENDED FUNDING	CURRENT ADVANCE
GROSS COST INCURRED	329,048,607	329,048,607
LESS		
HOLDBACK	(424,864)	(424,864)
EQUITY - CASH & LAND	(75,000,000)	(75,000,000)
APPRAISAL SURPLUS	(37,500,000)	(37,500,000)
MEZZANINE MORTGAGE	(75,000,000)	(75,000,000)
MEZZANINE INTEREST RESERVE	0	0
CONSTRUCTION LOAN		
LAND ADVANCE	0	0
- ADDITIONAL PRE-CONSTRUCTION ADVANCES	0	0
- HARD & SOFT COST ADVANCES	(44,671,902)	(44,671,902)
FUNDS REQUIRED	96,451,841	96,451,841
LESS		
DEPOSIT ADVANCE (Initial)	15,620,000	15,620,000
DEPOSIT ADVANCE (Subsequent)	80,831,841	80,831,841
FUNDS ADVANCED	96,451,841	96,451,841
	CHECK	0
EXCESS/(SHORTFALL)	0	0



APPENDIX E – COST-TO-DATE RECONCILIATION



YSL - 373 Yonge Street
Toronto, Ontario

Report No : Prelim & Report No. 1
Date : 24-Sep-19
Job No : 101295

<u>RECONCILIATION TO BORROWER'S COST REPORT</u>			
	Borrower	Altus Group	Variance
Gross Costs Incurred	329,798,607	329,798,607	(0)
Holdback	(424,864)	(424,864)	0
Net Costs Incurred	329,373,743	329,373,743	(0)
Rounding			-
Variance			0
Reconciles			0

1



APPENDIX F – BORROWER’S ACCOUNTING DOCUMENTS

YG Limited Partnership
For the Month Ending August 31, 2019
Construction Cost Summary

Cost code	Altus Draw Report	Variance	Revised Budget	Cost to Date	Previous Period	Current Draw	Cost to Complete	Deferred Costs	Notes
LAND									
000101	Land	-	207,673,906	207,673,906	207,673,906	-	-	-	
000211	Land Taxes, Legal & Acquisition Costs	-	6,472,758	6,472,758	6,472,758	-	-	-	
000222	Parkland Dedication	-	18,000,000	-	-	-	18,000,000	-	
000221	School Board Levies	-	2,331,000	-	-	-	2,331,000	-	
000223	Development Charges	-	40,500,810	-	-	-	40,500,810	-	
	Section 37 Fees & Public Art	-	7,880,000	39,000	39,000	-	7,841,000	-	
		-	282,858,474	214,185,664	214,185,664	-	68,672,810	-	
CONSTRUCTION									
CCR	Construction of Units	3,564,520	340,675,202	1,462,700	1,364,480	98,220	339,212,502	-	
CCR	Construction Contingency	6,958,185	23,813,719	-	-	-	23,813,719	-	
018100	Construction Management Fees	10,381,350	10,381,350	1,578,460	1,446,922	131,538	8,802,890	-	
	Pre Construction Management Fees	-	1,652,332	1,652,332	-	-	-	-	
018200	Crestford - Construction Admin Fees	1,782,132	1,782,132	270,769	248,205	22,564	1,511,363	-	
	Pre Development Costs	-	396,400	396,400	-	-	-	-	
002220	Demolition & Heritage Retention	100,000	3,415,000	3,018,962	2,597,050	421,912	396,038	-	
040017	Soil Remediation Allowance	-	700,000	-	-	-	700,000	-	
043002	Site Connection & Other Misc Cost	-	1,782,464	132,516	128,512	4,004	1,649,948	-	
001240	Staging	-	3,016,000	-	-	-	3,016,000	-	
047000	Heritage Restoration	-	2,935,000	274,675	-	274,675	2,660,325	-	
	Hearings & Staging Areas	-	800,000	-	-	-	800,000	-	
044000	FF&E	-	3,000,000	-	-	-	3,000,000	-	
045000	Tiebacks	(75,000)	2,525,000	2,475,000	-	2,475,000	50,000	-	
047001	Taxon Enrolment	-	1,614,800	1,600	1,600	-	1,613,000	-	
046001	Building/Misc Permits	75,000	4,537,540	669,534	569,306	101,248	3,867,986	-	
		10,622,705	403,026,739	11,932,988	8,403,807	3,529,161	391,093,771	3,000,000	
DESIGN									
051001	Architect	-	8,200,000	3,274,791	2,575,924	698,867	4,925,209	-	
051007	Interior Design Consultant	-	820,000	-	-	-	820,000	-	
051004	Structural Engineer	-	1,173,698	393,398	393,398	-	780,300	-	
051005	Mechanical & Electrical Engineer	-	820,000	414,076	384,449	29,627	405,924	-	
	Cost Planning Consultant	-	200,000	-	-	-	200,000	-	
050024	Dewatering Consultant	-	32,140	12,140	12,140	-	20,000	-	
052004	Elevator Consultant	-	35,025	21,200	21,200	-	13,825	-	
051011	Landscape Architect	-	156,863	61,038	58,765	2,273	95,825	-	
051010	Soil & Environmental	-	362,610	280,473	270,640	9,833	82,137	-	
052003	Bulletin 19 Consultant/Testing Consultant	-	398,793	13,421	13,421	-	385,372	-	
052009	Wind Consultant	-	319,000	270,750	270,750	-	48,250	-	
051009	Civil Engineering & SWM Fees	-	97,290	-	-	-	97,290	-	
052005	Surveyor	-	412,966	38,939	39,164	(225)	374,027	-	
052008	Acoustical Consultant	-	22,762	19,699	19,699	-	3,063	-	
051012	Shoring Consultant (including Shoring Monitoring)	-	291,199	153,653	127,474	26,379	137,346	-	
052011	Planning Consultant	-	847,691	847,691	-	-	-	-	
052029	Traffic Consultant	-	187,084	113,564	113,564	600	73,530	-	
052010	Misc Consultant	-	1,693,321	810,273	767,973	42,300	873,048	-	
		-	77,998	13,743	13,720	23	64,255	-	
053000	Disbursements/Printing	-	16,138,440	6,739,039	5,929,362	809,677	9,398,401	-	

Cost code	Altus Draw Report	Variance	Revised Budget	Cost to Date	Previous Period	Current Draw	Cost to Complete	Deferred Costs	Notes
LEGAL & ADMINISTRATION									
062004	1,500,000	-	1,500,000	1,114,817	1,077,872	36,945	385,183		
062002	600,000	-	600,000	526,697	276,697	250,000	73,303		
060041	1,105,000	-	1,105,000	7,650,001	7,295,864	354,167	1,105,000		
060001	31,025,000	(1,928,373)	2,870,343	2,870,343	360,984	2,509,359	23,374,999	1,066,957	
062013	4,798,716	(4,000,000)	22,940,558	6,639,178	6,236,855	402,323	16,301,380		
064002	65,969,274	(5,928,373)	60,040,901	18,801,036	15,248,242	3,552,794	41,239,865	1,056,957	
MARKETING SALES LEASING									
070045/63/002	7,878,444	-	7,878,444	3,557,791	3,546,228	11,563	4,320,653		
072001	47,816,395	-	47,816,395	6,400,000	6,400,000	-	41,416,395	23,322,307	
072022	17,211,304	-	17,211,304	12,698,105	12,698,105	-	4,513,199		
073017	4,841,607	-	4,841,607	-	-	-	4,841,607		
073004	1,155,000	-	1,155,000	-	-	-	1,155,000		
070051	1,690,000	-	1,690,000	1,690,000	400,000	1,290,000	-	1,057,500	
	2,210,000	-	2,210,000	-	-	-	2,210,000		
	250,000	-	250,000	-	-	-	250,000		
	83,052,750	-	83,052,750	24,345,596	23,044,333	1,301,563	58,706,854	24,979,807	
OPERATING EXPENSES									
	2,583,113	-	2,583,113	-	-	-	2,583,113		
	2,583,113	-	2,583,113	-	-	-	2,583,113		
FINANCE									
081004	15,655,108	-	15,655,108	15,655,108	7,076,519	8,576,589	-		
082002	9,132,800	-	9,132,800	395,393	22,607	395,393	8,737,207		
083004	426,900	-	426,900	38,771	444,339	36,164	366,129		
080057	544,339	-	544,339	444,339	-	-	100,000		
085001	562,500	-	562,500	-	-	-	562,500		
080059	589,956	-	589,956	111,707	98,458	13,249	478,249		
080060	(2,982,706)	-	(2,982,706)	-	-	-	(2,982,706)		
086010	2,740,143	-	2,740,143	-	-	-	2,740,143		
	6,222,182	-	6,222,182	5,559,682	4,955,515	604,167	662,500		
	7,514,605	-	7,514,605	7,514,605	7,514,605	-	-		
	22,074,805	-	22,074,805	22,074,805	22,074,805	-	-		
	56,031,094	(500,000)	57,531,094	189,571	-	189,571	57,341,523		
	5,899,729	-	5,899,729	144,643	-	144,643	5,754,886		
	125,411,255	(500,000)	125,911,255	52,148,624	42,188,648	9,959,977	73,762,431	(242,563)	
CONTINGENCY									
	20,839,271	(4,194,332)	16,644,939	-	-	-	16,644,939		
	20,839,271	(4,194,332)	16,644,939	-	-	-	16,644,939		
GOVERNMENT TAXES									
GL 4200	60,679,505	-	60,679,505	1,755,240	1,589,044	166,196	58,924,265		
GL 4201	(60,679,505)	-	(60,679,505)	(860,060)	(860,060)	-	(59,819,445)		
	-	-	-	895,180	729,984	166,196	(895,180)		
	990,256,611	-	990,256,611	329,048,607	309,729,240	19,319,367	661,208,004	28,794,201	
OFFSETTING INCOME RECEIVED									
090068	(9,607,779)	-	(9,607,779)	-	-	-	(9,607,779)		
	(9,607,779)	-	(9,607,779)	-	-	-	(9,607,779)		

Cost code	Altus Draw Report	Variance	Revised Budget	Cost to Date	Previous Period	Current Draw	Cost to Complete	Deferred Costs	Notes
	NET PROJECT BUDGET								
	Holdback retained	-	980,648,832	329,048,607	309,729,240	19,319,367	651,600,225	28,794,201	
	Holdback released	-	-	(424,864)	(359,705)	(65,159)	424,864	-	
	NET PROJECT BUDGET - LESS HOLDBACKS								
		-	980,648,832	328,623,744	309,369,535	19,254,209	652,025,088	28,794,201	
	MEZZANINE INTEREST RESERVE								
088001	Interest on Mezzanine Loan	-	80,000,000	750,000	-	750,000	79,250,000	-	
	NET PROJECT BUDGET - KINGSETT								
		-	80,000,000	750,000	-	750,000	79,250,000	-	
	TOTAL PROJECT BUDGET								
		-	1,060,648,832	329,373,744	309,369,535	20,004,209	731,275,088	28,794,201	
	Source of Funding								
	Lender's Sources								
	Land Advance	-	100,000,000	100,000,000	100,000,000	-	-	-	
	Land Advance (Contira)	-	100,000,000	100,000,000	-	100,000,000	-	-	
	Construction Loan	-	623,545,136	44,171,977	-	44,171,977	579,373,159	-	
	Equity - Cash & Land	-	76,114,547	76,114,547	76,114,547	-	-	-	
	Repatriation of Equity	-	1,114,547	-	-	1,114,547	-	-	
	Retail Deposit	-	14,664,655	-	-	-	14,664,655	-	
	Appraisal Surplus	-	37,500,000	37,500,000	37,500,000	-	-	-	
	Mezzanine Mortgage	-	75,000,000	75,000,000	75,000,000	-	-	-	
	Tarion & Excess Deposits	-	126,144,840	96,951,767	95,754,988	1,196,779	28,794,201	28,794,201	
	Deferred Costs	-	28,794,201	750,000	-	750,000	79,250,000	-	
	MEZZANINE INTEREST RESERVE								
		-	1,060,648,832	329,373,744	309,369,535	20,004,209	731,275,088	28,794,201	
	CHECK								
	Letter of Credit Loan	-	-	4,230,565	4,230,565	-	3,269,435	-	
	Letter of Credit Refund	-	-	(7,500,000)	-	-	(7,500,000)	-	
	ACCRUALS								
	Current								
	Appraisal Surplus	-	37,500,000	37,500,000	37,500,000	-	-	-	
064002	Realty Tax - September 1st	-	-	402,343	402,343	-	-	-	
086010	Letter of Credit Cash Collateralized	-	4,230,565	4,230,565	4,230,565	-	-	-	
086010	Timbercreek Interest Accrual - September 1	-	604,167	604,167	604,167	-	-	-	
086010	Timbercreek Extension Fee Accrual	-	-	-	-	-	-	-	
082002	Deposit Insurance & Bond Premiums	-	395,393	-	-	395,393	-	-	Deposit Insurance (Jul - Sep) - \$234K Collection Bond (Sep - Dec) - \$151K
073004	Sales Office Construction/Rental	-	1,690,000	400,000	400,000	1,290,000	-	-	Olera Processing Fee - \$4,053,044 net of \$250K deposit (0.65%) Olera Agency Fee - \$623,646 (0.16%) Kingslet Mezz Fee - \$3,100,000 net of \$250K deposit (2%) Other - \$1,300,000
072001	Commissions Accrual	-	3,550,939	3,920,437	3,920,437	369,498	-	-	3.20% per annum over one month CDOR
081004	Commitment Fees	-	8,576,589	-	-	8,576,589	-	-	0.30% per annum Portion due 30 days prior to below grade work and another portion 30 days after zoning Lenders legal
088001	Interest on Construction Loan	-	189,571	-	-	189,571	-	-	5.15%
088001	Interest on Mezzanine Loan	-	750,000	-	-	750,000	-	-	12.00%
087001	Stand By Fee	-	144,843	-	-	144,843	-	-	0.30%
045000	Tiebacks	-	2,475,000	-	-	2,475,000	-	-	
062002	Legal Fees - Finance	-	250,000	-	-	250,000	-	-	
	Total (Net of Appraisal Surplus)		22,857,067	9,557,512	9,557,512	13,299,556			

Note: Above accruals are not included in the General Ledger

20 - YG Limited Partnership						
Detailed Cost Ledger: Aug 01, 2019 thru Aug 31, 2019						
Date	JR	Audit#	Reference	Description	Amount	
000223-LAND Section 37 / Land						
				Opening Balance		39,000.00
				Tot.Period \$ 0.00		39,000.00
				Total Item 000223		39,000.00
001010-CGEN Project Manager / Construction General						
				Opening Balance		20,286.06
31-Aug-19	GJ	GJ0782	BK Aug16	PM Salary - July 15		3,381.01
31-Aug-19	GJ	GJ0782	BK Aug16	PM Salary - July 31		3,381.01
31-Aug-19	GJ	GJ0783	BK Aug28	PM Salary - Aug 15		3,381.01
31-Aug-19	GJ	GJ0783	BK Aug28	PM Salary - Aug 31		3,381.01
31-Aug-19	GJ	GJ0786	BK Aug16	PM Salary - July 15		488.89
31-Aug-19	GJ	GJ0786	BK Aug28	PM Salary - Aug 15		235.19
				Tot.Period \$ 14,248.12		34,534.18
				Total Item 001010		34,534.18
001020-CGEN Sites Superintendent / Construction General						
				Opening Balance		94,598.98
13-Aug-19	PJ	PJ0618	Inv#000010	1505840 Ontario Inc.		800.00
13-Aug-19	PJ	PJ0618	Inv#000011	1505840 Ontario Inc.		20,833.33
				Tot.Period \$ 21,633.33		116,232.31
				Total Item 001020		116,232.31
001040-CGEN Site Labour / Construction General						
				Opening Balance		84,765.34
31-Aug-19	PJ	PJ0632	PYRLLAUG19	2460242 Ontario Inc.		2,271.05
31-Aug-19	PJ	PJ0632	PYRLLAUG19	2460242 Ontario Inc.		1,318.69
31-Aug-19	PJ	PJ0632	PYRLLAUG19	2460242 Ontario Inc.		1,923.71
31-Aug-19	PJ	PJ0632	PYRLLAUG19	2460242 Ontario Inc.		2,371.89
31-Aug-19	PJ	PJ0632	PYRLLAUG19	2460242 Ontario Inc.		2,170.22
31-Aug-19	PJ	PJ0632	UNIONAUG19	2460242 Ontario Inc.		4,525.43
31-Aug-19	PJ	PJ0637	Inv#003086	Reco Cleaning Services		12,255.00
				Tot.Period \$ 26,835.99		111,601.33
				Total Item 001040		111,601.33
001050-CGEN Security Labour / Construction General						
				Opening Balance		21,523.40
31-Aug-19	PJ	PJ0635	In19048453	Best Guard Security Inc.		5,567.94
31-Aug-19	PJ	PJ0635	In19088752	Best Guard Security Inc.		5,455.01
31-Aug-19	PJ	PJ0635	In19078678	Best Guard Security Inc.		4,055.66
				Tot.Period \$ 15,078.61		36,602.01
				Total Item 001050		36,602.01
001140-CGEN Temporary Sanitary Facilities / Construction General						
				Opening Balance		-
31-Aug-19	PJ	PJ0635	Inv#069414	You-Go Rental & Sales		594.20
				Tot.Period \$ 594.20		594.20
				Total Item 001140		594.20
001200-CGEN Hoarding & Temporary Barriers / Construction General						
				Opening Balance		989.80
31-Aug-19	PJ	PJ0641	Inv#136411	Rapid Equipment Rental Limited		280.00
				Tot.Period \$ 280.00		1,269.80
				Total Item 001200		1,269.80
001220-CGEN Site Office / Construction General						
				Opening Balance		13,050.00

20 - YG Limited Partnership						
Detailed Cost Ledger: Aug 01, 2019 thru Aug 31, 2019						
Date	JR	Audit#	Reference	Description	Amount	
				Tot.Period \$ 0.00		13,050.00
				Total Item 001220		13,050.00
				001260-CGEN Safety Inspections / Construction General		
				Opening Balance		4,202.00
31-Aug-19	PJ	PJ0635	Inv#013226	Safeline Management Systems In		960.00
				Tot.Period \$ 960.00		5,162.00
				Total Item 001260		5,162.00
				001290-CGEN Large Equipment Rental / Construction General		
				Opening Balance		2,000.00
				Tot.Period \$ 0.00		2,000.00
				Total Item 001290		2,000.00
				001300-CGEN Small Equipment Rental / Construction General		
				Opening Balance		640.90
31-Aug-19	PJ	PJ0635	1063723-01	Stephenson's Rental Services		508.90
31-Aug-19	PJ	PJ0642	1063144-02	Stephenson's Rental Services		310.00
				Tot.Period \$ 818.90		1,459.80
				Total Item 001300		1,459.80
				001310-CGEN General Construction Supplies / Construction General		
				Opening Balance		6,137.30
19-Aug-19	PJ	PJ0623	2019-0708	Darren Carmichael		170.35
31-Aug-19	PJ	PJ0635	P010241596	Investments Hardware Limited		293.47
31-Aug-19	PJ	PJ0635	P010241595	Investments Hardware Limited		197.64
31-Aug-19	PJ	PJ0635	P010237299	Investments Hardware Limited		936.80
31-Aug-19	PJ	PJ0635	1063967-01	Stephenson's Rental Services		1,078.70
31-Aug-19	PJ	PJ0635	1063552-01	Stephenson's Rental Services		294.90
31-Aug-19	PJ	PJ0636	P010238999	Investments Hardware Limited		165.33
31-Aug-19	PJ	PJ0640	P010238781	Investments Hardware Limited		389.85
				Tot.Period \$ 3,527.04		9,664.34
				Total Item 001310		9,664.34
				001340-CGEN Site Travel / Construction General		
				Opening Balance		2,943.77
19-Aug-19	PJ	PJ0622	2019-0802	Louie Giannakopoulos		163.92
19-Aug-19	PJ	PJ0623	2019-0708	Darren Carmichael		1,331.56
19-Aug-19	PJ	PJ0624	2019-0731	Ryan Millar		67.70
21-Aug-19	PJ	PJ0628	2019-0820	Ryan Millar		18.05
				Tot.Period \$ 1,581.23		4,525.00
				Total Item 001340		4,525.00
				002220-CGEN Building Demolition / Construction General		
				Opening Balance		2,597,050.00
31-Aug-19	PJ	PJ0635	Inv#029023	Priestly Demolition Inc.		376,912.25
31-Aug-19	PJ	PJ0635	Inv#005874	Laurie McCulloch Building Movi		45,000.00
				Tot.Period \$ 421,912.25		3,018,962.25
				Total Item 002220		3,018,962.25
				002250-CCON Shoring / Construction Contract		
				Opening Balance		600,000.00
				Tot.Period \$ 0.00		600,000.00
				Total Item 002250		600,000.00
				003100-CCON Concrete Forming / Construction Contract		

20 - YG Limited Partnership					
Detailed Cost Ledger: Aug 01, 2019 thru Aug 31, 2019					
Date	JR	Audit#	Reference	Description	Amount
				Opening Balance	500,000.00
				Tot.Period \$ 0.00	500,000.00
				Total Item 003100	500,000.00
003210-CCON Reinforcing Steel - Material / Construction Contract					
				Opening Balance	832.50
				Tot.Period \$ 0.00	832.50
				Total Item 003210	832.50
003300-CCON Cast-in-Place Concrete / Construction Contract					
				Opening Balance	10,990.40
31-Aug-19	PJ	PJ0635	711285284	Innocon Partnership	4,293.00
31-Aug-19	PJ	PJ0635	710703346	Innocon Partnership	5,151.60
31-Aug-19	PJ	PJ0641	711210281	Innocon Partnership	858.60
31-Aug-19	PJ	PJ0641	711053875	Innocon Partnership	858.60
				Tot.Period \$ 11,161.80	22,152.20
				Total Item 003300	22,152.20
003940-CGEN Concrete Cutting & Drilling / Construction General					
				Opening Balance	-
31-Aug-19	PJ	PJ0635	Inv#020550	Baaron Group Inc.	1,500.00
				Tot.Period \$ 1,500.00	1,500.00
				Total Item 003940	1,500.00
016500-CGEN Lighting / Construction General					
				Opening Balance	1,520.00
				Tot.Period \$ 0.00	1,520.00
				Total Item 016500	1,520.00
018100-CGEN Construction Management Fees / Construction General					
				Opening Balance	1,446,921.69
31-Aug-19	GJ	GJ0779	SepFees	Sep Construction Mgt Fee	131,538.00
				Tot.Period \$ 131,538.00	1,578,459.69
				Total Item 018100	1,578,459.69
018200-CGEN Cresford Management Fee / Construction General					
				Opening Balance	248,204.82
31-Aug-19	GJ	GJ0779	SepFees	Sep Construction Admin Fee	22,564.00
				Tot.Period \$ 22,564.00	270,768.82
				Total Item 018200	270,768.82
040018-OTHR Building/Misc Permits / Construction Other					
				Opening Balance	-
19-Aug-19	PJ	PJ0627	2019-0819	Yannick Muellenbach	20,000.00
31-Aug-19	PJ	PJ0631	2019-0831	Yannick Muellenbach	75,000.00
				Tot.Period \$ 95,000.00	95,000.00
				Total Item 040018	95,000.00
043002-CGEN Storm / sewer / water Connections / Construction Genera					
				Opening Balance	128,511.59
31-Aug-19	PJ	PJ0642	300003440	Toronto Hydro-Electric System	4,004.68
				Tot.Period \$ 4,004.68	132,516.27
				Total Item 043002	132,516.27

20 - YG Limited Partnership						
Detailed Cost Ledger: Aug 01, 2019 thru Aug 31, 2019						
Date	JR	Audit#	Reference	Description	Amount	
047000-CCON Heritage Restoration / Construction Contract						
				Opening Balance	-	
13-Aug-19	PJ	PJ0619	1520-01	Heritage Restoration Inc	170,500.00	
31-Aug-19	PJ	PJ0642	1520-02	Heritage Restoration Inc	104,175.00	
				Tot.Period \$ 274,675.00	274,675.00	
Total Item 047000					274,675.00	
048001-CGEN Building Permit Fee / Construction General						
				Opening Balance	84,327.83	
21-Aug-19	PJ	PJ0628	2019-0820	Ryan Millar	5,089.26	
				Tot.Period \$ 5,089.26	89,417.09	
048001-OTHR Building Permit Fee / Construction Other						
				Opening Balance	26,687.84	
19-Aug-19	PJ	PJ0624	2019-0731	Ryan Millar	590.52	
29-Aug-19	PJ	PJ0630	2019-0829	Julie Dowbiggin	568.71	
				Tot.Period \$ 1,159.23	27,847.07	
Total Item 048001					117,264.16	
051001-DCON Architect / Consultant Contract						
				Opening Balance	793,782.21	
31-Aug-19	PJ	PJ0633	Inv#059322	Kohn Pedersen Fox Associates P	205,700.00	
31-Aug-19	GJ	GJ0783	BK Aug30	#59322 Kohn Pedersen Fox	208,292.19	
31-Aug-19	PJ	PJ0635	Inv#059702	Kohn Pedersen Fox Associates P	611,500.00	
31-Aug-19	PJ	PJ0635	Inv#012974	Architects Alliance	80,000.00	
31-Aug-19	PJ	PJ0635	Inv#012959	Architects Alliance	274.78	
31-Aug-19	PJ	PJ0642	Inv#059704	Kohn Pedersen Fox Associates P	4,500.00	
				Tot.Period \$ 698,866.97	1,492,649.18	
Total Item 051001					1,492,649.18	
051004-DCON Structural Engineer / Consultant Contract						
				Opening Balance	127,095.00	
				Tot.Period \$ 0.00	127,095.00	
Total Item 051004					127,095.00	
051005-DCON Mechanical Engineer / Consultant Contract						
				Opening Balance	178,000.00	
31-Aug-19	PJ	PJ0635	Inv#019176	Lam & Associates Ltd.	20,000.00	
				Tot.Period \$ 20,000.00	198,000.00	
051005-DEXT Mechanical Engineer / Consultant Extra						
				Opening Balance	652.15	
31-Aug-19	PJ	PJ0635	Inv#019177	Lam & Associates Ltd.	87.78	
31-Aug-19	PJ	PJ0635	Inv#019178	Lam & Associates Ltd.	9,332.40	
31-Aug-19	PJ	PJ0635	Inv#019100	Lam & Associates Ltd.	206.01	
				Tot.Period \$ 9,626.19	10,278.34	
051005-DGEN Mechanical Engineer / Consultant General						
				Opening Balance	7,291.21	
				Tot.Period \$ 0.00	7,291.21	
Total Item 051005					215,569.55	
051010-DGEN Soil / Environmental / Consultant General						
				Opening Balance	33,041.50	
31-Aug-19	PJ	PJ0635	Inv0858510	WSP Canada Inc.	8,980.00	
31-Aug-19	PJ	PJ0636	Inv0858121	WSP Canada Inc.	853.50	
				Tot.Period \$ 9,833.50	42,875.00	
Total Item 051010					42,875.00	
051011-DCON Landscaping Consultant / Consultant Contract						
				Opening Balance	5,630.35	

20 - YG Limited Partnership					
Detailed Cost Ledger: Aug 01, 2019 thru Aug 31, 2019					
Date	JR	Audit#	Reference	Description	Amount
31-Aug-19	PJ	PJ0635	JR-1915909	JanetRosenberg&Studio Inc.	2,272.50
				Tot.Period \$ 2,272.50	7,902.85
				Total Item 051011	7,902.85
051012-DCON Shoring Engineer / Consultant Contract					
				Opening Balance	63,248.40
31-Aug-19	PJ	PJ0639	603401M12	Isherwood	23,358.60
31-Aug-19	PJ	PJ0642	1603401113	Isherwood	3,020.00
				Tot.Period \$ 26,378.60	89,627.00
				Total Item 051012	89,627.00
052003-DGEN Inspection & Testing/ Bulletin 19 / Consultant General					
				Opening Balance	393.00
				Tot.Period \$ 0.00	393.00
				Total Item 052003	393.00
052004-DGEN Elevator Consultant / Consultant General					
				Opening Balance	10,350.00
				Tot.Period \$ 0.00	10,350.00
				Total Item 052004	10,350.00
052005-DGEN Surveyor / Consultant General					
				Opening Balance	12,297.93
13-Aug-19	PJ	PJ0621	Inv#040661	R. Avis Surveying Inc.	1,625.00
31-Aug-19	PJ	PJ0635	Inv#040878	R. Avis Surveying Inc.	1,400.00
				Tot.Period \$ -225.00	12,072.93
				Total Item 052005	12,072.93
052008-DGEN Acoustical Consultant / Consultant General					
				Opening Balance	10,369.32
				Tot.Period \$ 0.00	10,369.32
				Total Item 052008	10,369.32
052009-DCON Wind Consultant / Consultant Contract					
				Opening Balance	116,750.00
				Tot.Period \$ 0.00	116,750.00
				Total Item 052009	116,750.00
052010-CGEN Miscellaneous Consultants / Construction General					
				Opening Balance	1,610.00
				Tot.Period \$ 0.00	1,610.00
052010-DGEN Miscellaneous Consultants / Consultant General					
				Opening Balance	386,535.02
19-Aug-19	PJ	PJ0626	Inv#012619	Lannick Group Inc.	17,000.00
31-Aug-19	PJ	PJ0635	160303-04	PETRA Consultants Ltd.	11,979.00
31-Aug-19	PJ	PJ0635	20-19-211	Hunter & Associates Ltd.	1,875.00
31-Aug-19	PJ	PJ0638	Inv#030807	Entuitive Corporation	1,500.00
31-Aug-19	PJ	PJ0642	Inv#029392	E.R.A. Architects Inc.	1,081.44
31-Aug-19	PJ	PJ0642	WO#2	E.R.A. Architects Inc.	4,300.00
31-Aug-19	PJ	PJ0642	Inv#029228	E.R.A. Architects Inc.	2,514.25
31-Aug-19	PJ	PJ0642	Inv#001656	BVDA Group Ltd.	500.00
31-Aug-19	PJ	PJ0642	19-808	The Odan/Detech Group Inc.	325.00
31-Aug-19	PJ	PJ0642	19-807	The Odan/Detech Group Inc.	1,225.00
				Tot.Period \$ 42,299.69	428,834.71

20 - YG Limited Partnership						
Detailed Cost Ledger: Aug 01, 2019 thru Aug 31, 2019						
Date	JR	Audit#	Reference	Description	Amount	
				Total Item 052010	428,894.71	
052029-DGEN Transportation Consultant / Consultant General						
				Opening Balance	26,400.00	
31-Aug-19	PJ	PJ0635	Inv#065504	BA Consulting Group Ltd.	600.00	
				Tot.Period \$ 600.00	27,000.00	
				Total Item 052029	27,000.00	
053000-DGEN Disbursements/Blueprinting / Consultant General						
				Opening Balance	2,881.86	
31-Aug-19	PJ	PJ0635	E058824	Reprodux Limited	23.50	
				Tot.Period \$ 23.50	2,905.36	
				Total Item 053000	2,905.36	
061001-ADMN Development Management Fee / General & Administrative						
				Opening Balance	3,895,834.33	
31-Aug-19	GJ	GJ0779	SepFees	Sep Development Fee	354,167.00	
				Tot.Period \$ 354,167.00	4,250,001.33	
				Total Item 061001	4,250,001.33	
062004-ADMN Legal - General / General & Administrative						
				Opening Balance	241,429.26	
31-Aug-19	PJ	PJ0635	Inv#665010	Blaney McMurtry LLP	4,320.00	
31-Aug-19	PJ	PJ0635	Inv#665008	Blaney McMurtry LLP	2,338.00	
31-Aug-19	PJ	PJ0635	Inv#665009	Blaney McMurtry LLP	8,881.35	
31-Aug-19	PJ	PJ0635	Inv#641841	Aird & Berlis LLP	19,828.75	
31-Aug-19	PJ	PJ0642	Inv#009418	Bogart Robertson & Chu LLP	1,576.52	
				Tot.Period \$ 36,944.62	278,373.88	
				Total Item 062004	278,373.88	
062013-CGEN Insurance / Construction General						
				Opening Balance	91,919.33	
31-Aug-19	PJ	PJ0643	Inv#326213	Arthur J. Gallagher Canada Lim	900,342.00	
31-Aug-19	PJ	PJ0643	Inv#330373	Arthur J. Gallagher Canada Lim	1,609,016.40	
				Tot.Period \$ 2,509,358.40	2,601,277.73	
				Total Item 062013	2,601,277.73	
063002-ADMN Miscellaneous - Admin / General & Administrative						
				Opening Balance	12,578.43	
				Tot.Period \$ 0.00	12,578.43	
				Total Item 063002	12,578.43	
064002-ADMN Realty Taxes During Construction / General & Administra						
				Opening Balance	1,286,725.17	
31-Aug-19	GJ	GJ0780	BK Aug01	Property Tax - 385 Yonge	148,753.00	
31-Aug-19	GJ	GJ0780	BK Aug01	Property Tax - 363 Yonge	59,143.00	
31-Aug-19	GJ	GJ0780	BK Aug01	Property Tax - 367 Yonge	18,189.00	
31-Aug-19	GJ	GJ0780	BK Aug01	Property Tax - 369 Yonge	32,700.00	
31-Aug-19	GJ	GJ0780	BK Aug01	Property Tax - 373 Yonge	48,165.00	
31-Aug-19	GJ	GJ0780	BK Aug01	Property Tax - 377 Yonge	23,723.00	
31-Aug-19	GJ	GJ0780	BK Aug01	Property Tax - 379 Yonge	25,298.00	
31-Aug-19	GJ	GJ0780	BK Aug01	Property Tax - 381 Yonge	46,363.00	
31-Aug-19	GJ	GJ0781	BK Aug30	Property Tax - 385 Yonge	148,753.00	
31-Aug-19	GJ	GJ0781	BK Aug30	Property Tax - 363 Yonge	59,143.00	
31-Aug-19	GJ	GJ0781	BK Aug30	Property Tax - 367 Yonge	18,188.15	
31-Aug-19	GJ	GJ0781	BK Aug30	Property Tax - 369 Yonge	32,700.00	
31-Aug-19	GJ	GJ0781	BK Aug30	Property Tax - 373 Yonge	48,165.00	
31-Aug-19	GJ	GJ0781	BK Aug30	Property Tax - 377 Yonge	23,723.00	

20 - YG Limited Partnership					
Detailed Cost Ledger: Aug 01, 2019 thru Aug 31, 2019					
Date	JR	Audit#	Reference	Description	Amount
31-Aug-19	GJ	GJ0781	BK Aug30	Property Tax - 379 Yonge	25,298.00
31-Aug-19	GJ	GJ0781	BK Aug30	Property Tax - 381 Yonge	46,361.61
				Tot.Period \$ 804,665.76	2,091,390.93
Total Item 064002					2,091,390.93
070045-MKTG Marketing & Advertising / Marketing & Sales					
				Opening Balance	1,461,616.26
31-Aug-19	PJ	PJ0635	Inv#086942	Blizzard Courier Service Ltd.	102.93
31-Aug-19	PJ	PJ0635	Inv#087330	Blizzard Courier Service Ltd.	211.84
31-Aug-19	PJ	PJ0642	Inv#019269	Kramer Design Associates Limit	9,750.00
31-Aug-19	PJ	PJ0642	Inv#005581	SP Managed Services Inc	1,498.00
				Tot.Period \$ 11,562.77	1,473,179.03
Total Item 070045					1,473,179.03
072001-MKTG Lead Broker / Marketing & Sales					
				Opening Balance	2,479,563.29
31-Aug-19	PJ	PJ0635	1004-1ST	Powerland Realty, Brokerage	9,449.56
31-Aug-19	PJ	PJ0635	1007-1ST	Bay Street Group Inc	12,812.39
31-Aug-19	PJ	PJ0635	1010-1ST	Bay Street Group Inc	9,626.55
31-Aug-19	PJ	PJ0635	1104-1ST	Bay Street Group Inc	9,449.56
31-Aug-19	PJ	PJ0635	1115-1ST	Royal LePage - Signature Realt	12,989.38
31-Aug-19	PJ	PJ0635	1202-1ST	Bay Street Group Inc	8,587.59
31-Aug-19	PJ	PJ0635	1207-1ST	RE/MAX Realty Enterprises Inc.	12,635.40
31-Aug-19	PJ	PJ0635	1307-1ST	RE/MAX Realty Enterprises Inc.	12,635.40
31-Aug-19	PJ	PJ0635	1309-1ST	HomeLife Landmark Realty Inc.	12,812.39
31-Aug-19	PJ	PJ0635	1407-1ST	RE/MAX Realty Enterprises Inc.	12,635.40
31-Aug-19	PJ	PJ0635	1511-1ST	HomeLife Landmark Realty Inc.	9,272.57
31-Aug-19	PJ	PJ0635	1809-1ST	Master's Choice Realty, Inc.	15,697.35
31-Aug-19	PJ	PJ0635	1920-1ST	Keller Williams Referred	14,281.42
31-Aug-19	PJ	PJ0635	2105-1ST	Royal Elite Realty Inc.,Broker	14,334.51
31-Aug-19	PJ	PJ0635	2205-1ST	Home Standards Brickstone Real	14,352.21
31-Aug-19	PJ	PJ0635	2309-1ST	HomeLife Landmark Realty Inc.	15,785.84
31-Aug-19	PJ	PJ0635	2310-1ST	HomeLife Landmark Realty Inc.	9,024.78
31-Aug-19	PJ	PJ0635	2414-1ST	Forest Hill Real Estate Inc	12,847.79
31-Aug-19	PJ	PJ0635	3102-1ST	HomeLife Landmark Realty Inc.	29,272.57
31-Aug-19	PJ	PJ0635	3217-1ST	HomeLife Landmark Realty Inc.	12,741.59
31-Aug-19	PJ	PJ0635	3603-1ST	HomeLife Landmark Realty Inc.	22,918.58
31-Aug-19	PJ	PJ0635	4115-1ST	HomeLife New World Realty Inc	10,600.00
31-Aug-19	PJ	PJ0635	4206-1ST	Aim Home Realty Inc	13,290.27
31-Aug-19	PJ	PJ0635	4506-1ST	HomeLife Landmark Realty Inc.	13,343.36
31-Aug-19	PJ	PJ0635	5108-1ST	HomeLife Landmark Realty Inc.	16,458.41
31-Aug-19	PJ	PJ0635	5308-1ST	HomeLife Landmark Realty Inc.	16,493.81
31-Aug-19	PJ	PJ0635	5704-1ST	HomeLife Landmark Realty Inc.	15,148.67
				Tot.Period \$ 369,497.35	2,849,060.64
Total Item 072001					2,849,060.64
072022-MKTG Marketing Fee - EDRP / Marketing & Sales					
				Opening Balance	11,338,105.43
				Tot.Period \$ 0.00	11,338,105.43
Total Item 072022					11,338,105.43
081004-FINA Commitment Fees-Loan / Finance					
				Opening Balance	500,000.00
				Tot.Period \$ 0.00	500,000.00
Total Item 081004					500,000.00
083004-FINA Miscellaneous / Finance					
				Opening Balance	22,607.25
31-Aug-19	GJ	GJ0784	BK Aug30	Bank Fees	88.75
31-Aug-19	PJ	PJ0635	Inv#040833	AEC Paralegal Corporation	175.00

20 - YG Limited Partnership					
Detailed Cost Ledger: Aug 01, 2019 thru Aug 31, 2019					
Date	JR	Audit#	Reference	Description	Amount
31-Aug-19	PJ	PJ0635	APRTOR0425	CBRE Limited	10,900.00
31-Aug-19	GJ	GJ0782	BK Aug23	Timbercreek Loan Commitment Fe	25,000.00
				Tot.Period \$ 36,163.75	58,771.00
				Total Item 083004	33,771.00
085001-FINA Project Monitor / Finance					
				Opening Balance	16,502.14
31-Aug-19	PJ	PJ0635	Inv#316663	Altus Group Limited	8,847.60
31-Aug-19	PJ	PJ0635	Inv#315623	Altus Group Limited	4,401.08
				Tot.Period \$ 13,248.68	29,750.82
				Total Item 085001	29,750.82
086010-FINA Timbercreek \$6.5M Int-above reserve / Finance					
				Opening Balance	4,351,348.34
31-Aug-19	GJ	GJ0782	BK Aug01	Timbercreek Interest	604,166.67
				Tot.Period \$ 604,166.67	4,955,515.01
				Total Item 086010	4,955,515.01
					=====

Holdback Summary - YG

August 31, 2019 Draw

Previous net holdback retained	359,705
Holdback retained during period	
Priestly Demolition	37,691
Heritage Restoration Inc.	27,468
Total holdback retained during period	65,159
Holdback Released This Period	-
Net holdback retained	424,864

Summary of Holdbacks Retained

Vendor	Invoice #	Invoice Date	Holdback
Priestly Demolition	028221	02/28/2019	22,560
	028321	03/27/2019	39,806
	028474	04/25/2019	32,803
	028600	05/27/2019	12,842
	028746	06/27/2019	59,732
	028891	07/31/2019	81,962
	029023	08/29/2019	37,691
Verdi	026	07/25/2019	50,000
GFL	22376	06/24/2019	60,000
Heritage Restoration Inc	1520-01	07/01/2019	17,050
	1520-02	08/01/2019	10,418
Total			424,864



APPENDIX G – PROJECTED EXPENDITURE & REVENUE CASHFLOW

Report No: 25-54-39
Job No: 107263

Table with columns for Upper Tower Initial, Upper Tower Change, Upper Tower Final, and rows for Mar-25, Feb-25, Mar-25, Apr-25.

Table with columns for Lower Tower Initial, Lower Tower Change, Lower Tower Final, and rows for Mar-24, Feb-24, Mar-24, Apr-24, May-24, Jun-24, Jul-24, Aug-24, Sep-24, Oct-24, Nov-24, Dec-24.

Table with columns for Lower Tower Initial, Lower Tower Change, Lower Tower Final, and rows for Mar-23, Feb-23, Mar-23, Apr-23, May-23, Jun-23, Jul-23, Aug-23, Sep-23, Oct-23, Nov-23, Dec-23.

Table with columns for Lower Tower Initial, Lower Tower Change, Lower Tower Final, and rows for Mar-22, Feb-22, Mar-22, Apr-22, May-22, Jun-22, Jul-22, Aug-22, Sep-22, Oct-22, Nov-22, Dec-22.

Table with columns for Lower Tower Initial, Lower Tower Change, Lower Tower Final, and rows for Mar-21, Feb-21, Mar-21, Apr-21, May-21, Jun-21, Jul-21, Aug-21, Sep-21, Oct-21, Nov-21, Dec-21.

Table with columns for Lower Tower Initial, Lower Tower Change, Lower Tower Final, and rows for Mar-20, Feb-20, Mar-20, Apr-20, May-20, Jun-20, Jul-20, Aug-20, Sep-20, Oct-20, Nov-20, Dec-20.

Table with columns for Lower Tower Initial, Lower Tower Change, Lower Tower Final, and rows for Mar-19, Feb-19, Mar-19, Apr-19, May-19, Jun-19, Jul-19, Aug-19, Sep-19, Oct-19, Nov-19, Dec-19.

Table with columns: ITEM, Revenue and Source of Funds, and rows for items 1 through 21.

Table with columns: Revenue and Source of Funds, and rows for items 1 through 21.

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APPENDIX H – CONSTRUCTION BUDGET & COST REPORT

Construction Cost Report
at August 31, 2019

DIVISION	CRESFORD CURRENT BUDGET	A	VARIANCE	B	ALTUS GROUP REPORTING BUDGET	6	TRADE DETAILS COMMENTS AND NOTES	CONTRACT/ QUOTES	CHANGE ORDERS	PURCHASE ORDERS	TOTAL COMMITTED	GROSS COST INCURRED	PREVIOUSLY CERTIFIED	CURRENT MONTH	COST TO COMPLETE	%	GROSS HOLDBACK	HOLDBACK RELEASED	NET HOLDBACK
DIVISION 0 - FEES AND COST PRIOR	0		0		0			0	0	0	0	0	0	0	0	0%	0	0	0
DIVISION 1 - GENERAL REQUIREMENTS	24,655,266		0		24,655,266			0	0	336,695	336,695	0	0	24,318,571	0	1%	0	0	0
DIVISION 2 - SITE WORK	11,109,949		0		11,109,949		8,700,000	0	0	600,000	8,700,000	0	0	10,509,949	0	5%	60,000	0	60,000
DIVISION 3 - CONCRETE	113,554,572		0		113,554,572		98,974,738	0	12,540,000	524,485	111,514,738	0	0	113,030,087	0	0%	50,000	0	50,000
DIVISION 4 - MASONRY	1,343,450		0		1,343,450		0	0	0	0	0	0	0	1,343,450	0	0%	0	0	0
DIVISION 5 - METALS	5,439,860		0		5,439,860		0	0	0	0	0	0	0	5,439,860	0	0%	0	0	0
DIVISION 6 - CARPENTRY	10,893,449		0		10,893,449		4,300,000	0	0	0	4,300,000	0	0	10,893,449	0	0%	0	0	0
DIVISION 7-THERMAL/MOISTURE PROTECTION	5,759,285		0		5,759,285		0	0	0	0	0	0	0	5,759,285	0	0%	0	0	0
DIVISION 8 - DOORS & WINDOWS	47,956,462		0		47,956,462		38,602,994	0	0	0	38,602,994	0	0	47,956,462	0	0%	0	0	0
DIVISION 9 - FINISHES	27,312,565		0		27,312,565		0	0	0	0	0	0	0	27,312,565	0	0%	0	0	0
DIVISION 10 - SPECIALTIES	2,390,550		0		2,390,550		0	0	0	0	0	0	0	2,390,550	0	0%	0	0	0
DIVISION 11 - EQUIPMENT	29,100		0		29,100		0	0	0	0	0	0	0	29,100	0	0%	0	0	0
DIVISION 12 - FURNISHINGS	1,486,508		0		1,486,508		0	0	0	0	0	0	0	1,486,508	0	0%	0	0	0
DIVISION 13 - SPECIAL CONSTRUCTION	11,800,000		0		11,800,000		11,800,000	0	0	0	11,800,000	0	0	11,800,000	0	0%	0	0	0
DIVISION 14 - CONVEYING SYSTEMS	46,592,980		0		46,592,980		0	0	0	0	0	0	0	46,592,980	0	0%	0	0	0
DIVISION 15 - MECHANICAL	17,999,005		0		17,999,005		0	0	0	0	0	0	0	17,997,485	0	0%	0	0	0
DIVISION 16 - ELECTRICAL			0				0	0	1,520	1,520	1,520	0	0			0%	0	0	0
SUB-TOTAL	340,675,203		0		340,675,203		172,377,732	0	12,878,215	12,878,215	185,255,947	1,462,700	0	1,462,700	339,212,503	0%	110,000	0	110,000
CONSTRUCTION CONTINGENCY	23,813,719		0		23,813,719		0	0	0	0	23,813,719	0	0	23,813,719	0	0%	0	0	0
TOTAL	364,488,922		0		364,488,922		172,377,732	0	12,878,215	12,878,215	185,255,947	1,462,700	0	1,462,700	363,026,222	0%	110,000	0	110,000
Check	0		0		0		0	0	0	0	0	0	0	0	0	0%	0	0	0
CHECK	-		-		-		0	0	0	0	0	(110,000)	0	(110,000)	(110,000)	0%	0	0	0
							ADD HOLDBACK RELEASE				LESS HOLDBACK								
							ADD HOLDBACK RELEASE				LESS HOLDBACK								
							Net Cost Incurred				363,136,222				363,136,222				etc
							1,352,700		0	0	1,352,700	0	0	1,352,700	363,136,222	0%	0	0	0
							1,352,700		0	0	1,352,700	0	0	1,352,700	363,136,222	0%	0	0	0

Construction Cost Report
at August 31, 2019

DIVISION	CRESFORD CURRENT BUDGET	ALTUS GROUP REPORTING BUDGET	TRADE DETAILS COMMENTS AND NOTES	CONTRACT/ QUOTES	CHANGE ORDERS	PURCHASE ORDERS	TOTAL COMMITTED	GROSS COST INCURRED	PREVIOUSLY CERTIFIED	CURRENT MONTH	COST TO COMPLETE	%	GROSS HOLDBACK	HOLDBACK RELEASED	NET HOLDBACK
DIVISION 0 - FEES AND COST PRIOR															
0100 CM Construction Management Fees	0	0	0 See Capital Cost Summary			0	0	0	0	0	0	0%	N/A		N/A
0100 Cresford Construction Management Fees	0	0	0 See Capital Cost Summary			0	0	0	0	0	0	0%	N/A		N/A
DIVISION 0 - TOTAL	0	0	0	0	0	0	0	0	0	0	0	0%	0	0	0
DIVISION 1 - GENERAL REQUIREMENTS															
1001 Project Manager (Cresford CM Site Labour)	24,655,266	24,318,571				34,534	34,534	0	0	34,534	24,318,571	100%	N/A		N/A
1002 Superintendent		34,534				34,534	34,534	0	0	34,534	0	100%	N/A		N/A
1003 Assistant Superintendent		116,232				116,232	116,232	0	0	116,232	0	100%	N/A		N/A
1004 Assistant Finishing Superintendent		0				0	0	0	0	0	0	0%	N/A		N/A
1005 Hoist Operation		0				0	0	0	0	0	0	0%	N/A		N/A
1006 Office Management		0				0	0	0	0	0	0	0%	N/A		N/A
1007 Clerk		0				0	0	0	0	0	0	0%	N/A		N/A
1008 Safety Fencing		0				0	0	0	0	0	0	0%	N/A		N/A
1009 Site Labour (Incl. Labour Benefit)		111,601				111,601	111,601	0	0	111,601	0	100%	N/A		N/A
1010 Inspection & Testing		0				0	0	0	0	0	0	0%	N/A		N/A
1011 Hydro Connection		0				0	0	0	0	0	0	0%	N/A		N/A
1012 Service Connections & Temp. Services		0				0	0	0	0	0	0	0%	N/A		N/A
1013 Temporary Electric & Lighting		0				0	0	0	0	0	0	0%	N/A		N/A
1014 Temporary Heating		0				0	0	0	0	0	0	0%	N/A		N/A
1015 Telephone		0				0	0	0	0	0	0	0%	N/A		N/A
1016 Temporary Water		0				0	0	0	0	0	0	0%	N/A		N/A
1017 Temp. Sanitary Facilities		594				594	594	0	0	594	0	100%	N/A		N/A
1018 Temporary Roads & Road Cleaning		0				0	0	0	0	0	0	0%	N/A		N/A
1019 Temporary Protection		0				0	0	0	0	0	0	0%	N/A		N/A
1020 Construction Hoists		0				0	0	0	0	0	0	0%	N/A		N/A
1021 Hoarding		1,270				1,270	1,270	0	0	1,270	0	100%	N/A		N/A
1022 Temporary Stairs		0				0	0	0	0	0	0	0%	N/A		N/A
1023 Security Labour		36,602				36,602	36,602	0	0	36,602	0	100%	N/A		N/A
1024 Garbage Disposal		0				0	0	0	0	0	0	0%	N/A		N/A
1025 Project Signage		0				0	0	0	0	0	0	0%	N/A		N/A
1026 Traffic Controls		0				0	0	0	0	0	0	0%	N/A		N/A
1027 Site Office Rental		13,050				13,050	13,050	0	0	13,050	0	100%	N/A		N/A
1028 Site Office supplies & Expenses		0				0	0	0	0	0	0	0%	N/A		N/A
1029 First Aid		5,162				5,162	5,162	0	0	5,162	0	100%	N/A		N/A
1030 Site Safety Inspection		0				0	0	0	0	0	0	0%	N/A		N/A
1031 Site Safety		0				0	0	0	0	0	0	0%	N/A		N/A
1032 Flagmen		0				0	0	0	0	0	0	0%	N/A		N/A
1033 Large Equipment Rental		2,000				2,000	2,000	0	0	2,000	0	100%	N/A		N/A
1034 Small Equipment Rental		1,460				1,460	1,460	0	0	1,460	0	100%	N/A		N/A
1035 General Construction Supplies		9,664				9,664	9,664	0	0	9,664	0	100%	N/A		N/A
1036 Landlord work for retail space		0				0	0	0	0	0	0	0%	N/A		N/A
1037 Surveyor and Equipment		0				0	0	0	0	0	0	0%	N/A		N/A
1038 Site Travel		4,525				4,525	4,525	0	0	4,525	0	100%	N/A		N/A
1039 Winter Protection		0				0	0	0	0	0	0	0%	N/A		N/A
1040 Final Cleaning		0				0	0	0	0	0	0	0%	N/A		N/A
1041 As Built Drawings		0				0	0	0	0	0	0	0%	N/A		N/A
1042 PDI Preparation		0				0	0	0	0	0	0	0%	N/A		N/A
1043 Key Runner		0				0	0	0	0	0	0	0%	N/A		N/A
DIVISION 1 - TOTAL	24,655,266	24,655,266		0	0	336,695	336,695	336,695	0	336,695	24,318,571	1%	0	0	0
	0	0		0	0	0	336,695	336,695	0	0	0	0%	0	0	0

Construction Cost Report
 at August 31, 2019

				A		B											
				(6-3)		6											
DIVISION	CRESFORD		ALTUS GROUP		TRADE DETAILS COMMENTS AND NOTES	CONTRACT/ QUOTES	CHANGE ORDERS	PURCHASE ORDERS	TOTAL COMMITTED	GROSS COST INCURRED	PREVIOUSLY CERTIFIED	CURRENT MONTH	COST TO COMPLETE	%	GROSS HOLDBACK	HOLDBACK RELEASED	NET HOLDBACK
	CURRENT BUDGET	VARIANCE	REPORTING BUDGET	BUDGET													
DIVISION 2 - SITE WORK																	
2001 Demolition	0	0	0	0					0	0	0	0	0	0%	0	0	0
2002 Site Clearing	0	0	0	0					0	0	0	0	0	0%	0	0	0
2003 Grading	0	0	0	0					0	0	0	0	0	0%	0	0	0
2004 Shoring/Underpinning (incl. extras)	0	0	0	0					0	0	0	0	0	0%	0	0	0
2005 Granular below slab - material	0	0	0	0					0	0	0	0	0	0%	0	0	0
2006 Caissons	4,500,000	0	4,500,000	0	GFL Infrastructure Inc.	4,500,000			4,500,000	600,000	0	600,000	3,900,000	13%	60,000	60,000	60,000
2007 Excavation & Backfill (incl. place SOG)	4,200,000	0	4,200,000	0	Michael Bros Excavation	4,200,000			4,200,000	0	0	0	4,200,000	0%	0	0	0
2008 Granular material	115,449	0	115,449	0					115,449	0	0	0	115,449	0%	0	0	0
2009 Dewatering	500,000	0	500,000	0					500,000	0	0	0	500,000	0%	0	0	0
2010 Perimeter Drainage	242,500	0	242,500	0					242,500	0	0	0	242,500	0%	0	0	0
2011 Underslab Drainage	0	0	0	0					0	0	0	0	0	0%	0	0	0
2012 Retaining wall	0	0	0	0					0	0	0	0	0	0%	0	0	0
2013 Curbs, Walks & Stairs	0	0	0	0					0	0	0	0	0	0%	0	0	0
2014 Terraces	0	0	0	0					0	0	0	0	0	0%	0	0	0
2015 Irrigation Sprinklers	0	0	0	0					0	0	0	0	0	0%	0	0	0
2016 Landscaping (Site Furnishings Incl.)	1,552,000	0	1,552,000	0					1,552,000	0	0	0	1,552,000	0%	0	0	0
2017 Roof Top Amenity Finishes	0	0	0	0					0	0	0	0	0	0%	0	0	0
2018 Water Feature	0	0	0	0					0	0	0	0	0	0%	0	0	0
2019 Driveways	0	0	0	0					0	0	0	0	0	0%	0	0	0
2020 Asphalt Paving	0	0	0	0					0	0	0	0	0	0%	0	0	0
2021 Building Entrance Feature	0	0	0	0					0	0	0	0	0	0%	0	0	0
2022 Pavement Marking	0	0	0	0					0	0	0	0	0	0%	0	0	0
2023 Restoration of 62-64 Charles	0	0	0	0					0	0	0	0	0	0%	0	0	0
2024 Site Services / Misc Clearing	0	0	0	0					0	0	0	0	0	0%	0	0	0
DIVISION 2 - TOTAL	11,109,949	0	11,109,949	0		8,700,000	0	0	8,700,000	600,000	0	600,000	10,509,949	5%	60,000	60,000	60,000
DIVISION 3 - CONCRETE																	
3001 Structural Conc Firmwrk	71,428,000	0	71,428,000	0	Verdi Alliance Group	71,428,000			71,428,000	500,000	0	500,000	70,928,000	1%	50,000	50,000	50,000
3002 Concrete Formwork Overtime / Extras	0	0	0	0					0	0	0	0	0	0%	0	0	0
3003 Re-bar Material	12,540,000	0	12,540,000	0	Myer-Salit Limited via Salit Steel		12,540,000		12,540,000	833	0	833	12,539,168	0%	N/A	N/A	N/A
3004 Re-bar Labour	6,311,800	0	6,311,800	0	DIV Limited (\$75 per M3)	6,311,800			6,311,800	0	0	0	6,311,800	0%	N/A	N/A	0
3005 Re-bar Accessories	459,811	0	459,811	0					459,811	0	0	0	459,811	0%	N/A	N/A	0
3006 Wire Welded Mesh	0	0	0	0					0	0	0	0	0	0%	0	0	0
3007 Crane Bases	0	0	0	0					0	0	0	0	0	0%	0	0	0
3008 Concrete Accessories	447,849	0	447,849	0					447,849	0	0	0	447,849	0%	N/A	N/A	0
3009 Concrete Cutting & Drilling	145,500	0	145,500	0					145,500	0	0	0	144,000	1%	N/A	N/A	N/A
3010 Concrete Materials	15,459,938	0	15,459,938	0	Innocon (77,000m3 @ \$200.77)	15,459,938			15,459,938	22,152	0	22,152	15,437,786	0%	N/A	N/A	N/A
3011 Concrete pumping	0	0	0	0					0	0	0	0	0	0%	0	0	0
3012 Concrete Pouring Labour	5,775,000	0	5,775,000	0	DIV Limited (\$755 per tonne)	5,775,000			5,775,000	0	0	0	5,775,000	0%	0	0	0
3013 Coring	0	0	0	0					0	0	0	0	0	0%	N/A	N/A	N/A
3014 Concrete Finishing/Leveling	986,674	0	986,674	0					986,674	0	0	0	986,674	0%	0	0	0
3015 Exterior Concrete Finish	0	0	0	0					0	0	0	0	0	0%	0	0	0
3016 Precast Stairs	0	0	0	0					0	0	0	0	0	0%	0	0	0
3017 Precast	0	0	0	0					0	0	0	0	0	0%	0	0	0
3018 Concrete Back Charges	0	0	0	0					0	0	0	0	0	0%	0	0	0
DIVISION 3 - TOTAL	113,554,572	0	113,554,572	0		98,974,738	0	12,540,000	111,514,738	524,485	0	524,485	113,030,087	0%	50,000	50,000	50,000

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DIVISION	CRESFORD CURRENT BUDGET	(6-3)	ALTUS GROUP REPORTING BUDGET	TRADE DETAILS		CONTRACT/ QUOTES	CHANGE ORDERS	PURCHASE ORDERS	TOTAL COMMITTED	GROSS COST INCURRED	PREVIOUSLY CERTIFIED	CURRENT MONTH	COST TO COMPLETE	%	GROSS HOLDBACK	HOLDBACK RELEASED	NET HOLDBACK
				COMMENTS AND NOTES	COMMENTS AND NOTES												
DIVISION 4 - MASONRY																	
4001 Masonry	1,343,450		1,343,450							0	0	0	1,343,450	0%	0	0	0
4002 Brick Veneer	0		0							0	0	0	0	0%	0	0	0
4003 Parapet - Allowance	0		0							0	0	0	0	0%	0	0	0
4004 Masonry Accessories	0		0							0	0	0	0	0%	0	0	0
4005 Rigid Insulation	0		0							0	0	0	0	0%	0	0	0
4006 Interior Masonry Restoration	0		0							0	0	0	0	0%	0	0	0
4007 Exterior Masonry Restoration	0		0							0	0	0	0	0%	0	0	0
DIVISION 4 - TOTAL	1,343,450		1,343,450			0	0	0	0	0	0	0	1,343,450	0%	0	0	0
DIVISION 5 - METALS																	
5001 Structural Steel	970,000		970,000							0	0	0	970,000	0%	0	0	0
5002 Roof Structure	0		0							0	0	0	0	0%	0	0	0
5003 Steel Joists	0		0							0	0	0	0	0%	0	0	0
5004 Metal Fabrications	1,774,472		1,774,472							0	0	0	1,774,472	0%	0	0	0
5005 Balcony Railings/privacy screens	2,695,388		2,695,388							0	0	0	2,695,388	0%	0	0	0
5006 Ground Floor Steel Structure / Ornametal metal	0		0							0	0	0	0	0%	0	0	0
5007 Expansion Control	0		0							0	0	0	0	0%	0	0	0
DIVISION 5 - TOTAL	5,439,860		5,439,860			0	0	0	0	0	0	0	5,439,860	0%	0	0	0
DIVISION 6 - CARPENTRY																	
6001 Rough Carpentry (Labour & Material)	58,200		58,200							0	0	0	58,200	0%	0	0	0
6002 Finish Carpentry (Inc. Suite Doors)	4,588,682		4,588,682							0	0	0	4,588,682	0%	0	0	0
6003 Miscellaneous Carpentry	0		0							0	0	0	0	0%	0	0	0
6004 Window Sills	0		0							0	0	0	0	0%	0	0	0
6005 Kitchen & Bathroom Cabinets (Res)	4,300,000		4,300,000			4,300,000			4,300,000	0	0	0	4,300,000	0%	0	0	0
6006 Kitchen Counter Tops (Granite)	1,789,257		1,789,257							0	0	0	1,789,257	0%	0	0	0
6007 Millwork to common areas	0		0							0	0	0	0	0%	0	0	0
6008 Marble Counter Tops	157,310		157,310							0	0	0	157,310	0%	0	0	0
6009 Closets & Mirrors	0		0							0	0	0	0	0%	0	0	0
6010 Wood Stairs & Railings	0		0							0	0	0	0	0%	0	0	0
DIVISION 6 - TOTAL	10,893,449		10,893,449			4,300,000	0	0	4,300,000	0	0	0	10,893,449	0%	0	0	0



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A	3	(6-3)	B	6	C	D	E	F	G	H	I	J	K	L	M	N
	CRESFORD CURRENT BUDGET	VARIANCE	ALTUS GROUP REPORTING BUDGET	TRADE DETAILS COMMENTS AND NOTES	CONTRACT/ QUOTES	CHANGE ORDERS	PURCHASE ORDERS	TOTAL COMMITTED	GROSS COST INCURRED	PREVIOUSLY CERTIFIED	CURRENT MONTH	COST TO COMPLETE	%	GROSS HOLDBACK	HOLDBACK RELEASED	NET HOLDBACK
DIVISION 7-THERMAL/MOISTURE PROTECTION																
	0	0	0	0	0	0	0	0	0	0	0	0	0%	0	0	0
7001 Insulation			0									0	0%			
7002 Waterproofing & Dampproofing			0						0	0	0	3,899,885	0%			
7003 Mfradrain/Bentonite basement walls			0						0	0	0	0	0%			
7004 Fire Stopping			0						0	0	0	0	0%			
7005 Fire Sealants & Air Barrier			0						0	0	0	0	0%			
7006 Asphalt Shingles			0						0	0	0	0	0%			
7007 Aluminum Siding & Misc. Projections			0						0	0	0	0	0%			
7008 Membrane Roofing			0						0	0	0	0	0%			
7009 Traffic Topping			0						0	0	0	0	0%			
7010 Stucco			0						0	0	0	0	0%			
7011 Flashing and Sheet Metal			0						0	0	0	0	0%			
7012 Sealer SOG			0						0	0	0	0	0%			
7013 Caulking & Firestopping	1,859,400		1,859,400					1,859,400	0	0	0	1,859,400	0%			
7014 Thermal & Moisture Back Charges	0		0					0	0	0	0	0	0%			
DIVISION 7 - TOTAL	5,759,285	0	5,759,285		0	0	0	5,759,285	0	0	0	5,759,285	0%	0	0	0
DIVISION 8 - DOORS & WINDOWS																
	0		0						0	0	0	436,500	0%			N/A
8001 Hollow Metal Doors & Frames			0						0	0	0	0	0%			
8002 Sliding Doors Bedroom			0						0	0	0	0	0%			
8003 Sliding Doors Closet			0						0	0	0	0	0%			
8004 Closer Shelves			0						0	0	0	0	0%			
8005 Mirrors Suites	146,931		146,931					146,931	0	0	0	146,931	0%			
8006 Mirrors Common area			0						0	0	0	0	0%			
8007 Garage Overhead Doors			0						0	0	0	242,500	0%			
8008 Shower & Tub Enclosures			0						0	0	0	0	0%			
8009 Exterior Metal Finishes			0						0	0	0	0	0%			
8010 Entrances			0						0	0	0	0	0%			
8011 Aluminum Windows	24,250		24,250					24,250	0	0	0	24,250	0%			
8012 Wired Glass	7,186,245		7,186,245					7,186,245	0	0	0	7,186,245	0%			
8013 Wood Windows			0						0	0	0	0	0%			
8014 Wood and Plastic Windows			0						0	0	0	0	0%			
8015 Finish Hardware	1,317,042		1,317,042					1,317,042	0	0	0	1,317,042	0%			
8016 Restore Windows			0						0	0	0	0	0%			
8017 Reglazing of Windows			0						0	0	0	0	0%			
8018 Glazed Curtain Walls/Screen Wall	38,602,994		38,602,994	Toro Glasswall Inc.	38,602,994			38,602,994	0	0	0	38,602,994	0%			
DIVISION 8 - TOTAL	47,956,462	0	47,956,462		38,602,994	0	0	47,956,462	0	0	0	47,956,462	0%	0	0	0
DIVISION 9 - FINISHES																
	16,723,890		16,723,890						0	0	0	16,723,890	0%			
9001 Drywall			0						0	0	0	0	0%			
9002 Ceramic Tile	4,263,097		4,263,097					4,263,097	0	0	0	4,263,097	0%			
9003 Applied Balcony Soffit			0						0	0	0	0	0%			
9004 Stone to lobby			0						0	0	0	0	0%			
9005 Acoustical Treatment			0						0	0	0	0	0%			
9006 Wood Flooring	2,509,390		2,509,390					2,509,390	0	0	0	2,509,390	0%			
9007 Wood Flooring - premium			0						0	0	0	0	0%			
9008 Resilient Tile Flooring	121,250		121,250					121,250	0	0	0	121,250	0%			
9009 Carpet - Suites & Amenity			0						0	0	0	0	0%			
9010 Carpet	882,215		882,215					882,215	0	0	0	882,215	0%			
9011 Granite Flooring			0						0	0	0	0	0%			
9012 Painting (incl. Wallpaper)	2,812,723		2,812,723					2,812,723	0	0	0	2,812,723	0%			
9013 Exterior Painting			0						0	0	0	0	0%			
9014 Wallpaper / Vinyl Wall Covering			0						0	0	0	0	0%			
9016 Concrete Finish			0						0	0	0	0	0%			
9017 Special Finishes / Feature Walls			0						0	0	0	0	0%			
DIVISION 9 - TOTAL	27,312,565	0	27,312,565		0	0	0	27,312,565	0	0	0	27,312,565	0%	0	0	0

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DIVISION	CRESFORD CURRENT BUDGET	VARIANCE	ALTUS GROUP REPORTING BUDGET	TRADE DETAILS COMMENTS AND NOTES	CONTRACT/ QUOTES	CHANGE ORDERS	PURCHASE ORDERS	TOTAL COMMITTED	GROSS COST INCURRED	PREVIOUSLY CERTIFIED	CURRENT MONTH	COST TO COMPLETE	%	GROSS HOLDBACK	HOLDBACK RELEASED	NET HOLDBACK
DIVISION 10 - SPECIALTIES																
10001 Toilet Partitions	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
10002 Bicycle Lockers	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
10003 Changing Room Lockers	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
10004 Louvres & Grilles	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
10005 Signage	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
10006 Mirrors to suites and common areas	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
10007 Special Finishes	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
10008 Toilet & Bath Access's	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
10009 Canopies	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
10010 Closet Sliders	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
10011 Mailbox	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
10150 Compartments & Cubicles	24,250	0	24,250		0	0	0	24,250	0	0	0	24,250	0%	0	0	0
10305 Manufacture Fireplaces	223,100	0	223,100		0	0	0	223,100	0	0	0	223,100	0%	0	0	0
10500 Lockers	225,452	0	225,452		0	0	0	225,452	0	0	0	225,452	0%	0	0	0
10825 Shower & Tub Enclosures	491,499	0	491,499		0	0	0	491,499	0	0	0	491,499	0%	0	0	0
10900 Wardrobe & Closet Specialties	1,426,249	0	1,426,249		0	0	0	1,426,249	0	0	0	1,426,249	0%	0	0	0
DIVISION 10 - TOTAL	2,390,550	0	2,390,550		0	0	0	2,390,550	0	0	0	2,390,550	0%	0	0	0
DIVISION 11 - EQUIPMENT																
11001 Window Washing Systems	2,117,025	0	2,117,025		0	0	0	2,117,025	0	0	0	2,117,025	0%	0	0	0
11002 Security Alarm System	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
11003 Parking Control Equipment	235,177	0	235,177		0	0	0	235,177	0	0	0	235,177	0%	0	0	0
11004 Garbage Compactor & Bins	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
11005 Garden Tractor & Trolley	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
11006 Collectors	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
11007 Appliances	10,000,000	0	10,000,000	Midnorthern Appliances	10,000,000	0	0	10,000,000	0	0	0	10,000,000	0%	0	0	0
11008 Gym Room Equipment	0	0	0		0	0	0	0	0	0	0	0	0%	N/A	N/A	N/A
DIVISION 11 - TOTAL	12,352,202	0	12,352,202		10,000,000	0	0	10,000,000	0	0	0	12,352,202	0%	0	0	0

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			A	B													
DIVISION 12 - FURNISHINGS																	
12001 Drapes & Tracks (common area)	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
12002 Furnishings (Lobby, Amenity and Theatre RI)	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
12003 Rugs & Mats / Footgrille	29,100	0	29,100	0		0	0	29,100	0	0	0	0	29,100	0%	0	0	0
12004 Interior Plants & Planting	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
DIVISION 12 - TOTAL	29,100	0	29,100	0		0	0	29,100	0	0	0	0	29,100	0%	0	0	0
DIVISION 13 - SPECIAL CONSTRUCTION																	
13001 Mass Damper	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
13002 Swimming Pools	250,000	0	250,000	0		0	0	250,000	0	0	0	0	250,000	0%	0	0	0
13003 Water Feature	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
13004 Security Alarm and Surveillance	751,508	0	751,508	0		0	0	751,508	0	0	0	0	751,508	0%	0	0	0
13005 Sound & Vibration Control	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
13200 Elevated Storage Tanks	485,000	0	485,000	0		0	0	485,000	0	0	0	0	485,000	0%	0	0	0
DIVISION 13 - TOTAL	1,486,508	0	1,486,508	0		0	0	1,486,508	0	0	0	0	1,486,508	0%	0	0	0
DIVISION 14 - CONVEYING SYSTEMS																	
14001 Residential Elevators	11,800,000	0	11,800,000	0		11,800,000	0	11,800,000	11,800,000	0	0	0	11,800,000	0%	0	0	0
14001 Parking Elevators	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
14300 Escalators & Moving Walks	0	0	0	0		0	Included	0	0	0	0	0	0	0%	0	0	0
DIVISION 14 - TOTAL	11,800,000	0	11,800,000	0		11,800,000	0	11,800,000	11,800,000	0	0	0	11,800,000	0%	0	0	0
DIVISION 15 - MECHANICAL																	
15001 Plumbing (Includes UG Drainage)	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
15002 Heating & Ventilation	8,517,085	0	8,517,085	0		0	0	8,517,085	8,517,085	0	0	0	8,517,085	0%	0	0	0
15003 Plumbing fixtures	38,075,895	0	38,075,895	0		0	0	38,075,895	38,075,895	0	0	0	38,075,895	0%	0	0	0
15004 Underground Drains	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
15005 Mechanical Site Connections	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
15006 Sprinklers	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
15007 Controls	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
DIVISION 15 - TOTAL	46,592,980	0	46,592,980	0		0	0	46,592,980	46,592,980	0	0	0	46,592,980	0%	0	0	0
DIVISION 16 - ELECTRICAL																	
16001 Electrical	16,528,000	0	16,528,000	0		0	0	16,528,000	16,528,000	0	0	0	16,528,000	0%	0	0	0
16002 Lighting Fixtures (In-Suite & Common Area)	1,471,005	0	1,471,005	0		1,520	1,520	1,469,485	1,469,485	0	1,520	0	1,469,485	0%	0	0	0
16003 Security Systems and Equipment	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
16004 T.V. Antenna / Cable	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
16005 Electrical sute services	0	0	0	0		0	0	0	0	0	0	0	0	0%	0	0	0
DIVISION 16 - TOTAL	17,999,005	0	17,999,005	0		1,520	1,520	17,997,485	17,997,485	0	1,520	0	17,997,485	0%	0	0	0



APPENDIX I – COMMITTED COST SUMMARY



YSL - 373 Yonge Street
Toronto, Ontario

Report No : Prelim & Rep
Date : 24-Sep-19
Job No : 101295

Construction Committed Cost Summary

CONSTRUCTION BUDGET		364,488,922			
General Conditions - Div. 1		24,655,266	6.8%		
Construction Contingency		23,813,719	6.5%		
NET CONSTRUCTION BUDGET		316,019,937		86.7%	
CONTRACTS AWARDED		AMOUNT		CONTRACT STATUS	EXECUTED / COMPLETED
Demolition			0.0%		
Window & Suite Clean			0.0%		
Shoring	GFL Infrastructure Inc.	4,500,000	1.4%	Executed	4,500,000
Excavation	Michael Bros Excavation	4,200,000	1.3%	Executed	4,200,000
Dewatering			0.0%		
Landscaping			0.0%		
Curbs, Walks & Stairs			0.0%		
Underslab Drainage			0.0%		
Formwork	Verdi Alliance Group	71,428,000	22.6%	Executed	71,428,000
Exterior Concrete Finishing			0.0%		
Concrete Finishing			0.0%		
Precast			0.0%		
Masonry			0.0%		
Brick Veneer			0.0%		
Misc. Metals / Fabrications			0.0%		
Finish Carpentry			0.0%		
Custom Cabinets/Vanities			0.0%		
Kitchen & Bathroom Cabinets (Res)	Dekla Corporation	4,300,000	1.4%	Executed	4,300,000
Counter-tops			0.0%		
Waterproofing			0.0%		
Insulation			0.0%		
Roofing			0.0%		
Caulking			0.0%		
Hollow Metal Doors & Frames			0.0%		
Glazed Curtain Walls/Screen Wall	Toro Glasswall Inc.	38,602,994	12.2%	Executed	38,602,994
Sliding Doors & Shelves			0.0%		
Balcony Glazing			0.0%		
Overhead Doors			0.0%		
Hardware			0.0%		
Shower Door Enclosures			0.0%		
Drywall			0.0%		
Ceramic Tile			0.0%		
Cornice Mouldings			0.0%		
Wood Flooring			0.0%		
Carpets			0.0%		
Painting			0.0%		
Lockers			0.0%		
Roof Anchors			0.0%		
Security Alarm System			0.0%		
Garbage Compactor			0.0%		
Appliances	Midnorthern Appliances	10,000,000	3.2%	Executed	10,000,000
Gym Room Equipment			0.0%		
Elevators	Otis Canada Inc	11,800,000	3.7%	LOI Issued (Phase 1 and Phase 2)	11,800,000
Plumbing			0.0%		
Plumbing Fixtures			0.0%		
Underground Drains			0.0%		
HVAC			0.0%		
Electrical			0.0%		
Meters			0.0%		
Energy Management			0.0%		
T.V. Antenna / Cable			0.0%		
TOTAL CONTRACT		144,830,994	45.8%	of Net Construction Budget	144,830,994
		144,830,994		ccr check	
		0			
Re-bar Material	Myer Salit Limited o/a Salit Steel	12,540,000	4.0%	Executed	12,540,000
Re-bar Labour	DJV Limited (\$75 per M3)	6,311,800	2.0%	Executed	6,311,800
Concrete Materials	Innocon (77,000m3 @ \$200.77)	15,459,938	4.9%	Executed	15,459,938
Concrete Pouring Labour	DJV Limited (\$755 per tonne)	5,775,000	1.8%	Executed	5,775,000
TOTAL UNIT PRICE CONTRACTS		40,086,738	12.7%	of Net Construction Budget	40,086,738
TOTAL QUOTES		0	0.0%	of Net Construction Budget	
PURCHASE ORDERS		338,215	0.1%	of Net Construction Budget	
CHANGE ORDERS		0	0.0%	of Net Construction Budget	
COMMITTED SUB-TOTAL		185,255,947	58.6%	of Net Construction Budget	
UNCOMMITTED TOTAL		130,763,990	41.4%	of Net Construction Budget	



APPENDIX J – HOLDBACK RELEASE DOCUMENTATION

(NOT APPLICABLE IN CURRENT PERIOD)



APPENDIX K – SALES STATUS SUMMARY



YSL - 373 Yonge Street
Toronto, Ontario

Report No : Prelim & Report No. 1
Date: 24-Sep-2019
Job No: 101295

SALES & DEPOSITS ANALYSIS AT AUGUST 31, 2019

SOLD UNITS	August 31, 2019	% Sold
Suites Sold	784	71%
Area Sold (square feet)	460,287	0%
Sales Revenue - Regular	659,040,500	59%
Parking	9,000,000	
Lockers	0	
Average Price / Unit	840,613	
Total Sales Revenue Including Parking + Lockers	668,040,500	
Average price/s.f. - sold to date	1,431.80	
Total deposits received (Dep Trust Acc. Stmt at Aug. 30, 2019)	100,682,406	
Deposits Released for funding (Per Altus)	96,451,841	
Deposits in trust	4,230,565	
Deposits to be held in trust	0	
Deposits Available	4,230,565	

UNSOLD UNITS	August 31, 2019	% Sold
Unsold Units	322	29%
Unsold area (square feet)	263,996	0%
Average Price / Unit	1,442,906	
Average Price / square feet	1,759.93	
Anticipated Sales Revenue	464,615,800	41%
Anticipated Parking Revenue	26,520,000	
Anticipated Locker Revenue	3,705,000	

TOTAL UNITS	August 31, 2019	% Sold
Total Units	1,106	
Total Area	724,283	
Total Anticipated Sales Revenue	1,123,656,300	
Total Anticipated Parking Revenue	35,520,000	
Total Anticipated Locker Revenue	3,705,000	
Average price / Square Feet - Overall Sales	1,551.41	

Total Condominium Revenue	1,162,881,300	
Additional Revenue as reported by Borrower		
HST on Sales (as per Borrower)	(109,188,467)	
Retail / Office Space Revenue	143,866,757	
Vendor Incentives	(9,600,000)	
Sale of Guest Suites to Condo Corp	0	
Recoveries from Purchasers	26,161,478	
Section 37 / Parkland Recovery	15,028,000	
Total Anticipated Sales Revenue (Gross)	1,229,149,068	



APPENDIX L – ALTUS PRE-SALES SUMMARY

Summary of Purchase and Sale Agreements
 As at June 30, 2019 Sales

Qualified Firm Presales per Lenders Criteria	Variance	No. of Units	Amount (Net of HST)	Amount (Gross of HST)	Comments
Minimum 25% Contracted Deposits - Domestic		729	\$561,971,842	\$617,525,000	
Minimum 35% Contracted Deposits - Foreign		26	\$19,064,956	\$20,919,400	
Total Suites Sold (Qualified)		755	\$581,036,798	\$638,444,400	
Otera Requirement - \$569,425,278 Net of HST	\$11,611,520		\$581,036,798		
Kingsett Requirement - \$628,854,700 Gross of HST	\$9,589,700			\$638,444,400	
Mortgage Approvals (Minimum 50% of Sold Units)		411	54%		
Unqualified Firm Presales per Lenders Criteria	Variance	No. of Units	Amount (Net of HST)	Amount (Gross of HST)	
Disqualified - Bulk (4 Units or More)		0	\$0	\$0	
Disqualified - Recieved Deposit Shortfall - Domestic		12	\$11,358,230	\$12,546,800	
Disqualified - Recieved Deposit Shortfall - Foreign		1	\$729,115	\$799,900	
Disqualified - Contracted Deposit Shortfall - Domestic		2	\$1,490,973	\$1,636,800	
Disqualified - Contracted Deposit Shortfall - Foreign		9	\$7,260,265	\$7,988,100	
Missing Information / Agreement		2	\$2,421,947	\$2,688,800	
Total Suites Sold (Unqualified)		26	\$23,260,531	\$25,660,400	

Total Suites Sold (Net of HST - incl. Parking & Lockers)	781
\$604,297,329	

Task No.	Task Name	Performance Details	Metric	Item	Item Description	Item Material	Item Price	Item Quantity	Item Unit	Item Location	Item Stock	Item Date	Item Status	Item Comment	Item Price	Item Quantity	Item Unit	Item Location	Item Stock	Item Date	Item Status	Item Comment	Item Price	Item Quantity	Item Unit	Item Location	Item Stock	Item Date	Item Status	Item Comment
1	Task 1 Name	Performance 1 Details	Metric 1	Item 1.1	Item 1.1 Description	Item 1.1 Material	Item 1.1 Price	Item 1.1 Quantity	Item 1.1 Unit	Item 1.1 Location	Item 1.1 Stock	Item 1.1 Date	Item 1.1 Status	Item 1.1 Comment	Item 1.1 Price	Item 1.1 Quantity	Item 1.1 Unit	Item 1.1 Location	Item 1.1 Stock	Item 1.1 Date	Item 1.1 Status	Item 1.1 Comment	Item 1.1 Price	Item 1.1 Quantity	Item 1.1 Unit	Item 1.1 Location	Item 1.1 Stock	Item 1.1 Date	Item 1.1 Status	Item 1.1 Comment
2	Task 2 Name	Performance 2 Details	Metric 2	Item 2.1	Item 2.1 Description	Item 2.1 Material	Item 2.1 Price	Item 2.1 Quantity	Item 2.1 Unit	Item 2.1 Location	Item 2.1 Stock	Item 2.1 Date	Item 2.1 Status	Item 2.1 Comment	Item 2.1 Price	Item 2.1 Quantity	Item 2.1 Unit	Item 2.1 Location	Item 2.1 Stock	Item 2.1 Date	Item 2.1 Status	Item 2.1 Comment	Item 2.1 Price	Item 2.1 Quantity	Item 2.1 Unit	Item 2.1 Location	Item 2.1 Stock	Item 2.1 Date	Item 2.1 Status	Item 2.1 Comment
3	Task 3 Name	Performance 3 Details	Metric 3	Item 3.1	Item 3.1 Description	Item 3.1 Material	Item 3.1 Price	Item 3.1 Quantity	Item 3.1 Unit	Item 3.1 Location	Item 3.1 Stock	Item 3.1 Date	Item 3.1 Status	Item 3.1 Comment	Item 3.1 Price	Item 3.1 Quantity	Item 3.1 Unit	Item 3.1 Location	Item 3.1 Stock	Item 3.1 Date	Item 3.1 Status	Item 3.1 Comment	Item 3.1 Price	Item 3.1 Quantity	Item 3.1 Unit	Item 3.1 Location	Item 3.1 Stock	Item 3.1 Date	Item 3.1 Status	Item 3.1 Comment

Additional information and details for the project. This section provides a comprehensive overview of the task performance and resource allocation, ensuring all stakeholders are informed of the current status and any deviations from the original plan.

Task No.	Task Name	Performance Details	Metric	Item	Item Description	Item Material	Item Price	Item Quantity	Item Unit	Item Location	Item Stock	Item Date	Item Status	Item Comment	Item Price	Item Quantity	Item Unit	Item Location	Item Stock	Item Date	Item Status	Item Comment	Item Price	Item Quantity	Item Unit	Item Location	Item Stock	Item Date	Item Status	Item Comment
4	Task 4 Name	Performance 4 Details	Metric 4	Item 4.1	Item 4.1 Description	Item 4.1 Material	Item 4.1 Price	Item 4.1 Quantity	Item 4.1 Unit	Item 4.1 Location	Item 4.1 Stock	Item 4.1 Date	Item 4.1 Status	Item 4.1 Comment	Item 4.1 Price	Item 4.1 Quantity	Item 4.1 Unit	Item 4.1 Location	Item 4.1 Stock	Item 4.1 Date	Item 4.1 Status	Item 4.1 Comment	Item 4.1 Price	Item 4.1 Quantity	Item 4.1 Unit	Item 4.1 Location	Item 4.1 Stock	Item 4.1 Date	Item 4.1 Status	Item 4.1 Comment
5	Task 5 Name	Performance 5 Details	Metric 5	Item 5.1	Item 5.1 Description	Item 5.1 Material	Item 5.1 Price	Item 5.1 Quantity	Item 5.1 Unit	Item 5.1 Location	Item 5.1 Stock	Item 5.1 Date	Item 5.1 Status	Item 5.1 Comment	Item 5.1 Price	Item 5.1 Quantity	Item 5.1 Unit	Item 5.1 Location	Item 5.1 Stock	Item 5.1 Date	Item 5.1 Status	Item 5.1 Comment	Item 5.1 Price	Item 5.1 Quantity	Item 5.1 Unit	Item 5.1 Location	Item 5.1 Stock	Item 5.1 Date	Item 5.1 Status	Item 5.1 Comment
6	Task 6 Name	Performance 6 Details	Metric 6	Item 6.1	Item 6.1 Description	Item 6.1 Material	Item 6.1 Price	Item 6.1 Quantity	Item 6.1 Unit	Item 6.1 Location	Item 6.1 Stock	Item 6.1 Date	Item 6.1 Status	Item 6.1 Comment	Item 6.1 Price	Item 6.1 Quantity	Item 6.1 Unit	Item 6.1 Location	Item 6.1 Stock	Item 6.1 Date	Item 6.1 Status	Item 6.1 Comment	Item 6.1 Price	Item 6.1 Quantity	Item 6.1 Unit	Item 6.1 Location	Item 6.1 Stock	Item 6.1 Date	Item 6.1 Status	Item 6.1 Comment

No.	Particulars	Account Code	Amount	Date	Debit		Credit		Total	Balance	Description
					Particulars	Amount	Particulars	Amount			
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APPENDIX M – BORROWER’S SALES AND DEPOSIT SUMMARIES AS AT AUGUST 31, 2019

YSL

Sales as at September 23 2019

Table with columns: Suffix, Type, Model, Phase, Purchaser, Address, City, Province, Postal Code, Sq Ft, Res. Unit, Sold, Total, Net of HST, Available Net of HST, Price per Sq Ft, Sale Date, Deposits Prior to Occupancy, Deposits at Occupancy, Total Deposits. The table lists numerous real estate transactions across various locations in Ontario, including Richmond Hill, Markham, Scarborough, and Mississauga.

Table with columns: S/N, Type, Model, Phase, Purchaser, Address, City, Province, Postal Code, SA, Available, Sold, Total, Net of, Available Net of, Price per, Sale, Deposits In, Deposits, Total. Contains multiple rows of real estate transaction data.

Table with columns: S/Unit, Type, Model, Phase, Purchaser, Address, City, Province, Land Code, SA, RA, Sold, Sold, Total, Net of, Available Net of, Price per, Sale, Deposits, Deposits, Total. Rows list various real estate transactions with detailed financial and location data.

Table with columns: S/N, Type, Model, Phase, Purchase, Address, City, Province, Postal Code, Sold, Sold, Sold, Total, Net of, Available Net of, Price per, Sale, Deposits, Deposits, Total. Contains 360 rows of real estate transaction data.

Table with columns: Suffix, Zone, Model, Phase, Purchase, Address, City, Province, Postal Code, Sold, Sold, Sold, Total, Available Net of Price per, Sale, Deposits Prior, Deposits, Total, Occupancy. The table lists numerous real estate transactions across various Canadian cities and provinces, including details on property addresses, sale prices, and deposit amounts.

Table with columns: Suffix, Zone, Model, Phase, Purchaser, Address, City, Province, Postal Code, Sold, Sold, Sold, Sold, Net of, Available, Deposits Prior, Deposits, Total. It contains a comprehensive list of real estate transactions with various details for each entry.



APPENDIX N – DEPOSIT TRUST ACCOUNT STATEMENT AS AT AUGUST 30, 2019

BENNETT JONES ITF YSL Residences Inc. (YSL-Phase I)		File #78138-1 606					
Account Number 5553222 Branch # 10202							
UPDATED TO: August 30, 2019							
Date	Description	Deposit to Date/ (Withdrawl)	Warranty Amount	Excess Amount	Interest Amount	Bank Charges	Total
UPDATED TO: August 30, 2019							
	Total Deposits Phase I	70,722,517.23	11,440,000.00	59,282,517.23			
	Total Deposits Phase II	0.00	0.00	0.00			
	Legal Fees	0.00					
1-Nov-18	Interest				433.44		
3-Dec-18	Interest				25,187.43		
4-Dec-18	Release	(19,858,392.00)	(9,093,800.00)	(10,764,592.00)			
28-Dec-18	Release	(17,013,668.00)	(346,200.00)	(16,667,468.00)			
31-Dec-18	Release	(219,004.83)		(219,004.83)			
	Deposit books Order						
2-Jan-19	Interest				11,919.22		
21-Jan-19	Release	(1,729,744.67)	(40,000.00)	(1,689,744.67)			
23-Jan-19	Release	(173,219.83)	(60,000.00)	(113,219.83)			
1-Feb-19	Interest				1,295.59		
21-Feb-19	Release	(610,000.00)	(60,000.00)	(550,000.00)			
1-Mar-19	Interest				974.29		
26-Mar-19	Release	(2,423,000.00)	(1,320,000.00)	(1,103,000.00)			
1-Apr-19	Interest				2,526.38		
17-Apr-19	Release	(1,651,142.17)	(200,000.00)	(1,451,142.17)			
25-Apr-19	Release	(14,177,940.00)	(20,000.00)	(14,157,940.00)			
30-Apr-19	Release	(2,979,813.50)	(40,000.00)	(2,939,813.50)			
1-May-19	Interest				7,097.63		
22-May-19	Deposit books Order					(37.43)	
3-Jun-19	Interest				4,309.44		
13-Jun-19	Release	(4,533,115.00)	(180,000.00)	(4,353,115.00)			
2-Jul-19	Interest				3,902.82		
15-Jul-19	Release	(2,252,272.00)	(60,000.00)	(2,192,272.00)			
1-Aug-19	Interest				1,923.62		
30-Aug-19	Release	(2,965,925.00)		(2,965,925.00)			
Totals		135,280.23	20,000.00	115,280.23	59,569.86	(37.43)	194,812.66
Spreadsheet Balance	194,812.66		0.00		194,812.66		
Bank Control 30/8/19	194,812.66						
Difference	(0.00)						
	TOTALS						
	Deposits Phase I		70,722,517.23				
	Deposits Phase II		0.00				
	Legal Fees		0.00				
	Plus: Interest		59,569.86				
	Less: Bank Chrgs		(37.43)				
	Less: Releases Phase I		(70,587,237.00)				
	Less: Releases Phase II		0.00				
	TOTAL PROJECT VALUE		194,812.66				

BENNETT JONES ITF YSL Residences Inc. (YSL-Phase II)									
Account Number 5553419 Branch # 10202				#R607					
UPDATED TO: August 30, 2019									
Date	Description	Deposit to Date/ (Withdrawl)	Warranty Amount	Excess Amount	Interest Amount	Bank Charges	Total		
UPDATED TO: August 30, 2019									
	Total Deposits Phase I								
	Total Deposits Phase II	29,959,889.26	4,160,000.00	25,799,889.26					
	Legal Fees	0.00							
1-Nov-18	Interest				78.73				
21-Nov-18	NSF Charges					0.00			
3-Dec-18	Interest				10,823.61		10,902.34		
4-Dec-18	Release	(8,862,808.00)	(3,720,000.00)	(5,142,808.00)					
28-Dec-18	Release	(5,945,943.02)	(120,000.00)	(5,825,943.02)					
28-Dec-18	Release	(1,821,384.15)		(1,821,384.15)					
	Deposit books Order								
2-Jan-19	Interest				5,691.05				
21-Jan-19	Release	(1,024,857.50)	(20,000.00)	(1,004,857.50)					
1-Feb-19	Interest				775.00				
21-Feb-19	Release	(321,871.00)	(20,000.00)	(301,871.00)					
1-Mar-19	Interest				357.65				
26-Mar-19	Release	(226,652.00)	(140,000.00)	(86,652.00)					
1-Apr-19	Interest				405.49				
17-Apr-19	Release	(254,045.82)	(20,000.00)	(234,045.82)					
25-Apr-19	Release	(5,595,448.00)		(5,595,448.00)					
30-Apr-19	Release	(2,204,679.50)		(2,204,679.50)					
1-May-19	Interest				2,971.23				
22-May-19	Deposit books Order					(37.43)			
22-May-19	Bank to reimburse					0.00			
3-Jun-19	Interest				1,313.93				
13-Jun-19	Release	(1,417,351.00)	(60,000.00)	(1,357,351.00)					
2-Jul-19	Interest				1,397.04				
15-Jul-19	Release	(629,150.00)		(629,150.00)					
1-Aug-19	Interest				1,665.00				
30-Aug-19	Release	(1,094,126.00)	(40,000.00)	(1,054,126.00)					
Totals		561,573.27	20,000.00	541,573.27	25,478.73	(37.43)	587,014.57		
Spreadsheet Balance	587,014.57			0.00					
	0.00	In Phase I to transfer to Phase II							
		Phase II Account							
Bank Control 30/8/19	587,014.57								
Difference	0.00								
	TOTALS								
	Deposits Phase II		29,959,889.26						
	Legal Fees		0.00						
	Plus: Interest		25,478.73						
	Less: Bank Chrgrs		(37.43)						
	Less: Releases Phase II		(29,398,315.99)						
	TOTAL PROJECT VALUE		587,014.57						



APPENDIX O – PROJECT STATISTICS

Project Statistics

Project Name: **YSL Residences**

Below Grade:	area m2	void m2	area m2	area sf	parking no.	perimeter m	height m
Parking -Level 6	2,876	0	2,876	30,957	50	263	2.90
Parking -Level 5	3,478	0	3,478	37,437	66	261	2.90
Parking -Level 4	3,478	0	3,478	37,437	66	261	2.90
Parking -Level 3	3,478	0	3,478	37,437	55	261	2.90
Parking -Level 2	3,478	0	3,478	37,437	66	261	2.90
Bike Parking / Retail -Level 1	3,478	0	3,478	37,437	0	261	4.00
Bike Parking / Retail -Level 1 Mezz	3,478	576	2,902	31,237	0	261	4.37
A sub-total	23,744 m2	576 m2	23,168 m2	249,378 sf	303 no.		22.87 m

Podium:	area m2	void m2	area m2	area sf	units no.	perimeter m	height m	balcony
Level 1 (Retail, Res. & Office / Inst.)	3,322	0	3,322	35,758	TBD	292	6.50	0.00
Level 2 (Retail)	3,607	375	3,232	34,789	TBD	294	5.50	0.00
Level 3 (Retail)	2,626	0	2,626	28,266	TBD	269	5.51	0.00
Level 4 (Office / Inst.)	2,381	0	2,381	25,629	TBD	230	4.20	0.00
Level 5 (Office / Inst.)	2,362	0	2,362	25,424	TBD	230	4.20	0.00
Level 6 (Office / Inst.)	2,362	0	2,362	25,424	TBD	230	4.20	0.00
Level 7 (Office / Inst.)	2,362	0	2,362	25,424	TBD	230	4.20	0.00
Level 8 (Res.)	2,322	0	2,322	24,994	TBD	228	4.20	0.00
Level 9 (Mech)	1,980	0	1,980	21,313	TBD	205	6.00	32.00
Level 10 (Res. & Amenity)	1,700	0	1,700	18,299	TBD	198	3.60	44.00
B sub-total	25,024 m2	375 m2	24,649 m2	265,320 sf	TBD no.		48.11 m	76 m2

Residential Tower :	area m2	void m2	area m2	area sf	units no.	perimeter m	height m	balcony
Level 11 (Low-rise)	1,685	0	1,685	18,134	TBD	226	2.95	0
Level 12 (Low-rise)	1,685	0	1,685	18,134	TBD	226	2.95	0
Level 13 (Low-rise)	1,685	0	1,685	18,134	TBD	226	2.95	0
Level 14 (Low-rise)	1,685	0	1,685	18,134	TBD	226	2.95	0
Level 15 (Low-rise)	1,356	0	1,356	14,594	TBD	182	2.95	0
Level 16 (Low-rise)	1,356	0	1,356	14,594	TBD	182	2.95	105
Level 17 (Low-rise)	1,356	0	1,356	14,594	TBD	182	2.95	105
Level 18 (Low-rise)	1,356	0	1,356	14,594	TBD	182	2.95	105
Level 19 (Low-rise)	1,356	0	1,356	14,594	TBD	182	2.95	105
Level 20 (Low-rise)	1,356	0	1,356	14,594	TBD	182	2.95	105
Level 21 (Low-rise)	1,356	0	1,356	14,594	TBD	182	2.95	105
Level 22 (Low-rise)	1,154	0	1,154	12,416	TBD	155	2.95	105
Level 23 (Low-rise)	1,154	0	1,154	12,416	TBD	155	2.95	105
Level 24 (Low-rise)	1,154	0	1,154	12,416	TBD	155	2.95	105
Level 25 (Low-rise)	1,154	0	1,154	12,416	TBD	155	2.95	105
Level 26 (Low-rise)	1,154	0	1,154	12,416	TBD	155	2.95	105
Level 27 (Low-rise)	1,154	0	1,154	12,416	TBD	155	2.95	105
Level 28 (Low-rise)	1,154	0	1,154	12,416	TBD	155	3.35	105
Level 29 (Low-rise)	1,154	0	1,154	12,416	TBD	155	2.95	105
Level 30 (Low-rise)	1,154	0	1,154	12,416	TBD	155	2.95	105
Level 31 (Low-rise)	1,154	0	1,154	12,416	TBD	155	2.95	105
Level 32 (Low-rise)	1,154	0	1,154	12,416	TBD	155	2.95	105
Level 33 (Low-rise)	1,154	0	1,154	12,416	TBD	155	2.95	105
Level 34 (Mech)	1,142	0	1,142	12,292	TBD	155	5.78	105
Level 35 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 36 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 37 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 38 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 39 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	3.35	105
Level 40 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 41 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 42 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 43 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 44 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	3.35	105
Level 45 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 46 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 47 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 48 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 49 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	3.35	105
Level 50 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 51 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 52 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 53 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 54 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	3.41	105
Level 55 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 56 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105

Project Statistics

Project Name: **YSL Residences**

Level 57 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 58 (Mid-rise)	1,052	0	1,052	11,322	TBD	154	2.95	105
Level 59 (High-rise & Mech.)	995	0	995	10,710	TBD	143	2.95	105
Level 60 (High-rise & Mech.)	995	200	795	8,557	TBD	143	3.85	105
Level 61 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 62 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 63 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 64 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 65 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 66 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 67 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 68 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 69 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 70 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 71 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 72 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 73 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 74 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 75 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 76 (High-rise)	954	0	954	10,271	TBD	142	2.95	0
Level 77 (High-rise)	631	0	631	6,793	TBD	142	2.95	0
Level 78 (High-rise)	631	0	631	6,793	TBD	142	2.95	0
Level 79 (High-rise)	631	0	631	6,793	TBD	142	3.25	0
Level 80 (High-rise)	631	0	631	6,793	TBD	142	3.25	0
Level 81 (High-rise)	631	0	631	6,793	TBD	142	3.25	0
Level 82 (High-rise)	631	0	631	6,793	TBD	142	3.25	0
Level 83 (High-rise)	631	0	631	6,793	TBD	142	3.25	0
Level 84 (High-rise)	631	0	631	6,793	TBD	142	3.25	0
MPH	366	0	366	3,940	TBD	77	25.00	0
C sub-total	79,131	200	78,931	849,606	TBD	no.	250.89	4,725

Project Totals: TCA (A+B+C) **126,748** m2 **1,364,304** sf **1,033** no. AG Height **299.00** m

Total Area Below Grade: **23,168** m2 **249,378** sf

Total Area Above Grade (GCA): **103,580** m2 **1,114,926** sf

Functional Breakdown			
		m2	sf
Below Grade:	Retail	1,283	13,810
	Community Centre	380	4,090
	Common Area / Parking / Amenity	21,505	231,478
	total	23,168	249,378
Podium:	Retail	6,326	68,093
	Office / Institutional	8,812	94,852
	Child Care	476	5,124
	Common Area / Amenity / Services	6,827	73,485
	Residential	2,208	23,767
	total	24,649	265,320
Tower:	Common Area / Amenity / Services	13,296	143,117
	Residential	65,635	706,489
	total	78,931	849,606
total	126,748	1,364,304	

Suite Breakdown	
1 Bed	TBD
2 Bed	TBD
3 Bed	TBD
total	TBD

Site Area	3,765	m2
Surface Parking	0	no.

original areas:	AY
date:	13-Sep-18
area checks:	CD
date:	13-Sep-18

MAIN DESIGN EFFICIENCY SUMMARY	
Average area/below grade parking (gross)	596 sf
Average residential suite size (gross)	845 sf
Average residential suite size (net)	707 sf
TPA / TCA	18.3%
Building efficiency - Residential Saleable	61.7%
Building efficiency - Retail Leasable	6.9%
Building efficiency - Office / Inst. Leasable	8.0%
Building efficiency - Child Care Leasable	0.4%
Building efficiency - Community Centre Leasab	0.3%
Total Building Efficiency	77.4%



APPENDIX P – CONSTRUCTION SCHEDULE AT AUGUST 12, 2019

ELECT.

	106	216	236	261	286	311	336	361	386
SITE WORKS	110	20	25	25	25	25	25	25	25
1	107	217	237	262	287	312	337	362	
	SHORING	EXCAVATION	FOOTINGS	P5	P4	P3	P2	P1	P1M



APPENDIX Q – PROGRESS PHOTO REPORT

Project Name:
YSL Residences

Site Location:
385 Yonge St.

Project No:
101295

Photo No. 1

September 4, 2019

Description:

Site Overview:

North building,
Steel Erected
structure to retain
historical facade.



Photo No. 2

September 4, 2019

Description:

South building, steel
retention structure
complete.
Demolition
Progressing.



Project Name:
YSL Residences

Site Location:
385 Yonge St.

Project No:
101295

Photo No. 3

September 4, 2019

Description:

Demolition
Progressing.



Photo No. 4

September 4, 2019

Description:

Caissons
Progressing.





APPENDIX R – PERMITS

(AS RECEIVED)

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

18 123143 DEM 00 DM

Site Address 369 YONGE ST

Project Description Multiple Use/Non Residential;

Demolition

Date Issued Thursday April 12, 2018

Will Johnston
Chief Building Official and
Executive Director

Mario Angelucci
Deputy Chief Building Official and
Director

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

18 123233 DEM 00 DM

Site Address 375 YONGE ST

Project Description Multiple Use/Non Residential;

Demolition

Date Issued Thursday April 12, 2018

Will Johnston
Chief Building Official and
Executive Director

Mario Angelucci
Deputy Chief Building Official and
Director

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

18 123252 DEM 00 DM

Site Address 377 YONGE ST

Project Description Multiple Use/Non Residential;

Demolition

Date Issued Thursday April 12, 2018

Will Johnston
Chief Building Official and
Executive Director

Mario Angelucci
Deputy Chief Building Official and
Director

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

18 123260 DEM 00 DM

Site Address 379 YONGE ST

Project Description Multiple Use/Non Residential;

Demolition

Date Issued Thursday April 12, 2018

Will Johnston
Chief Building Official and
Executive Director

Mario Angelucci
Deputy Chief Building Official and
Director



Toronto and East York District
100 Queen Street West
Toronto, ON M5H 2N2
Tel: 4163975330

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

18 233345 DEM 00 DM

This Building Permit has also been reviewed and approved under the provisions of the Ontario Heritage Act.

Site Address 385 YONGE ST

Project Description Multiple Use/Non Residential;

Demolition

Date Issued Friday May 31, 2019

William M. Johnston, P. Eng.
Chief Building Official and
Executive Director

Timothy C. Crawford
Deputy Chief Building Official and
Director

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

18 233331 DEM 00 DM

This Building Permit has also been reviewed and approved under the provisions of the Ontario Heritage Act.

Site Address 381 YONGE ST

Project Description Multiple Use/Non Residential;

Demolition

Date Issued Friday May 31, 2019

William M. Johnston, P. Eng.
Chief Building Official and
Executive Director

Timothy C. Crawford
Deputy Chief Building Official and
Director

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

18 233320 DEM 00 DM

This Building Permit has also been reviewed and approved under the provisions of the Ontario Heritage Act.

Site Address 367 YONGE ST

Project Description Multiple Use/Non Residential;

Demolition

Date Issued Monday June 03, 2019

William M. Johnston, P. Eng.
Chief Building Official and
Executive Director

Timothy C. Crawford
Deputy Chief Building Official and
Director

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

18 233315 DEM 00 DM

This Building Permit has also been reviewed and approved under the provisions of the Ontario Heritage Act.

Site Address 363 YONGE ST

Project Description Multiple Use/Non Residential;

Demolition

Date Issued Monday June 03, 2019

William M. Johnston, P. Eng.
Chief Building Official and
Executive Director

Timothy C. Crawford
Deputy Chief Building Official and
Director



Toronto and East York District
100 Queen Street West
Toronto, ON M5H 2N2
Tel: 4163975330

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

630

18 240613 BLD 00 BA

This Building Permit has also been reviewed and approved under the provisions of the Ontario Heritage Act.

Site Address 363 YONGE ST

Project Description Multiple Unit Building;

Shoring

Date Issued Tuesday June 04, 2019

William M. Johnston, P. Eng.
Chief Building Official and
Executive Director

Timothy C. Crawford
Deputy Chief Building Official and
Director

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

19 148465 BLD 00 BA

This Building Permit has also been reviewed and approved under the provisions of the Ontario Heritage Act.

Site Address 385 YONGE ST

Project Description Multiple Unit Building;

Other(BA)

Date Issued Friday May 31, 2019

William M. Johnston, P. Eng.
Chief Building Official and
Executive Director

Timothy C. Crawford
Deputy Chief Building Official and
Director

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

19 148477 BLD 00 BA

This Building Permit has also been reviewed and approved under the provisions of the Ontario Heritage Act.

Site Address 381 YONGE ST

Project Description Multiple Unit Building;

Other(BA)

Date Issued Friday May 31, 2019

William M. Johnston, P. Eng.
Chief Building Official and
Executive Director

Timothy C. Crawford
Deputy Chief Building Official and
Director

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

19 148480 BLD 00 BA

This Building Permit has also been reviewed and approved under the provisions of the Ontario Heritage Act.

Site Address 367 YONGE ST

Project Description Multiple Unit Building;

Other(BA)

Date Issued Friday May 31, 2019

William M. Johnston, P. Eng.
Chief Building Official and
Executive Director

Timothy C. Crawford
Deputy Chief Building Official and
Director

BUILDING PERMIT

This card must be kept posted in a conspicuous place on site of construction.

19 148484 BLD 00 BA

This Building Permit has also been reviewed and approved under the provisions of the Ontario Heritage Act.

Site Address 363 YONGE ST

Project Description Multiple Unit Building;

Other(BA)

Date Issued Friday May 31, 2019

William M. Johnston, P. Eng.
Chief Building Official and
Executive Director

Timothy C. Crawford
Deputy Chief Building Official and
Director



APPENDIX S – SECTION 37 AGREEMENT

(AS RECEIVED)

Properties

- PIN* 21101 - 0049 LT
Description PT LT 31 E/S YONGE ST PL 22A TORONTO AS IN EP126440; TORONTO , CITY OF TORONTO
Address 363 YONGE ST
 TORONTO
- PIN* 21101 - 0048 LT
Description PT LT 31 E/S YONGE ST, 32 E/S YONGE ST PL 22A TORONTO AS IN CA761626; TORONTO , CITY OF TORONTO
Address 367 YONGE ST
 TORONTO
- PIN* 21101 - 0047 LT
Description PT LT 32 E/S YONGE ST PL 22A TORONTO AS IN CA472341; TORONTO , CITY OF TORONTO
Address 369 YONGE ST
 TORONTO
- PIN* 21101 - 0046 LT
Description PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA540937; TORONTO , CITY OF TORONTO
Address 373 YONGE ST
 TORONTO
- PIN* 21101 - 0045 LT
Description PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA310343; TORONTO , CITY OF TORONTO
Address 377 YONGE ST
 TORONTO
- PIN* 21101 - 0044 LT
Description PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN CT497024; TORONTO , CITY OF TORONTO
Address 379 YONGE ST
 TORONTO
- PIN* 21101 - 0043 LT
Description PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN OT46105; TORONTO , CITY OF TORONTO
Address 381 YONGE ST
 TORONTO
- PIN* 21101 - 0042 LT
Description LT 35 E/S YONGE ST, 36 E/S YONGE ST PL 22A TORONTO; TORONTO , CITY OF TORONTO
Address 385 YONGE ST
 TORONTO

Consideration

Consideration \$2.00

Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land

Name CITY OF TORONTO
Address for Service Wendy Walberg
 City Solicitor
 City of Toronto Legal Services
 Metro Hall
 55 John Street
 26th Floor
 Toronto, ON M5V 3C6

This document is not authorized under Power of Attorney by this party.
 This document is being authorized by a municipal corporation Roman Ivanov, Solicitor for the City of Toronto.

Party To(s) *Capacity* *Share*

Name YSL RESIDENCES INC.

Party To(s)	Capacity	Share
--------------------	-----------------	--------------

Address for Service 59 Hayden Street
 Suite 200
 Toronto, Ontario
 M4Y 0E7

I, Daniel C. Casey, President, have the authority to bind the corporation
 This document is not authorized under Power of Attorney by this party.

Statements

This notice is pursuant to Section 71 of the Land Titles Act.
 This notice is for an indeterminate period
 Schedule: See Schedules

Signed By

Marie Elizabeth Knaz	55 John St., 26th Floor Toronto M5V 3C6	acting for Applicant(s)	Signed 2019 09 25
----------------------	---	----------------------------	----------------------

Tel 416-392-8047
 Fax 416-397-5624

I have the authority to sign and register the document on behalf of the Applicant(s).

Submitted By

CITY OF TORONTO	55 John St., 26th Floor Toronto M5V 3C6	2019 09 25
-----------------	---	------------

Tel 416-392-8047
 Fax 416-397-5624

Fees/Taxes/Payment

Statutory Registration Fee	\$64.40
Total Paid	\$64.40

SECTION 37 AGREEMENT

THIS AGREEMENT made this 13th day of September, 2019

BETWEEN:

YSL RESIDENCES INC.
(hereinafter collectively called the "Owner")

- and -

THE CORPORATION OF THE CITY OF TORONTO
(hereinafter called the "City")

WHEREAS:

- A. The Owner is the registered owner of certain lands and premises situated in the City of Toronto, in the Province of Ontario, known municipally in the year 2019 as 363-391 Yonge Street, 3 Gerrard Street E. (the "Development Site Lands") and 357A & 357½ Yonge Street, Toronto (the "Additional Lands"), as more specifically described in Schedule "A" attached hereto (collectively, the "Lands");
- B. On September 23, 2015, the predecessor landowner of the Development Site Lands applied for amendments to the Official Plan (the "OPA Application") and on April 24, 2015 applied for amendments to Zoning By-laws 438-86 and 569-2013 (the "ZBA Application") to permit an increase in height and density beyond what is otherwise permitted on the Development Site Lands;
- C. Subsequently, the Owner assumed the OPA Application and ZBA Application (collectively, the "Original Applications") from the predecessor landowner and filed a resubmission of the Original Applications on February 24, 2017 proposing to improve the Development Site Lands with a 98-storey mixed-use building, including retail spaces below and above grade, above-grade office and/or institutional uses and above grade residential uses (collectively, the "Revised Applications");
- D. The Owner appealed the failure of the City to make a decision on the Revised Applications (the "Appeal") to the Ontario Municipal Board, now the Local Planning Appeal Tribunal (the "LPAT"), on November 10, 2017, and the Appeal was assigned Case No. PL171277;
- E. The Owner participated in settlement discussions with the City, and the Parties agreed to settle the Appeal;
- F. Pursuant to the terms of the settlement, the Owner acquired the Additional Lands and incorporated such lands as part of the settlement, with the understanding that (a) the Additional Lands will not be developed beyond the permissions contained in Zoning By-laws 438-86 and 569-2013 and (b) a restrictive covenant will be registered on title to the Additional Lands, precluding any tower development on the Additional Lands in excess of the existing permissions contained in Zoning By-law 438-86;
- G. Council adopted the confidential recommendations of the City Solicitor at its meeting of June 26, 27, 28 and 29, 2018, and the Owner and the City have agreed to settle the Appeal on terms and conditions which were approved by the LPAT by way of a decision, dated October 23, 2018 (the "LPAT Approved Settlement");
- H. Thereafter the Parties continued working together to further refine the terms of the LPAT Approved Settlement and to identify details required to be addressed in order to facilitate the effective implementation of the LPAT Approved Settlement;

- I. Council adopted additional confidential recommendations of the City Solicitor at its meeting of February 26, 2019 amending the terms of the LPAT Approved Settlement and authorizing the City Solicitor to request the LPAT to amend its decision in accordance with the amended terms;
- J. As part of the LPAT Approved Settlement, the Owner proposes to develop a 85 storey mixed-use building with a maximum height of 299 metres, inclusive of the mechanical penthouse, a maximum of 75,871 square metres of residential gross floor area, a maximum of 1,106 residential units and a maximum of 18,629 square metres of retail/office/institutional gross floor area on the Development Site Lands (the "Development");
- K. City Council has the power under subsection 37(1) of the *Planning Act*, R.S.O. 1990, c. P.13, whereby the Council of the City or the LPAT on an appeal may, in a by-law enacted under section 34 of the *Planning Act*, authorize increases in the density and height of development not otherwise permitted by the by-law in return for the provision of such facilities, services and matters as are set out in the By-law;
- L. Subsection 37(2) of the *Planning Act* requires that a by-law under subsection 37(1) may not be enacted unless the municipality has an official plan that contains provisions relating to the authorization of increases in height and density of development;
- M. The Toronto Official Plan contains provisions relating to the authorization of increases in height and density of development;
- N. Subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the density or height of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters;
- O. The Owner has elected to provide certain facilities, services and matters, as permitted by section 37 of the *Planning Act* in respect of the Lands in return for certain increases in density and height of development on the Development Site Lands as set out in the proposed Official Plan Amendment attached hereto as Schedule "B" (the "OPA Amendment") and as set out in the proposed amendments to Zoning By-laws 438-86 and 569-2013, attached hereto as Schedule "C" (the "Zoning By-law Amendments"); and
- P. The City has required the Owner to enter into this agreement to secure the provision of certain facilities, services and matters in return for certain increases in density and height of development on the Development Site Lands (the "Agreement").

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of TWO DOLLARS (\$2.00) of lawful money of Canada, now paid by each party to the other, the receipt and sufficiency of which is hereby acknowledged, and for other valuable consideration, and in further consideration of the mutual covenants and restrictions hereinafter set out, the Owner and the City agree to and with each other as follows:

1. DEFINITIONS AND FORM

1.1 For the purposes of this Agreement, the term

"Above-Grade Building Permit" means the first Building Permit to be issued that will permit above-grade construction of all, or any part of, a building within the Development, but excluding a temporary sales office or building;

"Accessibility for Ontarians with Disabilities Act, 2005" means *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c. 11, as amended, superseded or replaced from time to time;

"Agreement" shall have the meaning ascribed to that term in the recitals to this Agreement;

"Application to Court" means an application for leave to appeal, an appeal, an application for judicial review, an application to quash pursuant to the *City of Toronto Act, 2006* and includes an appeal(s) from a Decision or Order in respect of any of these which are made to a Court;

"Bicycle Parking Space" means an area used for parking or storing a bicycle, as defined and subject to such specific performance standards as set out in By-law No. 569-2013, as amended;

"Building Code Act, 1992" means the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended, superseded or replaced from time to time;

"Building Permit" means a permit to construct a building within the Lands pursuant to section 8 of the *Building Code Act, 1992* and, unless otherwise specified, includes a shoring, excavation and foundation permit;

"Car Share" means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car sharing organization and such car share motor vehicles are made available to at least the occupants of the building for short term rental including hourly rental;

"Car Share Parking Space" means a parking space exclusively reserved and signed for a car used only for Car-Share purposes;

"Chief Financial Officer" means Chief Financial Officer of the City and shall include his or her designate;

"Chief Building Official" means the Chief Building Official for the City of Toronto appointed pursuant to section 3 of the *Building Code Act, 1992* and shall include his or her designate;

"Chief Engineer" means the Chief Engineer and Executive Director, Engineering and Construction Services, for the City of Toronto and shall include his or her designate;

"Chief Planner" means the Chief Planner and Executive Director, City Planning Division, for the City of Toronto and shall include his or her designate;

"Child and Family Centre" means a child and family resource centre operated by a non-profit operator created or selected by the City;

"City" means the City of Toronto and where appropriate in the context, includes formerly The Corporation of the City of Toronto;

"City Council" means the elected council of the City of Toronto;

"City of Toronto Act, 2006" means the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A, as amended, superseded or replaced from time to time;

"City Solicitor" means the City Solicitor for the City of Toronto and shall include his or her designate;

"Commission" shall mean the Toronto Public Art Commission;

"Condominium Act, 1998" means the *Condominium Act, 1998*, S.O. 1998, c. 19, as amended, superseded or replaced from time to time;

"Construction Act" means the *Construction Act*, R.S.O., c. C.29, as amended, superseded or replaced from time to time;

"Council" means the Council of the City;

"Court" means a court of competent jurisdiction;

"Date of Final Approval of the Zoning By-law Amendments" means the first day upon which all of the provisions of the Zoning By-law Amendments have actually come into force and in effect, with all applicable appeal periods having lapsed with no appeals nor rehearing requests to the LPAT, and/or Applications to Court having been launched with respect thereto or with any such appeals or rehearing requests to the LPAT and/or Applications to Court having been finally determined in favour of the Zoning By-law Amendments, so that a Building Permit(s) would be issued by the Chief Building Official, permitting the

construction contemplated by the Zoning By-law Amendments to the heights and densities as permitted thereunder, upon the Owner obtaining all requisite approvals, submitting the appropriate applications for a Building Permit(s), and paying the requisite application fees;

"Deputy City Manager" means the Deputy City Manager of the City and shall include his or her designate;

"Design Review Panel" means the City of Toronto's Design Review Panel;

"Development" shall have the meaning ascribed to that term in the recitals to this Agreement with an increase in the height and density of development not otherwise permitted except as may be permitted by the Zoning By-law Amendments;

"Development Charges" means those charges under the Development Charges By-law pursuant to the *Development Charges Act, 1997*;

"Development Charges Act, 1997" means the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended, superseded or replaced from time to time;

"Development Charges By-law" means the City of Toronto Development Charges By-law No. 515-2018, as amended or any successor by-law;

"Development Site Lands" shall have the meaning ascribed to that term in the recitals to this Agreement;

"Director, Real Estate Services" means the Director, Real Estate Services for the City of Toronto and shall include his or her designate;

"Dwelling Unit" means a living accommodation comprising a single housekeeping unit, and consisting of a room or suite of two or more rooms in which both culinary and sanitary facilities are provided for the exclusive use of the residents of that housekeeping unit;

"Fair Wage Office" means the City of Toronto's office located at 100 Queen Street West, City Hall, 18th Floor, West Tower, Toronto, Ontario M5H 2N2;

"Fair Wage Policy and Labour Trades Contractual Obligations in the Construction Industry Guidelines" means the policy set out in Chapter 67 of the City of Toronto Municipal Code;

"Final Confirmation Date" means the second (2nd) business day, other than a Saturday, following the later of:

- (i) the Date of Final Approval of the Zoning By-law Amendments, and
- (ii) such other date as may be agreed to by the Parties hereto, provided that the occurrence of the Final Confirmation Date in accordance with the foregoing shall be expressly conditional upon such Zoning By-law Amendments being approved, in force, and/or in effect in accordance with this section on the Final Confirmation Date;

"Final Disposition" means any of the following events:

- (i) the entry of an order of the LPAT finally disposing of the Zoning By-law Amendments which rejects the Zoning By-law Amendments or results in certain amendments to the Zoning By-law Amendments,
- (ii) the entry of an order of the LPAT which follows a rehearing by the LPAT finally disposing of the Zoning By-law Amendments or certain parts thereof which rejects the Zoning By-law Amendments or results in certain amendments to the Zoning By-law Amendments, and
- (iii) the entry of an order of the Court which finally disposes of an Application to Court and rejects Zoning By-law Amendments or results in certain amendments to the Zoning By-law Amendments;

“Financial Security” means a Letter of Credit or a certified cheque on such terms and for such amount as more specifically provided herein;

“General Manager, Children’s Services” means the General Manager, Children’s Services for the City of Toronto and shall include his or her designate;

“General Manager, Transportation” means the General Manager, Transportation Services for the City of Toronto and shall include his or her designate;

“Gross Floor Area” means the gross floor area in accordance with the definition in Zoning By-law 569-2013, as amended.

“Land Titles Act” means the *Land Titles Act*, R.S.O. 1990, c. L.5, as amended, superseded or replaced from time to time;

“Lands” shall have the meaning ascribed to that term in the recitals to this Agreement;

“Letter of Credit” means an irrevocable unconditional letter of credit from a Canadian Charter Bank acceptable to the Deputy City Manager and Chief Financial Officer, in the form attached as Schedule “D” with such alterations, if any, in language (not affecting the substance thereof) as are acceptable to the Deputy City Manager and Chief Financial Officer and with the necessary particulars entered thereon;

“Loading Space” means an area used for the loading or unloading of goods or commodities from a vehicle, as defined and subject to such specific performance standards as set out in By-law No. 569-2013, as amended;

“Non-Residential Construction Price Index” means the Construction Price Index for the Toronto census Metropolitan Area, measuring change over time in the prices that contractors charge to construct non-residential buildings, as reported quarterly by Statistics Canada in Building Construction Price Indexes publication No. 327-0058, or its successor;

“Official Plan Amendment” means the proposed amendment to the Toronto Official Plan for the Development substantially in the form and having the content of the Official Plan Amendment attached hereto as Schedule “B”;

“Owner” means YSL Residences Inc. and its respective successors and assigns being the registered owner of the Lands and, for the purposes of this Agreement shall include subsequent owners of the Lands;

“Parties” means, collectively, the Owner and the City;

“Permitted Amendments” shall have the meaning ascribed to that term in Section 14.3 of this Agreement;

“Planning Act” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended, superseded or replaced from time to time;

“Public Art” has the meaning ascribed to that term in Section 7.1;

“Public Art Contribution” means a contribution to the City in accordance with the Public Art Program, as more specifically set out in Section 7.3;

“Public Art Plan” means a plan for the provision of Public Art upon the Lands or on adjacent City owned lands;

“Residential Construction Price Index” means the Construction Price Index for the Toronto census Metropolitan Area measuring change over time in the prices that contractors charge to construct residential buildings, as reported quarterly by Statistics Canada in Building Construction Price Indexes publication No. 327-0058, or its successor;

“Site Plan Agreement” means an agreement between the Owner and the City in accordance with Section 114 of the *City of Toronto Act*, 2006, which provides amongst other things for the approval of plans and drawings in respect of the Development;

"Site Plan Approval" means approval pursuant to section 114 of the *City of Toronto Act, 2006* and, as applicable, section 41 of the *Planning Act*;

"Unwinding Date" shall have the meaning ascribed to that term Section 14.2 of this Agreement;

"Ward" means the area within the boundaries of Ward 13 as it exists at the date of this Agreement;

"Ward Councillor" means the local area ward councillor for the Ward;

"Zoning By-laws" means Zoning By-laws No. 438-86 and No. 569-2013; and

"Zoning By-law Amendments" means the proposed amendments to the Zoning By-laws, substantially in the form and having the content of the Zoning By-law Amendments attached hereto as Schedule "C", respectively.

- 1.2 The following is a list of the schedules attached hereto which schedules shall form part of this Agreement for all purposes:

Schedule "A" Legal Description of the Lands
 Schedule "B" Official Plan Amendment
 Schedule "C" Zoning By-law Amendments
 Schedule "D" Form of Letter of Credit
 Schedule "E" Form of Title Opinion
 Schedule "F" Community Space and Child and Family Centre Facility Plans
 Schedule "G" Community Space Deliverable
 Schedule "H" Child and Family Centre Facility Term Sheet
 Schedule "I" 357 Yonge Street Restrictive Covenant

- 1.3 The Parties confirm and agree that the recitals at the commencement of this Agreement are true, both in substance and in fact.

2. AGREEMENT TO PROPOSED OFFICIAL PLAN AMENDMENT AND ZONING BY-LAW AMENDMENTS

- 2.1 The Owner hereby consents and agrees to the form and substance of the Official Plan Amendment and the Zoning By-law Amendments. The Owner has elected to provide the facilities, services and matters set out in the Zoning By-law Amendments included at Schedule "C", which are required in return for the increase in height and density of the Development on the Lands and this Agreement is being entered into to secure the same.

3. YONGE STREET IMPROVEMENT CASH CONTRIBUTION

- 3.1 The Owner shall make a cash contribution to the City in the amount of ONE MILLION EIGHTY THOUSAND DOLLARS (\$1,080,000.00) (the "Yonge Street Improvement Contribution"), indexed upwardly in accordance with the Non-Residential Construction Price Index from the date of the execution of this Agreement to the date of the payment to the City of the Yonge Street Improvement Contribution, and is to be provided to the City prior to the issuance of the first Above-Grade Building Permit for the Development.
- 3.2 In the event any portion of the funds referred to in Sections 3.1 of this Agreement have not been allocated within three (3) years of the date of the execution of this Agreement by both Parties, the Yonge Street Improvement Contribution may be reallocated at the discretion of the Chief Planner, in consultation with the Ward Councillor.

4. O'KEEFE LANE STREETScape IMPROVEMENTS

- 4.1 The Owner shall, at its sole expense, design and construct various improvements to the public street O'Keefe Lane, including but not limited to, hard and soft landscaping, paving and curbing details, sidewalk bump-outs, street light, pavers, street furniture, and tree trench installation (the "O'Keefe Lane Improvements"), all to the satisfaction of the Chief Planner.

- 4.2 The cost of the O'Keefe Lane Improvements shall be equal to SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00), indexed upwardly in accordance with the Non-Residential Construction Price Index, calculated from the date of the execution of this Agreement by both Parties to the date of final completion of the O'Keefe Lane Improvements.
- 4.3 The O'Keefe Lane Improvements shall be identified and secured in the Site Plan Approval process for the Development and in any applicable Site Plan Agreement(s) for the Development, to the satisfaction of the Chief Planner in consultation with Ryerson University.
- 4.4 Prior to issuance of the first Above-Grade Building Permit for the Development, the Owner agrees to submit a Letter of Credit, in the form at Schedule "D" as a condition to Site Plan Approval for the Development in an amount equal to SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00), indexed upwardly in accordance with the Non-Residential Construction Price Index, calculated from the date of this Agreement to the date of final completion of the O'Keefe Lane Improvements.
- 4.5 The Owner shall complete the O'Keefe Lane Improvements no later than three (3) years following the earlier of the first residential or commercial occupancy of the Development.

5. COMMUNITY SPACE

General

- 5.1 The Owner will construct to shell condition a community/cultural space (the "Community Space") comprising a minimum Gross Floor Area of 241.5 square metres, in accordance with the requirements set out herein.
- 5.2 The Community Space shall be located in the interior of the Development on Level 3, as shown on Schedule "F".
- 5.3 The Owners shall cover all costs necessary to design, construct and complete the Community Space to shell condition, as set out in Schedule "G".
- 5.4 After the completion of the construction of the Community Space, the City shall complete an inspection and advise the Owner of any deficiencies, which the Owner shall forthwith remedy. In addition, the Owner shall provide the City with complete commissioning documentation and all operating manuals for the Community Space, if any, plus copies of occupancy permits issued by the Building Department, to demonstrate that the Community Space has been completed in accordance with all Building Permits (the "Community Space Final Acceptance").
- 5.5 The Owner shall also be solely responsible for all up-front development and construction costs related to the Community Space, including but not limited to applicable Building Permit fees, Development Charges, and park levies.
- 5.6 The Owner agrees to construct and provide a Community Space that:
- (a) is in compliance with the requirements of all applicable legislation in effect at the time of the Building Permit issuance;
 - (b) and comprises a minimum of 241.5 square metres of interior space on Level 3 of the Development, generally in the location shown on Schedule "F".
- 5.7 The Owner shall supply an elevator for the non-exclusive use by the Community Space. In addition, the Owner shall provide a non-exclusive interior staircase for access to the Community Space from ground level. The Owner shall also supply fire exits, as approved by Toronto Fire, and/or areas of refuge, as required by O. Reg. 213/07: Fire Code under *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended.

Site Plans, Drawings and Specifications

- 5.8 The Owner acknowledges and agrees that:

- (a) prior to issuance of the first Above-Grade Building Permit for the Development, the Owner shall submit site plans, drawings and specifications showing the specific location of the Community Space;
- (b) the final design of the Community Space will be determined as part of the Site Plan Approval process for the Development; and
- (c) the Community Space will be completed as required by Section 5.9 and 5.10.

5.9 The Owner acknowledges and agrees that the following criteria shall be complied with, unless the Chief Planner specifies otherwise in writing, and to that end the Owner will submit to the Chief Planner for their review and approval an explanation as to how the following criteria will be satisfied:

- (a) acceptable wind and sunlight/shade, noise, air quality levels and soil quality conditions, if required, as determined by the Chief Planner;
- (b) acceptable security and lighting, and appropriate interior and exterior signage and wayfinding provisions;
- (c) a non-exclusive internal staircase and a non-exclusive internal elevator serving the Community Space, from Level 3 to ground level;
- (d) fully accessible to persons with disabilities; and
- (e) the Community Space Operator, as defined in Section 5.18 of this Agreement, to have exclusive use of the Community Space and appropriate access to garbage room and other common areas of the Development as may be required for the operation of the Community Space; and
- (f) access to one (1) parking space, located in the mixed-use building on the Development Site Lands, will be provided for the use by the Community Space Operator (the "Community Space Parking"). The Community Space Parking will be signed and available for the exclusive use of the Community Space Operator during the hours of 8am to 6pm, Monday through Friday (the "Community Space Available Parking Times"). A parking validation voucher will be used to provide for free parking to such user during the Community Space Available Parking Times should a fee be charged for the non-residential parking spaces provided in the Development.

Finishing

5.10 The Owner acknowledges and agrees, without limiting the generality of the foregoing:

- (a) to finish the Community Space to the Developer's base building specifications as set out in Schedule "G";
- (b) the Owner's obligations to design, construct and provide the Community Space, including finishings, shall only expire, excluding any responsibility for warranty and deficiency items, at the later of:
 - (i) the issuance of the Community Space Final Acceptance confirming the City's acceptance of the Community Space; and
 - (ii) the Community Space Transfer Date, as defined in Section 5.20 of this Agreement, has occurred.
- (c) the Owner agrees to provide a one-year construction warranty calculated from the Community Space Transfer Date for the Community Space and agrees to correct any deficiencies within a reasonable time, all at the sole cost and expense of the Owner and to the satisfaction of the Director of Real Estate Services.

Timing for Construction of Community Space

5.11 The Owner acknowledges and agrees that the Community Space shall be completed, to a level of substantial performance as defined in the *Construction Act*, with all systems

operating, fully functional and in good repair, no later than twelve (12) months following the earlier of the first residential or commercial occupancy of the Development (the "First Occupancy Date"). The Owner shall notify the City of the First Occupancy Date in writing.

Community Space Security

- 5.12 The Owner shall provide to the City the Financial Securities for the Community Space to guarantee the satisfactory performance and completion of the Owner's obligations pursuant to this Section 5 of this Agreement, in accordance with the following:
- (a) Prior to the issuance of the first Above-Grade Permit for the Development, the Financial Security in the amount of THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000.00); and
 - (b) Prior to the earlier of the initial registration of the condominium for the residential component of the Development or the first residential occupancy of the Development, the following Financial Security, as applicable:
 - (i) the Financial Security in the amount of THREE HUNDRED THOUSAND DOLLARS (\$300,000.00), if substantial completion of the Community Space has been achieved to the satisfaction of the City and the Community Space has been conveyed to the City in accordance with Section 5.20 below;
 - OR
 - (ii) the Financial Security in the amount of ONE MILLION SIX HUNDRED THOUSAND DOLLARS (\$1,600,000.00), if substantial completion of the Community Space has been achieved to the satisfaction of the City but the Community Space has not been conveyed to the City;
 - OR
 - (iii) the Financial Security in the amount of TWO MILLION NINE HUNDRED THOUSAND DOLLARS (\$2,900,000.00), if substantial completion of the Community Space has not been achieved to the satisfaction of the City;
 - (c) The Financial Securities, as reduced in accordance with this Agreement, shall be kept in full force and effect until all performance and warranty periods have expired, and the amounts thereof shall be indexed upwardly in accordance with the Non-Residential Construction Price Index from the date this Agreement is executed by both Parties to the Community Space Transfer Date, as defined in Section 5.20 of this Agreement.
- 5.13 If the Owner fails to comply with any of its obligations pursuant to Section 5 of this Agreement, the City has the right to draw on the Financial Securities, in whole or in part, from time to time, retain the money secured by the Financial Securities, and to apply such money to complete the construction of the Community Space secured thereby.
- 5.14 If the Owner fails to construct and provide the Community Space to the City within four (4) years from the date of the execution of this Agreement by both parties in accordance with this Section 5 of this Agreement, the City has the right to draw on the Financial Securities in whole or in part from time to time, retain the money secured by the Financial Security, and to apply such money toward any costs associated with community services or any other public realm improvements in the vicinity of the Development, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
- 5.15 The amount secured by the Financial Securities posted pursuant to Subsections 5.12(a) and 5.12(b) of this Agreement may be reduced as follows:
- (a) by forty percent (40%) of the combined amounts set out in Subsection 5.12(a) and Paragraph 5.12(b)(iii) of this Agreement upon substantial completion of the Community Space, provided such reduction shall not apply if the Owner posts the Financial Security pursuant to Paragraphs 5.12(b)(i) or 5.12(b)(ii) above;

- (b) by forty percent (40%) of the combined amounts set out in Subsection 5.12(a) and Paragraph 5.12(b)(iii) of this Agreement upon the Community Space Transfer Date, provided such reduction shall not apply if the Owner posts Financial Security pursuant to Paragraph 5.12(b)(i) above;
- (c) by ten percent (10%) of the combined amounts set out in Subsection 5.12(a) and Paragraph 5.12(b)(iii) of this Agreement upon expiry of all applicable *Construction Act* lien periods, provided there are no liens registered that have not been either vacated or discharged at the time of the request for reduction under this Subsection; and
- (d) by ten percent (10%) of the combined amounts set out in Subsection 5.12(a) and Paragraph 5.12(b)(iii) of this Agreement upon expiry of all applicable performance and warranty periods;

all to the satisfaction of the Director, Real Estate Services.

- 5.16 The amount secured by the Financial Securities may be reduced in accordance with Section 5.15 of this Agreement provided:
- (a) the Owner's has made a written request to the Director, Real Estate Services for the reduction which includes all pertinent payment information;
 - (b) the Owner has provided all relevant documentation demonstrating to the satisfaction of the Director, Real Estate Services that the required work has been completed or the applicable periods have expired; and
 - (c) the Director, Real Estate Services has approved the reduction pursuant to Section 5.15 of this Agreement in writing.

Completion of Community Space in Compliance with All Laws

- 5.17 The Owner acknowledges and agrees to construct and finish the Community Space in compliance with all applicable provincial and municipal legislation, by-laws, regulations, guidelines and standards and provincial requirements, and in compliance with the plans, drawings pursuant to this Section and which have been approved by all relevant authorities, to the satisfaction of Director, Real Estate Services.

City Lease to Community Space Operator

- 5.18 The City may select, from time to time an operator of the Community Space (the "Community Space Operator"). The City may enter into a lease from time to time, with a Community Space Operator, without the Owner's consent.

Use of Community Space

- 5.19 In the event that the Community Space is no longer required for community/cultural purposes, the City will have the right to establish another municipal use within the Community Space. The City shall reasonably consult the Owner with respect to any change of use pursuant to this Section 5.19 of this Agreement and provide sixty (60) days formal notice to the Owner of such a change in use.

Fee Simple Transfer and Reciprocal Easement Agreement

- 5.20 The Owner shall convey the Community Space in fee simple to the City following the complete construction of the Community Space and prior to the initial registration of the condominium for the residential component of the Development (the "Community Space Transfer Date"). The legal description of the Community Space to be conveyed shall be satisfactory to the City, subject to the requirements set out in this Agreement. The Owner shall be responsible for all costs relating to the registration of the transfer of Community Space free and clear of any encumbrances, save and except for any encumbrances permissible by the City, as determined by the City in its sole and unfettered discretion, (the "Permitted Encumbrances"). The Owner agrees to execute any and all documents required for such purpose at the Owner's sole cost and expense. The Owner shall provide to the City, at the

Owner's sole cost and expense, to the satisfaction of the City Solicitor, immediately following registration of the transfer of the Community Space, a title opinion confirming that Community Space has been transferred to the City free and clear of any and all encumbrances, save and except the Permitted Encumbrances, including the Reciprocal Easement Agreement, as defined in Section 5.21 of this Agreement. Without limiting the generality of the foregoing, the Owner shall be responsible for costs for providing any surveys and/or reference plan that may be required by the City, together with all registration costs relating thereto.

- 5.21 Concurrent with the conveyance of the Community Space as provided above, the City and the Owner will enter into and register on title to the Lands a reciprocal easement agreement for nominal consideration (the "Reciprocal Easement Agreement") that is in a form satisfactory to the City Solicitor, which Reciprocal Easement Agreement will address and/or provide for the integrated support, use, operation, maintenance, repair, replacement and reconstruction of certain shared facilities and the sharing of costs in respect thereof, of portions of the Lands to be owned by the City and the Owner. Only those shared facilities and benefits which directly benefit the City facility(ies) shall be subject to the City's cost sharing responsibilities under the Reciprocal Easement Agreement. The legal description of the lands subject to the rights created in the Reciprocal Easement Agreement shall be satisfactory to the City Solicitor, subject to the requirements for such rights set out in this Agreement. The Owner shall be responsible for all costs relating to the registration of the Reciprocal Easement Agreement in first priority, including without limiting the generality of the foregoing, the costs for providing any surveys and/or reference plans that may be required by the City, together with all registration costs relating thereto. The Owners agree to execute any and all documents required for such purpose at the Owners' sole cost and expense. The Owner shall provide to the City, at the Owner's sole cost and expense, immediately following registration of the Reciprocal Easement Agreement a title opinion from the Owner's solicitor, confirming that the Reciprocal Easement Agreement has priority over any other interests in the site, save and except for the Permitted Encumbrances.

6. COMMUNITY AFFORDABLE RENTAL HOUSING CASH IN LIEU

- 6.1 The Owner shall make a cash contribution to the City in the amount of FOUR MILLION DOLLARS (\$4,000,000.00) (the "Affordable Housing Contribution"), prior to the issuance of the First Above-Grade Building Permit in respect of the Development, which shall be indexed upwardly in accordance with the Residential Construction Price Index from the date this Agreement is executed by both Parties to the date of the payment to the City of the Affordable Housing Contribution.
- 6.2 The Affordable Housing Contribution shall be used at the sole discretion of the City towards the provision of affordable housing in Ward 13 of the City of Toronto, as defined by the City's ward boundaries on the date this Agreement is executed by both Parties.
- 6.3 In the event any portion of the funds referred to in Sections 6.1 of this Agreement has not been allocated within three (3) years of the date the Zoning By-law Amendments come into full force and effect, the Affordable Housing Contribution may be reallocated at the discretion of the Chief Planner, in consultation with the Ward Councillor.

7. PUBLIC ART

- 7.1 For the purposes of this Section 7, "Public Art" shall include works of sculptured art, works of visual and graphic art, sculptured landscaping, fountains, and artistic treatment of publicly accessible areas including, without limitation, exterior publicly accessible areas (public sidewalks, exterior walls or other building elements), clearly visible at all times from publicly accessible areas, including but not limited to flooring, structure, lighting and street furnishings, provided such elements of work have been designed by or in collaboration with artists and selected by a process and are in accordance with a program recommended by the Toronto Public Art Commission through the Chief Planner and approved by City Council.
- 7.2 The Owner agrees that the main objective of the City's Public Art policy is to enhance and assist in humanizing the Development and the City for the benefit of both the public and the Owner. The Owner agrees that this objective is best achieved by providing Public Art that is visible at all times and is located in the most publicly accessible locations on the Site, and for artists to participate in creating interesting and harmonious relationships between the

proposed buildings, open spaces and the streets. Moreover, the Owner acknowledges that the controls designed by the City to monitor the Public Art program are intended to ensure that this objective is satisfied.

- 7.3 The Owner agrees that it will make a contribution equal to EIGHT HUNDRED AND FIFTY THOUSAND DOLLARS (\$850,000.00) to the City (the "Public Art Contribution"), indexed upwardly in accordance with the Non-Residential Construction Price Index calculated from the of the execution of this Agreement by both Parties to the date of the payment of the Public Art Contribution to the City or to the date when the installation of all Public Art contemplated by the approved Public Art Plan is completed prior to the release of the first Building Permit for the Development.
- 7.4 The Owner shall select one of the following three options in order to comply with the Public Art program:
- (a) **Option 1** – The Owner will donate the Public Art Contribution to the City's capital budget for Public Art programs;
 - (b) **Option 2** – The Owner will commission Public Art works and/or collaborative Public Art works equal in value to the Public Art Contribution, and such works will be located upon the Site or on City-owned lands in accordance with the provisions of this Section 7; or
 - (c) **Option 3** – The Owner will combine Options 1 and 2, provided that the total expenditure is equal to the Public Art Contribution. In this instance, all provisions applicable to Option 1 or Option 2, as the case may be, will apply to the relevant portions of any Option 3 proposal.
- 7.5 The Owner agrees to advise the City, in writing, of its chosen Option prior to the issuance of the first Building Permit respecting the Development.
- 7.6 The Owner agrees to the following controls on the process under each Option set out in Section 7.4:
- (a) For Option 1:
Prior to the issuance of the first Building Permit for the Development, the Owner shall deliver to the City a certified cheque in the amount of the Public Art Contribution.
 - (b) For Option 2:
 - (i) Prior to the issuance of the first Building Permit for the Development, the Owner shall prepare, at its expense, a Public Art plan (the "Public Art Plan") for the provision of Public Art upon the Site or adjacent City-owned lands, and submit the Public Art Plan to the Commission for recommendation and to Council for approval. Failure to comply with these requirements will result in the Owner being deemed to have selected Option 1. The Public Art Plan must include the degree of collaboration, the proposed location of the Public Art work within the overall Public Art Plan, the Jury composition, the budget, the distribution of the budget, the proposed timing of each part of the Public Art Plan in relation to the development of the Site and if the call for proposals is to be by invitation, a draft proposal call and a list of the artists to whom the proposal call is intended to be sent. The Owner agrees to consider site potential in terms of public use, scale, coherence, visibility, safety, accessibility, narrative endowment and urban design objectives. The budget shall include the estimated cost of each proposed Public Art work and collaborative Public Art work above the Reasonable Base Costs of such element. For the purposes of this Section, the "Reasonable Base Costs" of each such element shall mean the reasonable costs of providing the element without the artist's collaboration, as determined by the Chief Planner. If the Owner is not satisfied with such determination, the decision will be made by City Council, whose decision will be final.

- (ii) The Public Art Plan, as approved by Council, will form the basis from which to elicit a call for proposals from artists. A call for proposals shall only be made after the Public Art Plan has been approved by Council.
- (iii) All proposals received pursuant to the proposal call and within the time specified therein shall be reviewed by the Jury that is organized by the Owner, as approved by the Commission (the "Jury").
- (iv) If an artist identifies an alternative Public Art proposal beyond that which has been identified in the proposal call, provided that the suggestion is acceptable to the Owner, the Commission and the Chief Planner, the Public Art Plan shall be amended accordingly.
- (v) Upon the Jury selecting the proposal, the Owner may enter into contracts with such artists and the Owner shall then proceed to implement the Public Art Plan. The Owner agrees that it will thereafter maintain such Public Art works and collaborative Public Art works substantially in accordance with the approved Public Art Plan.
- (vi) The Parties acknowledge that the authority to accept or reject a particular Public Art work or collaborative Public Art work or artist rests with the Owner. The initial acceptance or rejection of a particular Public Art Plan, including a particular type of Public Art work or collaborative Public Art work as comprising part of the Owner's Public Art Contribution, however, rests with the Commission and the Chief Planner. If the Commission and the Chief Planner cannot agree, or if the Owner is not content with its decision, the Owner may submit the Public Art Plan to City Council for its approval, whose decision will be final.
- (vii) If, for any reason, the approved Public Art Plan must be modified, the Owner acknowledges and agrees that the modification is subject to approval by the Commission and the Chief Planner, and may be subject to further approval by City Council if, in the opinion of the Commission and the Chief Planner, the proposed modification constitutes a material change in the Public Art Plan.
- (viii) The Owner acknowledges that the Reasonable Base Costs of each element that is the subject of artistic collaboration under this Option shall not form part of the Public Art Contribution.
- (ix) It is understood and agreed that in calculating the cost of a collaborative Public Art work, the fees and disbursements of the artists, other reasonable consultants' fees, and disbursements related to additional work resulting from the collaboration, as well as reasonable material differences from the Reasonable Base Costs, shall be included.
- (x) The Owner shall not permit occupancy of any portion of the Development prior to the Owner either completing the installation of all Public Art contemplated by the approved Public Art Plan, or delivering to the City a Letter of Credit, in an amount equal to the difference between:
 - A. the amount of the Public Art Contribution; and
 - B. the amount actually expended by the Owner in respect of completed Public Art works, as determined by the Chief Planner in consultation with the Chief Financial Officer, which is in excess of the Reasonable Base Costs and in accordance with the approved Public Art Plan as at the date of such calculation,

unless the amount in clause (B) immediately above is greater than the amount in clause (A) immediately above, with such Letter of Credit being for the purpose of securing the Owner's obligations as set out in this Section.
- (xi) If a Letter of Credit is used in fulfilment of Section 7.6(b)(x), it shall remain in effect until the Owner has completed the installation of all Public

Art commissioned in accordance with the approved Public Art Plan. If the Owner does not comply with this Section, the City has the right to draw on the Letter of Credit in whole or in part from time to time, retain the money secured by the Letter of Credit, and to apply such money to complete the installation of the Public Art work secured thereby. The Letter of Credit shall be returned to the Owner upon the satisfactory completion by the Owner of the work secured by it. If, in the opinion of the Chief Financial Officer, in consultation with the Chief Planner, the amount of the Letter of Credit should be reduced to reflect further completion of Public Art works approved as being part of the Public Art Plan, the Owner may substitute a Letter of Credit in the reduced amount and the City will immediately return the earlier issued Letter of Credit to the Owner.

- (xii) The Owner shall, within thirty days of entering into a contract with artists respecting any Public Art works or collaborative Public Art works that are part of the approved Public Art Plan, provide the Chief Planner with a copy of each contract. The total of the contracts, plus Public Art administration fees (not to exceed ten percent (10%) of the total budget for Public Art), collectively constitute the Public Art Contribution. Any increase in the ten percent (10%) Public Art administration fees must be addressed in the approved Public Art Plan.
- (xiii) The Owner shall implement the Public Art Plan in the course of construction and have completed and installed all Public Art works and collaborative Public Art works approved under this Option, substantially in accordance with the approved Public Art Plan, within six (6) months from the date of substantial performance of the Development, as determined pursuant to the *Construction Act*.
- (xiv) The Owner shall, if requested, provide the Chief Planner with an accounting of the cost and distribution of the Public Art works in accordance with this Option within six (6) months of the installation of each such work and in a form satisfactory to the Chief Planner. Such accounting shall include receipts, invoices and other documentary evidence of actual expenditures and base costs of each element that is the subject of Public Art work or artistic collaboration, sufficient to enable the Chief Planner to determine the cost of the Public Act work or artistic collaboration.
- (xv) Within thirty (30) days after the installation of the Public Art work, the Owner shall submit to the City the following photographs of the Public Art work as installed, taken from a minimum of three different viewpoints;
 - A. one PC-Compatible CD-ROM labelled with the name of the Public Art work, artist(s), and municipal address containing the following:
 - (1) a minimum of six high resolution JPEG (300 dpi) digital images suitable for print reproduction and for Power Point presentations.
 - (2) one set of printed images (for file)
 - (3) a Word document that includes the artist, title, date, municipal address, name of development and the developer. The text will also provide a description of the art work, materials, size, and background statement.
- (xvi) The Owner, artist and photographer of the photographs referred to in Section 1.70(xv) shall grant to the City a perpetual irrevocable license to use the provided photographs of the Public Art work for educational, public relations, arts promotional and other non-commercial purposes.

7.7 The Owner agrees that under Options 2 and 3 in this Section, all Public Art works shall be located upon the Site or adjacent City-owned lands and shall be clearly visible at all times from public sidewalks, public walkways, or publicly accessible spaces (either privately- or

City-owned) and shall be distributed throughout the Site to the satisfaction of the Chief Planner and the Commission.

- 7.8 Where the Parties agree that Public Art works to be located on City-owned lands may present ongoing or unusual maintenance problems, the issue of potential cost-sharing of maintenance expenses will be negotiated by the Parties and implemented in an agreement prior to the Public Art work being constructed. If no agreement can be reached, the maintenance of the Public Art work will be the sole responsibility of the Owner, unless the Owner requests the Chief Planner to report to City Council for a decision on the matter, in which case the decision of City Council will be final.
- 7.9 No Public Art work constructed and installed pursuant to this Agreement shall be removed, relocated, or modified without the approval of the Chief Planner and the Commission. If the Owner and the Chief Planner and the Commission cannot agree, the matter shall be referred to City Council for a final decision.
- 7.10 Public Art works sponsored by the Owner that are to be located on City-owned lands are to be treated as donations of Public Art to the City, the ownership of which is considered to be transferred to the City at the time that the Public Art Plan is completed. A percentage of the Public Art Contribution allocated to such Public Art work must be set aside to provide an endowment for the maintenance of the Public Art work. The amount set aside is to be no less than ten percent (10%) of the Public Art work's budget, and the distribution of it is to be managed and expended by the City for the purpose of maintaining the Public Art.
- 7.11 Upon the Owner donating to the City Public Art works that are located on City-owned lands, the Owner shall arrange to have the artist supply all written materials gathered or prepared by the artist, its employees, servants, consultants or agents, for the purpose of the proper maintenance of the Public Art. The artist may, however, retain the originals of such written materials, provided that reproducible copies, as requested in writing by the Chief Planner, are delivered to the City.
- 7.12 Copyright of Public Art works that have been donated to the City by the Owner shall be owned by the artist, provided that the City and the Owner will have the right to use the image of the Public Art work for any publishing or publicity purposes and subject to the City and the Owner giving proper credit to the artist. The artist relinquishes all exhibition rights to the Public Art work to the City. The artist will not have the right to replicate this Public Art work for another client without the written consent of the City, nor will the City have the right to have this Public Art work reproduced, except to replace it if necessary. The City shall have the right, at its sole discretion, in consultation with the artist, to alter, remove, or relocate the Public Art work for reasons of public safety, maintenance, or redevelopment. The artist shall retain all other copyrights not provided for in this subsection.
- 7.13 Where a Public Art work is proposed to be constructed on City-owned lands, the Owner shall consult with and obtain any required approvals from the Chief Planner, along with other appropriate City officials, regarding such matters as materials, services and maintenance, prior to the selection of the artist's proposal.

8. CHILD AND FAMILY CENTRE FACILITY

General

- 8.1 The Owner shall construct, finish, furnish and equip a Child and Family Centre facility comprising a minimum Gross Floor Area of 485 square metres (equivalent to 5,220 square feet) in accordance with the requirements set out herein (the "Child and Family Centre Facility"). The Child and Family Centre Facility shall be located on the interior of the Development on the third level as shown on Schedule "F". For greater clarity, there shall be no requirement for outdoor space associated with the Child and Family Centre Facility.
- 8.2 The Owner shall cover all costs necessary to design, construct, finish, furnish and equip the Child and Family Centre Facility as operational and fully finished for the intended use, as more particularly described herein.
- 8.3 The Owner shall design, construct, finish, furnish and equip the Child and Family Centre Facility in accordance with the Child and Family Centre Facility Term Sheet, attached hereto

as Schedule "H", and acknowledges that the Child and Family Centre Facility shall be operated subject to and in accordance with the Child and Family Centre Facility Term Sheet.

- 8.4 The Owner shall execute a lease for the Child and Family Centre Facility, providing for term of ninety-nine (99) years, with the City as tenant, on the major terms and conditions set out herein and as more specifically provided in Sections 8.22-8.28 of this Agreement.
- 8.5 After the completion of the construction of the Child and Family Centre Facility, the City shall complete an inspection and advise the Owner of any deficiencies, which the Owner shall forthwith remedy. In addition, the Owner shall provide the City with complete commissioning documentation and all operating manuals for the Child and Family Centre Facility, plus copies of occupancy permit(s) issued by the Building Department, to demonstrate that the Child and Family Centre Facility has been completed in accordance with all building permits (the "Final Acceptance").

Child and Family Centre Facility

- 8.6 The Owner agrees to design, construct, finish, furnish and equip the Child and Family Centre Facility that:
- (a) is in compliance with the requirements of all applicable legislation in effect at the time; and
 - (b) comprises a minimum of 485 square metres (equivalent to 5,220 square feet) of Gross Floor Area, for the exclusive use of the Child and Family Centre Facility, on the third floor, generally in the location shown on Schedule "F".
- 8.7 The Owner shall supply an elevator for the non-exclusive use by the Child and Family Centre Facility that
- (a) provides access to the street level and to the parking garage;
 - (b) is sized to accommodate triple strollers with accompanying family and/or staff and stretchers with accompanying paramedic staff; and
 - (c) complies with accessibility standards under the *Accessibility for Ontarians with Disabilities Act, 2005*.
- 8.8 The Owner shall provide a non-exclusive interior staircase for access to the Child and Family Centre Facility and supply fire exits, as approved by Toronto Fire, and/or areas of refuge, as required by O. Reg. 213/07: Fire Code under *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended*.
- 8.9 The Owner shall provide for the use by the Child and Family Centre Facility Operator, as defined in Section 8.25, access to two (2) parking spaces, located in the mixed-use building on the Development Site Lands (the "Child and Family Centre Facility Parking"). The Child and Family Centre Facility Parking will be signed and available for the exclusive use of the Child and Family Centre Facility Operator during the hours of 8am to 6pm, Monday through Friday (the "Child and Family Centre Facility Parking Times"). A parking validation voucher will be used to provide for free parking to such user during the Child and Family Centre Facility Parking Times should a fee be charged for the non-residential parking spaces provided in the Development.

Site Plans, Drawings and Specifications

- 8.10 The Owner acknowledges and agrees that:
- (a) prior to issuance of the first Above-Grade Building Permit for the Development, the Owner shall submit site plans, drawings and specifications showing the specific location of the Child and Family Centre Facility;
 - (b) the Owner acknowledges and agrees

- (i) that the Owner and the Owner's architect shall from time to time reasonably advise and consult with the General Manager, Children's Services throughout the design phases of the Child and Family Centre Facility;
- (ii) that the final design of the Child and Family Centre Facility will be determined as part of the Site Plan Approval process for the Development; and
- (iii) the Child and Family Centre Facility will be completed as required by Sections 8.11 and 8.12.

8.11 The Owner acknowledges and agrees that the following criteria shall be complied with, unless the Chief Planner, in consultation with the General Manager, Children's Services, specifies otherwise in writing, and to that end the Owner will submit to the Chief Planner and General Manager, Children's Services for their review and approval an explanation as to how the following criteria will be satisfied:

- (a) acceptable wind and sunlight/shade, noise, air quality levels and soil quality conditions, where applicable;
- (b) acceptable security systems, lighting, and appropriate interior and exterior signage and wayfinding provisions;
- (c) a non-exclusive internal staircase and non-exclusive elevator to access the Child and Family Centre Facility, from ground level to the third level, where such elevator is designed to be suitable to accommodate a 3-to-4 passenger multiple stroller;
- (d) the Child and Family Centre Facility is fully accessible to persons with disabilities, in accordance with the *Accessibility for Ontarians with Disabilities Act, 2005* and the City's Accessibility Guidelines, including all aspects of its design, including, but not limited to, the elevator, front foyer, washrooms and kitchen space;
- (e) the Child and Family Centre Operator, as defined in Section 8.25 of this Agreement, to have exclusive use of the family washrooms, play areas, staff office, kitchen, staff room and washrooms, multi-purpose rooms, and appropriate access to garbage room and common areas of the Development required for the operation of the Child and Family Centre Facility;
- (f) acceptable access for children, parents, custodians and staff, and access from the underground garage to the Child and Family Centre Facility at the third level of the Development; and
- (g) the Child and Family Centre Facility meets all other physical criteria necessary, as outlined in the Child and Family Centre Facility Term Sheet, attached hereto as Schedule "H", to operate the Child and Family Centre Facility.

Finishing

8.12 The Owner acknowledges and agrees, without limiting the generality of the foregoing:

- (a) to finish the Child and Family Centre Facility with flooring, partitions, millwork, blinds and painted colours acceptable to the City;
- (b) that the Child and Family Centre Facility shall contain such playrooms, bathrooms, kitchen and staff facilities, fully functioning electrical, plumbing, heating and air conditioning systems and fixtures as are required and approved by the Chief Planner, in consultation with the General Manager, Children's Services; and
- (c) that the Owner's obligations to design, construct and provide the Child and Family Centre Facility, including finishings, shall only expire, excluding any responsibility for warranty and deficiency items, at the later of:
 - (i) the issuance of the Child and Family Centre Facility Final Acceptance confirming the City's acceptance of the Child and Family Centre Facility; and

- (ii) the Child and Family Centre Facility Operation Commencement Date, as defined in Section 8.13 of this Agreement, has occurred.

Timing for Construction of the Child and Family Centre Facility

- 8.13 The Owner acknowledges and agrees that the Child and Family Centre Facility shall be completed, to a level of substantial performance, as defined in the *Construction Act*, with all systems operating, fully functional and in good repair, no later than twelve (12) months following the earlier of the first commercial or residential occupancy of the Development (the "First Occupancy Date"), at which time, the Owner shall have the Child and Family Centre Facility ready for occupancy (the "Child and Family Centre Facility Operation Commencement Date"). The Owner shall notify the City of the First Occupancy Date in writing.

Owner to Make One-Time Payment

- 8.14 The Owner acknowledges and agrees that the Owner will make the following one-time contributions to the City which shall be indexed upwardly in accordance with the Non-Residential Construction Price Index, calculated from the date of the execution of this Agreement by both Parties to the date of payment:
- (a) a one-time contribution in the amount of NINETY THOUSAND DOLLARS (\$90,000.00) towards the Child and Family Centre Replacement Reserve Fund to provide for the replacement of appliances and large equipment due to wear and tear; and
 - (b) a one-time contribution in the amount of in the amount of NINETY THOUSAND DOLLARS (\$90,000.00) towards start-up operating costs, play based toys and equipment.
- 8.15 The Owner agrees that the one-time contributions referred to in Section 8.14 above will be made prior to the Child and Family Centre being made available to the City in accordance with Section 8.13 above.

Child and Family Centre Facility Security

- 8.16 The Owner shall provide to the City the Financial Securities for the Child and Family Centre Facility to guarantee the satisfactory performance and completion of the Owner's obligations pursuant to Section 8 of this Agreement in accordance with the following:
- (a) Prior to the issuance of the first Above-Grade Permit for the Development, the Financial Security in the amount of SIX HUNDRED FIFTY THOUSAND DOLLARS (\$650,000.00); and
 - (b) Prior to the earlier of the initial registration of the condominium for the residential component of the Development or the first residential occupancy of the Development, the following Financial Securities, as applicable:
 - (i) the Financial Security in the amount of FIVE HUNDRED TEN THOUSAND DOLLARS (\$510,000.00), if substantial completion of the Child and Family Centre Facility has been achieved to the satisfaction of the City and the Child and Family Centre Facility is ready for occupancy;

OR

- (ii) the Financial Security in the amount of TWO MILLION EIGHT HUNDRED THIRTY THOUSAND DOLLARS (\$2,830,000.00), if substantial completion of the Child and Family Centre Facility has been achieved to the satisfaction of the City but the Child and Family Centre Facility is not ready for occupancy;

OR

- (iii) the Financial Security in the amount of FIVE MILLION ONE HUNDRED FIFTY THOUSAND DOLLARS (\$5,150,000.00), if substantial completion of the Child and Family Centre Facility to the satisfaction of the City has not been achieved to the satisfaction of the City;
- (c) The Financial Securities, as reduced in accordance with this Agreement, shall be kept in full force and effect until all performance and warranty periods have expired, and the amounts thereof shall be indexed upwardly in accordance with the Non-Residential Construction Price Index from the date this Agreement is executed by both Parties to the Child and Family Centre Operation Commencement Date, as defined in Section 8.13 of this Agreement.
- 8.17 If the Owner fails to comply with any of its obligations pursuant to this Section 8 of this Agreement, the City has the right to draw on the Financial Securities, in whole or in part, from time to time, retain the money secured by the Financial Securities, and to apply such money to complete the construction of the Child and Family Centre Facility secured thereby.
- 8.18 If the Owner fails to construct and provide the Child and Family Centre to the City within four (4) years from the date of the execution of this Agreement by both Parties in accordance with this Section 8 of this Agreement, the City has the right to draw on the Financial Securities in whole or in part from time to time, retain the money secured by the Financial Securities, and to apply such money toward any costs associated with community services or any other public realm improvements in the vicinity of the Development, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
- 8.19 The amount secured by the Financial Securities posted pursuant to Subsections 8.16(a) and 8.16(b) of this Agreement may be reduced as follows, on the condition that the City has received the full amount of one-time contributions, as set out in in Section 8.14 of this Agreement, and the Owner has entered into the Child and Family Centre Facility Lease as provided in Sections 8.22-8.28 of this Agreement:
- (a) by forty percent (40%) of the combined amounts set out in Subsection 8.16(a) and Paragraph 8.16(b)(iii) of this Agreement upon substantial completion of the Community Space, provided such reduction shall not apply if the Owner posts the Financial Security pursuant to Paragraphs 8.16(b)(i) or 8.16(b)(ii) above;
 - (b) by forty percent (40%) of the combined amounts set out in Subsection 8.16(a) and Paragraph 8.16(b)(iii) of this Agreement upon the the Child and the Child and Family Centre Facility Operation Commencement Date, as defined in Section 8.13 of this Agreement, provided such reduction shall not apply if the Owner posts the Financial Security pursuant to Paragraph 8.16(b)(i) above;
 - (c) by ten percent (10%) of the combined amounts set out in Subsection 8.16(a) and Paragraph 8.16(b)(iii) of this Agreement upon expiry of all applicable *Construction Act* lien periods, provided there are no liens registered that have not been either vacated or discharged at the time of the request for reduction under this Subsection; and
 - (d) by ten percent (10%) of the combined amounts set out in Subsection 8.16(a) and Paragraph 8.16(b)(iii) of this Agreement upon expiry of all applicable performance and warranty periods;
- all to the satisfaction of the General Manager, Children's Services.
- 8.20 The amount secured by the Financial Securities may be reduced in accordance with Section 8.19 of this Agreement provided:
- (a) the Owner's has made a written request to the General Manager, Children's Services for the reduction which includes all pertinent payment information;
 - (b) the Owner has provided all relevant documentation demonstrating to the satisfaction of the General Manager, Children's Services that the required work has been completed or the applicable periods have expired; and

- (c) the General Manager, Children's Services has approved the reduction pursuant to Section 8.19 of this Agreement in writing.

Completion of Child and Family Centre Facility in Compliance with All Laws

- 8.21 The Owner acknowledges and agrees to construct, finish and equip the Child and Family Centre Facility in compliance with all applicable provincial and municipal legislation, by-laws, regulations, guidelines and standards, and in compliance with the plans, drawings and specifications for the Child and Family Centre Facility which have been approved by the Chief Planner in consultation with the General Manager, Children's Services pursuant to this Section and which have been approved by all relevant authorities.

Child and Family Centre Facility Lease

- 8.22 The Owner shall execute the Child and Family Centre Facility Lease, not later than Six (6) months before the Child and Family Centre Facility Operation Commencement Date, as defined in Section 8.13 of this Agreement. The Child and Family Centre Facility Lease shall include the terms that are required by the City and the Child and Family Centre Facility Operator, as defined in Section 8.25 of this Agreement, on terms that are consistent with those required by this Section 8 and in form and content acceptable to the City (the "Child and Family Centre Facility Lease").
- 8.23 The Child and Family Centre Facility Lease shall ensure that the Child and Family Centre Facility, along with two (2) dedicated parking spaces (the "Child and Family Centre Facility Parking Spaces"), is provided free of charge, at no cost to the City and completely rent free, other than a nominal rent of two dollars (\$2.00), in accordance with Section 8.9 of this Agreement. Provided that the Child and Family Centre Facility space is used for a child and family centre and for so long that is the case, the Child and Family Centre Facility Lease to be entered into will provide that operating costs such as repairs, maintenance and replacements, heating, air-conditioning and ventilation equipment, plumbing, all utilities such as water, gas and hydro, repair and replacement costs (other than normal wear and tear), property damage, realty taxes and local improvement charges, facility fees and charges, and caretaking costs related to the building's interior and exterior common areas, including, waste and snow removal and any other costs relating thereto (collectively and individually, the "Operating Costs") shall be fully paid for by the condominium corporation(s) to be registered in the Development. The Owner shall also be solely responsible for all up-front development and construction costs related to the Child and Family Centre Facility, including but not limited to applicable Building Permit fees, Development Charges, and park levies. The City or Child and Family Centre Facility Operator's subtenant shall be responsible for costs of operating the Child and Family Centre Facility, including staffing costs, supplies, consumables and caretaking costs related to the Child and Family Centre Facility.
- 8.24 The Child and Family Centre Facility and the Child and Family Centre Facility Parking Spaces shall have appurtenant to it, through any lease with the City, such rights of ingress to and egress from the Child and Family Centre Facility and the Child and Family Centre Facility Parking Spaces over and through the Development and the Development Site Lands as are necessary and appropriate for the Child and Family Centre Facility Operator and its staff, children attending the facility, and the parents or others having custody of such children.

Lease to City and Sublease to Child and Family Centre Facility Operator

- 8.25 The City shall be responsible to select, from time to time, in consultation with the Owner, a Child and Family Centre operator (the "Child and Family Centre Facility Operator"), and the Owner shall enter into a lease for the Child and Family Centre Facility and the Child and Family Centre Facility Parking Spaces with the City, which shall be in the form of the City's standard-form lease for child and family centers, subject to such amendments as necessary to incorporate the provisions of this Agreement. The City may enter into a sublease from time to time, with a Child and Family Centre Facility Operator, without the Owner's consent.

Terms of Lease

- 8.26 City Legal Services, in consultation with the General Manager, Children's Services, will prepare the Child and Family Centre Facility Lease, which shall include the following:

- (a) the Child and Family Centre Facility shall be fully finished, completed and equipped as is provided for herein, but the Owner shall have no obligation to replace or repair the said equipment;
- (b) the term shall be ninety nine (99) years (the "Child and Family Centre Facility Term"), unless the City at its option, provides written notice to the Owner that the Child and Family Centre Facility Lease should be terminated;
- (c) the Child and Family Centre Facility Lease shall require the Child and Family Centre Facility Operator exercise due care with respect to the operation of the leased premises and the appliances, fixtures and furniture therein and to reimburse the Owner for any expenses related to any damage to the heating, ventilating and air conditioning systems, or building structure occasioned wholly or in part by the negligent act or omission of the Child and Family Centre Facility Operator, provided:
 - (i) that such obligation shall not result in any liability being imposed on the City, or any permitted successor or assign of the Child and Family Centre Facility Operator; and
 - (ii) that the Owner's obligations under this Agreement are not otherwise thereby reduced;
- (d) the Child and Family Centre Facility Operator, at its expense, shall obtain and keep the leased premises and the appliances, fixtures and furniture therein insured for the term and any renewal term of the Child and Family Centre Facility Lease under an all risks replacement cost policy in a form and with limits satisfactory to the City's' Chief Financial Officer and Owner;
- (e) the Child and Family Centre Facility Operator shall take out and thereafter maintain, at its expense, including payment of all premiums, commercial general liability insurance with respect to the Child and Family Centre Facility acceptable as to form, limits and conditions to the City's Chief Financial Officer and Owner for a limit of not less than Five Million Dollars (\$5,000,000.00) per occurrence (such limit to be increased from time to time to reflect an amount which would be maintained by a prudent owner as determined by the City) covering possible damages, losses, claims and expenses for or in connection with any personal injury, death or property damage that might be incurred on or about the Child and Family Centre Facility and further agrees that:
 - (i) the insurance policy shall include the City and Owner as additional insureds and shall contain a cross-liability and severability of interest clause and include contractual liability coverage. Such liability insurance policy shall provide that any breach of a condition of the policy by an insured shall not affect the protection given by the policy to any other insured;
 - (ii) the liability insurance policy shall contain a clause providing that the insurer will not cancel or refuse to renew the said insurance without first giving the City and Owner thirty (30) days prior written notice thereof;
 - (iii) it shall provide the City and Owner with satisfactory evidence of such insurance upon request by the City or Owner and a certificate of insurance shall be remitted to the Chief Planner and Owner within 30 days of issuance and evidence of continuance shall be remitted to the City and Owner at least 30 days prior to expiration of any insurance policy; and
 - (iv) if at any time the City or Owner determines that the required insurance has not been taken out or if the City and/or Owner receives notice from the insurer that it has cancelled or refused to renew the said insurance, or that it intends to do so, or if the City and/or Owner otherwise determines that the said insurance has lapsed, been cancelled or is about to lapse or be cancelled without renewal or replacement, the City or Owner may, on written notice to and at the expense of the Child and Family Centre Facility Operator, obtain new insurance. Upon receipt of such notice, the Child and Family Centre Facility Operator shall immediately arrange replacement insurance and shall

reimburse the City or Owner for the cost of new insurance arranged by the City or Owner, as the case may be. Any insurance arranged by the City or Owner will be cancelled only upon receipt of a certificate of replacement insurance from the Child and Family Centre Facility Operator together with payment of all costs incurred by the City or Owner, as the case may be;

- (f) the Owner shall have the following rights to enter the Child and Family Centre Facility to effect repairs:
- (i) the Owner shall be entitled to enter the Child and Family Centre Facility, in the event the Child and Family Centre Facility Operator is in default in the performance of any of its covenants or obligations under the Child and Family Centre Facility Lease, at any time Ten (10) days after written notice of such breach (the "Default Notice") has been given to the Child and Family Centre Facility Operator and to the City (or no notice in the case of an emergency) unless prior to such entry the Child and Family Centre Facility Operator performs or commences diligently to perform such covenants or obligations to the satisfaction of the Owner, and the Owner shall be entitled to perform or cause to be performed any of such covenants or obligations, or any part thereof, and for such purpose may do such things as may be required, including anything the Owner considers requisite or necessary;
 - (ii) the Child and Family Centre Facility Operator shall reimburse the Owner for all expenses incurred and expenditures made by the Owner to do the said work, plus a sum equal to 15% thereof representing the Owner's overhead, upon delivery of an invoice for such work;
 - (iii) the Owner shall be entitled to enter the Child and Family Centre Facility after hours or on weekends, upon 24-hour notice to the Child and Family Centre Facility Operator (except in the case of an emergency, in which case immediate notice will be given to the Child and Family Centre Facility Operator and the City) for the purposes of carrying out its own maintenance obligations under the Child and Family Centre Facility Lease;
 - (iv) the Owner shall have no liability to the Child and Family Centre Facility Operator for any loss or damages resulting from entry by the Owner into the Child and Family Centre Facility for emergency repairs or its maintenance activities, except for damages arising from the negligence of the Owner, its employees, agents or contractors, and the same is not re-entry or a breach of any covenant for quiet enjoyment contained in the Child and Family Centre Facility Lease; and
 - (v) notwithstanding the above, every person entering the Child and Family Centre Facility under the authority of the Owner pursuant to this Subsection shall present proof that the person meets the requirements for vulnerable sector check obtained within twelve (12) months prior to the entry to the satisfaction of the Child and Family Centre Facility Operator or its duly authorized representative.
- (g) the Child and Family Centre Facility Operator shall not be entitled to assign or sublet the Child and Family Centre Facility Lease unless the Child and Family Centre Facility Operator has obtained the prior written approval of the Chief Planner, in consultation with the General Manager of Children's Services;
- (h) the Child and Family Centre Facility Operator shall release the Owner from any and all liability related to the operation of the Child and Family Centre Facility and the Child and Family Centre Facility Operator shall indemnify and hold the Owner and the City harmless against all claims arising from or related to the use of the leased premises, whether arising in respect of death, personal injury or damage to property of the City, and Family Centre Facility Operator or anyone for whom they are in law responsible, and, without limitation, any child or parent using the Child and Family Centre Facility, unless caused by the Owner or those for whom they are at law responsible;

- (i) **Damage and Destruction:** To secure the Child and Family Centre Facility Term, in the event of any damage or destruction to the leased premises, the following shall apply:
- (i) The Owner shall diligently repair any damage to the Child and Family Centre Facility.
 - (ii) If the damage cannot be repaired with reasonable diligence within one hundred eighty (180) days after such damage, the Owner shall provide at its cost, an alternate location within the Development, if reasonably possible (the "Alternate Premises"), for the balance of the Child and Family Centre Facility Term, and the lease shall be amended to apply to the Alternate Premises, with the Owner completing the work as detailed herein, to prepare the Alternate Premises for opening as a Child and Family Centre Facility.
 - (iii) If the Owner is unable to provide the Alternate Premises, within one hundred eighty (180) days of such damage, the developer shall pay to the City from the insurance proceeds it receives on account of such damage and destruction an amount equal to the value of the unexpired residue of the Child and Family Centre Facility Term.
- (j) **Registration of Lease:** At least three (3) months before the Child and Family Centre Facility Commencement Date:
- (i) the Owner shall provide a fair market value appraisal of the leased premises and the Child and Family Centre Facility Lease, addressed to the City, and prepared by an appraiser acceptable to the City, for review and approval by the City; and
 - (ii) the Owner at its sole cost, shall cause the lease to be registered on title (including payment of all provincial land transfer tax (but not municipal land transfer tax) based on fair market value of the leased premises) and provide a title opinion from its solicitors, in form and content satisfactory to the City Solicitor, confirming that the registered lease has priority to all charges, encumbrances, or liens. Notwithstanding the Owner's agreement to be responsible for the payment of all applicable provincial land transfer tax with respect to the Lease, the City consents to the Owner, at the Owner's sole cost and expense, to seek reimbursement from the applicable governmental authorities in respect of any land transfer tax paid in connection with the Child and Family Centre Facility Lease, provided that the Owner shall only be permitted to seek such reimbursement following the registration of the Child and Family Centre Facility Lease on title to the lands and the payment of such land transfer tax. The City agrees to execute Ontario Ministry of Finance Form 0009E (2017/07), or any replacement thereof, for the sole purpose of authorizing the Ministry of Finance to deal with the Owner's solicitors in connection with the pursuit of any such reimbursement.
- (k) **Title Opinion:** In conjunction with registration of the Child and Family Centre Facility Lease on title, the Owner shall at its sole expense, procure and provide to the City a title opinion satisfactory to the City Solicitor, to ensure that the Child and Family Centre Facility Lease shall have priority over any other interest in the Development Site Lands.

Use of the Premises

- 8.27 In the event that the Child and Family Centre Facility is no longer required for a Child and Family Centre purposes, the City will have the right to establish another municipal use in the premises.
- 8.28 The City shall reasonably consult the Owner with respect to any change in use pursuant to Section 8.27 of this Agreement and provide sixty (60) days formal notice to the Owner of such change in use.

9. O'KEEFE PEDESTRIAN BRIDGE

- 9.1 The Owner shall, within one (1) year of the execution of this Agreement by both Parties, use its best efforts to obtain consent in writing from a duly authorized officer of Ryerson University to the construction of an above-grade elevated or below-grade pedestrian weather protected connection to be extended from the east elevation of the Development tower to Ryerson University's Jorgensen Hall, in a manner acceptable to Ryerson University and in a location satisfactory to the City, in consultation with Ryerson University (the "Pedestrian Bridge").
- 9.2 The Owner shall include the Pedestrian Bridge in all plans required as a condition of the site plan approval or the issuance of the first Above-Grade Building Permit for the Development.
- 9.3 Having obtained consent pursuant to Section 9.1, the Owner shall construct the Pedestrian Bridge within five (5) years of the issuance of the first Above-Grade Building Permit for the Development, in accordance with the plans required as a condition of the site plan approval or the issuance of the first Above-Grade Building Permit for the Development.
- 9.4 Prior to the issuance of the first Above-Grade Building Permit for the Development, the Owner, in consultation with Ryerson University, shall confirm in writing that it will construct the Pedestrian Bridge within five (5) years of the issuance of the first Above-Grade Building Permit for the Development, and, in that case, prior to the issuance of the first Above-Grade Building Permit for the Development, the Owner shall provide to the City the Financial Security to guarantee satisfactory construction of the Pedestrian Bridge, in the amount of ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000.00), indexed upwardly in accordance with the Non-Residential Construction Price Index from the date this Agreement is executed by both Parties to the final completion of the Pedestrian Bridge.
- 9.5 If the Owner fails to construct the Pedestrian Bridge, as required by this Agreement, the City has the right to draw on the Financial Security in whole or in part, from time to time, retain the money secured by the Financial Security, and to apply such money to construct the Pedestrian Bridge secured thereby or to dedicate such money to community benefits/facilities in the Ward at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
- 9.6 The amount secured by the the Financial Security may be reduced as follows:
- (a) by forty percent (40%) upon substantial completion of the Pedestrian Bridge;
 - (b) by forty percent (40%) upon final completion of the Pedestrian Bridge;
 - (c) by ten percent (10%) upon expiry of all applicable *Construction Act* lien periods, provided there are no liens registered that have not been either vacated or discharged at the time of the request for reduction under this Subsection; and
 - (d) by ten percent (10%) upon expiry of all applicable performance and warranty periods;
- all to the satisfaction of the Chief Planner.
- 9.7 The amount secured by the Financial Security may be reduced in accordance with Section 9.6 of this Agreement provided:
- (a) the Owner's has made a written request to the Chief Planner for the reduction which includes all pertinent payment information;
 - (b) the Owner has provided all relevant documentation demonstrating to the satisfaction of the Chief Planner that the required work has been completed or the applicable periods have expired; and
 - (c) the Chief Planner has approved the reduction pursuant to Section 9.6 of this Agreement in writing.
- 9.8 If at any time prior to the issuance of the first Above-Grade Building Permit the Owner advises the City in writing that the Pedestrian Bridge cannot be feasibly constructed as

contemplated in this Section 9 of this Agreement, or should no confirmation in writing be provided by the Owner to the City advising either way, then the Owner shall forthwith provide to the City a cash contribution in the amount of ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000.00), indexed upwardly in accordance with the Non-Residential Construction Price Index from the date this Agreement is executed by both Parties to the date of payment, to be dedicated to community benefits/facilities in the Ward at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.

- 9.9 The Owner hereby acknowledges and agrees that additional terms and requirements may be imposed by the City in regards to the construction of the Pedestrian Bridge over the public lane known as O'Keefe Lane, including without limiting the generality of the foregoing entering into an pedestrian bridge encroachment agreement with the City and payment of an encroachment fee for the encroachment of the Pedestrian Bridge over the public lane known as O'Keefe Lane. The Owner shall be solely responsible at its sole cost and expense for meeting any such requirements, as may be determined by the City, and no such costs, expenses or fees shall be deemed to be part of the cost of the construction of the Pedestrian Bridge.

10. LEGAL COVENIENCES

Outdoor Amenity Space

- 10.1 The Parties acknowledge that additional outdoor amenity space shall be provided in association with the non-residential uses on the lower podium levels.
- 10.2 If for any reason the non-residential outdoor amenity space is not used for its intended purpose, as determined by the Chief Planner, it shall be reallocated as residential outdoor amenity space.

Floor Area

- 10.3 The Owner shall construct a minimum of ten percent (10%) of the Dwelling Units in the Development with a minimum area of 106 square metres each.

Toronto Green Standard

- 10.4 The Owner shall construct and maintain the Development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting of October 26 and 27, 2009, as amended by City Council at its meeting of July 16, 17, 19 and 19, 2013;

Parking

- 10.5 The Owner shall provide a minimum of 0.17 resident parking spaces per Dwelling Unit, a minimum of 48 non-residential parking spaces, and 6 Car-Share Parking Spaces.

Loading Spaces

- 10.6 The Owner shall provide a minimum of 5 Loading Spaces in the Development as follows:
- (a) Type G – 1 Loading Space;
 - (b) Type B – 2 Loading Spaces; and
 - (c) Type C – 2 Loading Spaces;

Additional Lands – Restrictive Covenant

- 10.7 The Parties acknowledge that the Owner acquired the Additional Lands, as defined in the Recitals of this Agreement, for the purpose of the LPAT Approved Settlement and to facilitate the Development with respect to various set-backs from surrounding lands and buildings.
- 10.8 The Parties hereby acknowledge and agree that the restrictive covenant and terms and conditions relating thereto set out in Schedule "I" hereof (the "Restrictive Covenant") shall

bind the Additional Lands and the Benefitted Lands (as such term is defined in Schedule "I") effective as of the date hereof and the Owner agrees to register on title to the Additional Lands and the Benefitted Lands the Restrictive Covenant in accordance with Section 119 of the *Land Titles Act* (Ontario) in form and content acceptable to the Chief Planner and the City Solicitor within thirty (30) days of execution of this Agreement.

Crane Activities

- 10.9 Prior to receiving the first Above-Grade Building Permit in respect of the Development, the Owner agrees to provide a confirmation in writing from a duly authorized representative(s) of the Hospital for Sick Children and St. Michael's Hospital that there is no intrusion by the Development or by any structure or naturally growing object as defined by by-law 1432-2017, as amended, into the helicopter flight path.

Toronto Transit Commission Technical Review

- 10.10 Prior to the issuance of the first Building Permit for the Development, the Owner shall complete the Toronto Transit Commission's Technical Review and obtain from a duly authorized officer of the Toronto Transit Commission's a written confirmation that the Owner has satisfied all of the conditions arising out of the review.

11. REGISTRATION OF THIS AGREEMENT AND TITLE TO THE DEVELOPMENT SITE LANDS

- 11.1 The Owner warrants and represents that, as at the date of execution of this Agreement, it is the registered owner in fee simple of the Development Site Lands.
- 11.2 The Owner consents to and agrees that, following execution, at its sole cost and expense, this Agreement, or notice thereof, shall be registered against title to the Development Site Lands by the City, or by the Owner if agreed to by the City, to the satisfaction of the City Solicitor.
- 11.3 The Owner shall do such things and obtain such discharges, releases or postponements of any interest in or encumbrance of the Development Site Lands as are required to ensure that this Agreement, once registered, shall have priority over any interest, other than the Owner's fee simple interest, and such encumbrances as may be accepted by the City Solicitor as permitted encumbrances.
- 11.4 The Owner shall, at its sole expense, provide the City with a title opinion, substantially in accordance with the form set out at Schedule "E" addressed to the City from its solicitors, being solicitors in good standing in the Province of Ontario, which opinion the Owner acknowledges and agrees may be relied upon by the City, wherein such solicitor opines to the City that:
- (a) the Owner is the registered owner in fee simple of the Development Site Lands;
 - (b) this Agreement, once registered on title to the Development Site Lands, will have the priority over any interest other than the Owner's fee simple interest and such encumbrances as may be accepted by the City Solicitor as permitted encumbrances; and
 - (c) with respect to any permitted encumbrance, that there are no liens, charges, mortgages or other security interests or options to purchase, leases or options to lease, or similar rights contained therein which could result in the exercise of rights and remedies by the holders thereof such that the City could not exercise its rights or enforce the provisions of this Agreement against the party or parties in possession or control of the Development Site Lands; and

such title opinion to be in form and substance satisfactory to the City Solicitor.

12. PAYMENTS, FINANCIAL SECURITIES AND UPWARDS INDEXING

- 12.1 The amounts of the financial payments to be made to the City, the amounts of the Letters of Credit or certified cheques to be provided to the City, and references to specified dollar amounts in this Agreement shall, where indicated, be increased by Upwards Indexing in

accordance with the Non-Residential Construction Price Index or Residential Construction Price Index as applicable calculated from the date that this Agreement is executed by the Parties. In the case of multiple financial payments being required to be paid to the City over time, the amounts of each such payment shall be increased up to the date of each such payment made to the City, and if a Letter of Credit or a certified cheque is to be provided and where it is indicated that the amount of such Letter of Credit or certified cheque is subject to Upwards Indexing, the amounts of each such Letter of Credit or certified cheque shall be increased up to the date of provision of such Letter of Credit to the City.

- 12.2 If the amount secured by a Letter of Credit or a or certified cheque is subject to Upwards Indexing then the Owner agrees to provide the City with either an amended Letter of Credit for the total indexed amount or with a supplementary Letter(s) of Credit or certified cheque(s) for any difference between the face value of the original Letter of Credit or certified cheque provided to the City and the Upwardly Indexed amount then outstanding and owing to the City. The supplementary Letter of Credit or certified cheque will be provided to the City within twenty (20) days following the issuance of a written demand for payment sent to the Owner by a City official. Any provisions related to the release of the original Letter of Credit or certified cheque(s) to the Owner shall apply mutatis mutandis to any replacement or supplementary Letter(s) of Credit or certified cheque(s) provided.
- 12.3 The Owner acknowledges and agrees the financial security received by the City in the form of a certified cheque will be placed in a non-interest bearing account.

13. FAIR WAGE AND LABOUR TRADES CONTRACTUAL OBLIGATIONS IN THE CONSTRUCTION INDUSTRY

- 13.1 The Owner acknowledges that the City is bound by collective agreements which provide that the City has no discretion in setting wage rates and is required to use union labour for certain trades performing work for the City. The City's Fair Wage Office is responsible for making decisions as to how to define the work, which unions are involved, and whether the Labour Trades Contractual Obligations apply and if union labour must be used on a project.
- 13.2 In completing any leasehold improvements or other work on behalf of the City as required in this Agreement, the Owner shall comply with the City's Fair Wage Policy and Labour Trades Contractual Obligations in the Construction Industry Guidelines, as amended from time to time. Prior to entering into any contract for leasehold improvements or other work on behalf of the City in the context of contractors and subcontractors, the Owner shall forward information on the proposed contract for review and approval, as required by the City's Fair Wage Office.

14. COMPLETION AND UNWINDING

- 14.1 Subject to Sections 14.2 to 14.8 inclusive and to Section 17.1 hereof, this Agreement shall be effective, enure to the benefit of and be binding upon the Parties hereto, and their respective heirs, executors, administrators, successors and assigns on and after the date of this Agreement. On the Final Confirmation Date, the City and/or the Owner shall give notice in writing to the other Party that the Final Confirmation Date has occurred, and upon either Party hereto giving such notice, Sections 14.2 to 14.8 hereof shall have no further effect.
- 14.2 The date of unwinding of this Agreement, should such occur (hereinafter referred to as the "Unwinding Date"), shall be the earlier to occur of:
- (a) the date of Final Disposition of the Zoning By-law Amendments if the Final Disposition rejects the Zoning By-law Amendments; and
 - (b) the date of expiry of the sixty (60) day period specified in a Notice of Termination, which is given pursuant to Sections 17.3, 17.4 or 17.5 hereof.
- 14.3 On the occurrence of a Final Disposition of the Zoning By-law Amendments which results in the Zoning By-law Amendments coming into force or effect with modification(s) or amendment(s) thereto, then sixty (60) days written Notice of Termination may be given by either the City or the Owner to the other. Unless the City and the Owner otherwise agree, the Unwinding Date shall occur on the expiry of the sixty (60) day period specified in such Notice of Termination. If a Notice of Termination is not given in accordance with this Section, the

modification(s) or amendments) shall be deemed to be "Permitted Amendments" for the purposes of this Agreement.

- 14.4 If as a result of being required to do so by the Final Disposition of the Zoning By-law Amendments, City Council passes, or adopts a modification(s) or amendment(s) to the Zoning By-law Amendments which is not one of the Permitted Amendments pursuant to Section 14.3, then, at any time within thirty (30) days from the date of the giving of notice of the passing or adoption of such amendment(s) or modification(s) by the City to the Owner, sixty (60) days written Notice of Termination may be given by either the City or the Owner to the other. After passing or adopting one of the aforesaid amendment(s) or modification(s) the City forthwith shall give notice thereof to the Owner. Unless the City and the Owner otherwise agree, the Unwinding Date shall occur on the expiry of the sixty (60) day period specified in such Notice of Termination. If a Notice of Termination is not given in accordance with this Section, the modification(s) or amendment(s) shall be deemed to be one of the Permitted Amendments for the purposes of this Agreement.
- 14.5 If the Final Confirmation Date has not occurred on or before September 1, 2024 then written Notice of Termination may be given by either the City or the Owner to the other. Unless on or prior to the expiry of sixty (60) days after the date on which such Notice of Termination was given to such other Party, either the Date of Final Approval of the Zoning By-law Amendments occurs, or the City and the Owner hereto otherwise agree, the Unwinding Date shall occur on the expiry of such sixty (60) day period.
- 14.6 On or after the occurrence of the Unwinding Date, the Owner may expunge registration of this Agreement by appropriate means according to the requirements of the land registry system pertaining to the affected property and the City shall cooperate with all requests of the Owner, acting reasonably, in such respect, including the execution of releases and quit claims in suitable form for registration.
- 14.7 Without fettering City Council, in any way, in the exercise of its discretionary powers, on or after the occurrence of the Unwinding Date, City Council may repeal or amend the Zoning By-law Amendments with the object of restoring the Zoning By-law provisions applicable to the Lands to the state they were in on the day immediately prior to the date of the passing of the Zoning By-law Amendments. In respect of any repealing or Zoning By-law Amendments which is passed pursuant to this Section either on or after the occurrence of the Unwinding Date, the Owner covenants and agrees that it will not object to the passing, approval, or coming into force and effect of such rescinding By-law.
- 14.8 On the occurrence of the Unwinding Date, the Chief Financial Officer shall return any cash or Letter of Credit deposited by the Owner pursuant to this Agreement, as well as any interest or investment income produced therein or therefrom which have been received by the City in respect thereof.

15. FURTHER ASSURANCES

- 15.1 The Parties hereto covenant and agree that at all times and from time to time hereafter upon every reasonable written request so to do, they shall make, execute, deliver or cause to be made, done, executed and delivered, all such further acts, deeds, assurances and things as may be required for more effectively implementing and carrying out the true intent and meaning of this Agreement.

16. INTENTION OF PARTIES

- 16.1 Notwithstanding any other provisions of this Agreement, the Parties hereto agree with each other that none of the provisions of this Agreement (including a provision stating the Parties' intention) is intended to operate, nor shall have the effect of operating in any way to fetter either the City Council which authorized the execution of this Agreement or any of its successors in the exercise of any of City Council's discretionary powers. Without limiting the generality of the foregoing, such discretionary powers include the power to pass, amend or repeal by-laws; to adopt, amend or rescind official plan amendments; or any discretionary power that the City has under law to approve or withhold approval to permit any demolition, relocation, construction, alteration, remodeling or any other things or act which may materially affect any building, structure or part thereof that is the subject of this Agreement; to impose conditions on any approval to permit any demolition or any building on the Lands

and to approve or refuse Site Plan Approval and any conditions thereto and to approve or withhold approval to permit the conversion to condominium of any rental unit on the Lands, and to impose conditions on any approval respecting condominium conversion.

- 16.2 The Parties acknowledge and agree that nothing herein shall be construed as purporting to limit the authority of the LPAT to make amendments to the Zoning By-law Amendments affecting the Lands on appeal.

17. ENUREMENT

- 17.1 The Parties hereto agree that the covenants, easements, restrictions, rights, duties, provisos, conditions and obligations herein contained shall enure to the benefit of and be binding upon the City and its successors and assigns.

- 17.2 The Owner agrees that the covenants, easements, restrictions, rights, duties, provisos, conditions and obligations herein contained, as they apply to the Owner, shall run with the Lands and shall enure to the benefit of and be binding upon the Owner and its successors and assigns, including a future condominium corporation and including all subsequent owners of all or any portion of the Lands on a joint and several basis. The City shall have the right to approve all provisions relating to this Agreement contained in any disclosure statement, declaration or any other document pertaining to the Development to ensure that any such document adequately discloses the obligations under this Agreement to be assumed by any party to such document.

- 17.3 Notwithstanding anything in this Agreement to the contrary, in the event the City acquires any part of the Lands for any municipal purpose, including but not limited to road widenings, the City shall not be bound by this Agreement as an Owner, nor as a successor or assign of an Owner.

- 17.4 The Owner agrees that any document relating to the conveyance of any of the lands included in the Lands shall not contain any provision that the person or corporation acquiring the lands is not required to comply with the terms and provision of this Agreement, or that is contrary to the provisions hereof.

18. CONVEYANCES OF LAND TO CITY

- 18.1 In the event that there are any conveyances of land under this Agreement from the Owner to the City (the "Land Conveyance"), including a conveyance of a fee simple interest in land, an easement interest, a restrictive covenant or a leasehold interest, then save and except as provided in this Agreement and subject to the terms and conditions of this Agreement:

- (a) the legal description of the Land Conveyance, including the description of dominant and servient lands subject to an easement or the description of lands subject to a leasehold interest, shall be determined by the City in its sole and unfettered discretion;
- (b) any agreements or documents relating to the Land Conveyance shall be in a form and content acceptable to the City;
- (c) the Owner shall be responsible for all costs relating to the registration of the Land Conveyance, including the cost of preparing any surveys and/or reference plan(s) relating to the same;
- (d) the Owner shall register the Land Conveyance free and clear of any encumbrances or in first priority, as may be applicable, as determined by the City in its sole and unfettered discretion and the Owner agrees to execute any and all documents required for such purpose at the Owner's sole cost and expense; and
- (e) the Owner shall provide to the City at the Owner's sole cost and expense, immediately following registration of the Land Conveyance, final title opinion(s) in a form satisfactory to the City from the Owner's solicitor, confirming that the Land Conveyance has been completed free and clear of any and all encumbrances, that the Land Conveyance has priority over any other interest on the lands registered and/or that any such agreement registered is enforceable against the Owner.

- 18.2 The Owner shall be responsible at its sole cost and expense for compliance with the City's internal policies and requirements as it pertains to the Land Conveyance, including without limiting the generality of the foregoing, environmental site assessment and environmental policies as it pertains to conveyances of land to the City to meet applicable MOE and other applicable requirements.
- 18.3 Without limiting the provisions of Section 18.2, where the Land Conveyance includes improvements to the lands to be conveyed, then the Owner shall be responsible at its sole cost and expense for compliance with the City's Fair Wage Policy and Labour Trades Contractual Obligations in the Construction Industry, as same may be amended from time to time. Prior to entering into any contract for work in relation to such improvements (or work), the Owner shall forward information on the proposed contract as required by the City's Fair Wage Office, for review and written approval, which shall not be unreasonably withheld.
- 18.4 The Owner shall be responsible at its sole cost and expense for paying any and all sales tax, harmonized sales tax and/or land transfer tax payable for the Land Conveyance (which includes payment of provincial and municipal land transfer tax), if any. Notwithstanding the payment of all applicable tax payable as provided above, the Owner shall indemnify and save harmless the City from any and all liabilities, damages, costs, claims, suits or actions made or brought against, suffered by or imposed on the City or its property arising out of, or in respect of liability for tax payable for the Land Conveyance.

19. DEVELOPMENT CHARGES, PARK LEVY, AND CONTRIBUTIONS

- 19.1 The City and the Owner acknowledge and agree that none of the facilities, services and matters to be provided to the City pursuant to this Agreement constitute Development Charges or services to which Development Charges are applicable nor do they qualify as a Development Charge credit under the Development Charges By-law.
- 19.2 The Owner agrees to pay applicable Development Charges with respect to water, sanitary sewers, roads and storm water management services in accordance with the current Development Charges By-law as may be amended from time to time.
- 19.3 The Owner agrees to ensure that the persons who first purchase all or any part of the Lands are informed at the time of transfer, of all the Development Charges related to the Development.
- 19.4 Any outstanding balance respecting a Development Charge as calculated is to be paid in full on the date a Building Permit is issued in relation to a building or structure on land to which a Development Charge applies and shall be calculated at the rate in effect on the date the Building Permit is issued in accordance with the Development Charges By-law.
- 19.5 None of the facilities, works, services, matters or funds to be provided by the Owner under the terms of this Agreement shall constitute a parks levy payment, nor a park land conveyance pursuant to section 42 of the *Planning Act*.
- 19.6 Any payments, conveyances or contributions made to the City pursuant to this Agreement are separate and distinct from any other payment the Owner may be liable for pursuant to the *Planning Act*, the *City of Toronto Act, 2006* or other applicable legislation, including but not limited to the aforesaid Development Charges or park levy payments pursuant to section 42 of the *Planning Act*, and the *Development Charges Act, 1997*. The Owner further acknowledges that the Owner may be required to make such other payments or pay such other charges as may be applicable in addition to the contributions made pursuant to this Agreement.

20. NOTICES

- 20.1 Any notices required or desired to be given to either of the Parties hereto in connection with this Agreement or arising herefrom, shall be in writing and delivered to the intended Party at the following addresses:

To the Owner: YSL Residences Inc.
59 Haydon Street, Suite 200
Toronto, ON M4Y0E7

Attention: Daniel Casey
 E-mail: dcasey@cresford.com
 Facsimile No.: 416-971-7557

To the City: **CITY OF TORONTO**
 2nd Floor, City Hall
 Queen Street, West
 Toronto, ON M5H 2N2

Attention: City Clerk
 Facsimile No.: 416-392-6990

Copy to: **CITY OF TORONTO**
 26th Floor, Metro Hall
 55 John Street
 Toronto, ON M5V 3C6

Attention: City Solicitor
 Facsimile No.: 416-397-5624

- 20.2 Notice given pursuant to Section 20.1 will be given by personally delivery, prepaid registered mail, by facsimile transmission or by email transmission. Notice will be deemed to have been received by a Party on the date of personal delivery and email transmission, on the third day after its mailing by prepaid registered mail or on the next business day (excluding Saturdays, Sundays and statutory holidays) following the date of facsimile transmission (provided confirmation of transmission is produced at the time of such transmission to the intended party).
- 20.3 Either Party may by written notice sent to the other Party hereto, in accordance with the foregoing provisions, change the address, email address or facsimile number to which its notices are to be delivered or transmitted, as the case may be.
- 20.4 In the event of any interruption in the postal service, notice shall be given to any Party at its respective address as set out herein by personal delivery, email transmission or facsimile transmission in the manner as set out herein.

21. JURISDICTION TO ENTER INTO AGREEMENT

- 21.1 This Agreement is entered into pursuant to subsection 37(3) of the Planning Act. If this agreement is determined by a Court to be illegal or beyond the power and jurisdiction of the City, and appeals from such decision have been exhausted, the Owner and the City agree that the Zoning By-law Amendments may be repealed by the City, and the Owner covenants and agrees not to oppose or question or cause to be opposed or questioned, the repeal thereof.
- 21.2 Notwithstanding Section 21.1, if any individual provision(s) of this Agreement is or are determined by a Court to be illegal or beyond the power, jurisdiction, or capacity of any party bound hereby, such provision shall be severed from this Agreement if the Owner and the City agree, and the remainder of the Agreement shall continue in full force and effect, mutatis mutandis; and in such case, the Owner and the City agree to negotiate in good faith to amend this Agreement in order to implement the intentions as set out herein. If the Owner and the City cannot agree that such provision or provisions shall be severed, the City may repeal the Zoning By-law Amendments and the provisions of Section 21.1 shall apply to such repeal.
- 21.3 It is agreed and acknowledged by the parties hereto that each is satisfied as to the jurisdiction of the City to pass the Zoning By-law Amendments and each party hereto is satisfied as to the jurisdiction of the other to enter into this Agreement. The Owner therefore covenants and agrees that it shall not question the jurisdiction of the City to enter into this Agreement, nor question the legality of any portion thereof, and likewise the City agrees it shall not question the jurisdiction of the Owner to enter into this Agreement nor question the legality of any portion hereof. The parties hereto, their successors, assigns, lessees and sub-lessees are and shall be estopped from contending otherwise in any proceeding before a Court.

21.4 Wherever there is in this Agreement a reference to certain acts being performed or events occurring prior to the issuance of a Building Permit or Demolition Permit for all or any part of the Lands then with respect to any refusal by the Chief Building Official to issue a Building Permit or Demolition Permit as a result of the non-performance of such acts or non-occurrence of such events, the Owner agrees that it shall not commence any proceedings of any nature or kind whatsoever against the Chief Building Official, the City or any of its employees or officials, for the issuance of such Building Permit or Demolition Permit and that this may be pleaded by the City as an estoppel against the Owner in any such proceedings taken by the Owner. This shall not, however, be interpreted as preventing proceedings for an interpretation by the Courts as to whether or not the requirements of this Agreement with respect to the performance of such acts or the occurrence of such events have been met.

22. COMMENCEMENT, FAILURE IS NOT WAIVER

22.1 This Agreement shall commence on the date of execution and delivery hereof by the Owner and the City.

23. FORCE MAJEURE

23.1 Notwithstanding anything in this Agreement to the contrary, and subject to Section 23.2, if the Owner or the City is bona fide delayed in or prevented from performing any obligation arising under this Agreement by reason of strikes or other labour disturbances, civil disturbance, restrictive government laws, regulations or directives, acts of public enemy, war, riots, sabotage, crime, lightning, earthquake, fire, hurricane, tornado, flood, explosion or other act of God, and not caused by its default and not avoidable by exercise of reasonable effort or foresight, then performance of such obligation is excused for so long as such cause exists, and the party so delayed shall and is entitled, without being in breach of this agreement, to carry out such obligation within the appropriate time period after the cessation of such cause.

23.2 Nothing in Section 23.1 shall operate to excuse the Owner from prompt payment of all sums required to be paid to the City pursuant to the terms of this Agreement and prompt provision of any Letter of Credit required to be provided to the City pursuant to the terms of this Agreement.

24. ENFORCEMENT

24.1 The Owner agrees that the facilities, works and matters required by this Agreement shall be provided and maintained by the Owner at its sole risk and expense and to the satisfaction of the City. In addition, the Owner agrees that upon failure by it to do any act that is required by this Agreement, the City may, in addition to any other remedy under this Agreement, enter upon the Lands if necessary and do the said act at the Owner's expense and collect the cost in like manner as municipal taxes as provided for in section 386 of the *City of Toronto Act, 2006*.

24.2 No remedy herein conferred upon or reserved to the City shall exclude any other remedy, but each remedy shall be cumulative and in addition to every other remedy given hereunder or hereafter existing at law or in equity or by statute.

24.3 The Owner agrees that wherever the provisions of this Agreement permit the City to refuse to process a Building Permit or Demolition Permit such provisions shall apply equally to the City's Chief Building Official.

24.4 The failure of the City at any time to require performance by the Owner of any obligation under this Agreement shall not constitute a waiver by the City to require full and complete performance of such obligation, or any other obligation of the Owner under this Agreement, and shall in no way affect the City's rights thereafter to enforce such obligation, nor shall any such failure or decision be taken or held to be a waiver of the performance of the same or any other obligation hereunder at any later time.

25. SPECIFIC PERFORMANCE

- 25.1 The Owner acknowledges that any breach of this Agreement by the Owner may not be adequately compensated by payment of damages and, accordingly, the Owner admits that specific performance is an appropriate form of remedy in the event of default by the Owner.

26. SEVERABILITY

- 26.1 If any covenant or provision of this Agreement, is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision and all other provisions hereof shall continue in full force and effect.
- 26.2 Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as part of this Agreement, a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable in order to effectively implement and carry out the true intent and meaning of this Agreement.

27. INDEMNIFICATION

- 27.1 The Owner will save, defend and keep harmless and fully indemnify the City and each of its elected officials, officers, employees and agents of, from and against all manner of actions, suits, claims, executions and demands which may be brought against or made upon the City, its elected officials, officers, employees and agents or any of them and of, from and against all loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the City, its elected officials, officers, employees and agents, or any of them, by reason of, or on account of, or in consequence of the fulfilment by the Owner of the obligations of the Owner under this Agreement including the default or breach by the Owner of its obligations under this Agreement or by reason of any negligence or wilful default of the Owner, its officers, employees, agents or persons acting under its direction in connection with the Owner's obligations hereunder. The Owner will pay to the City and to each such elected official, officer, employee or agent on demand any loss, costs, damages and expenses which may be sustained, incurred or paid by the City or by any of its elected officials, officers, employees and agents in consequence of any such action, suit, claim, lien, execution or demand and any monies paid or payable by the City or any of its elected officials, officers, employees or agents in settlement of or in discharge or on account thereof. Such indemnity shall include, but not be limited to, any loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the City as a result of the environmental remediation in respect of the Lands, or failure to perform the same, including any arising from or in any way connected with any contaminant left on or below the Lands or created as a result of the development of the Lands, or the construction of Services. The Owner releases the City and each of its elected officials, officers, employees and agents of, from and against all manner of actions, suits, claims, executions and demands which could be brought against or made upon the City its elected officials, officers, employees and agents or any of them and of, from and against all loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the Owner by reason of, or on account of, or in consequence of the fulfilment of their respective obligations or exercise of their respective powers under this Agreement, provided, however, that such release shall not apply to any loss, costs, charges, damages, liens and expenses incurred by the Owner arising from the gross negligence and/or wilful misconduct of the City, its officers, employees, agents or persons for whom it is responsible in law. Any amounts owing to the City pursuant to the obligation of the Owner to indemnify the City pursuant to the terms of this Agreement may be collected by the City, in addition to any other remedies it may have, as taxes with all such amounts to be payable as directed by City Council pursuant to section 386 of the *City of Toronto Act, 2006*.
- 27.2 Notwithstanding anything hereinbefore or hereinafter provided to the contrary, the City acknowledges and agrees that the foregoing indemnity from the Owner shall not apply to any loss, costs, charges, damages and expenses arising from the gross negligence and/or wilful misconduct of the City and/or any persons under the City's jurisdiction.

Owner may Defend

- 27.3 If the City is made a party to any action, suit or proceeding in respect of a claim to which the Owner's obligations under the provisions of this Section extend, the Owner may defend such action, suit or proceedings in the name of the City, provided that the Owner may, in such

event, elect to pay and satisfy any such claim, and in such event, the City shall inform the Owner fully of such claims and shall afford the Owner every reasonable co-operation in the defence of such action, suit or proceeding.

- 27.4 The obligations of the Owner to defend, indemnify and release the City under the provision of this Agreement shall survive any termination or release in whole or in part of this Agreement, anything in this Agreement to the contrary notwithstanding.

Owner to Protect Public

- 27.5 The Owner shall take all precautions necessary to protect the public against injury on the Lands and other land external to the lands to be developed or serviced pursuant to the terms hereof and, when necessary, maintain illuminated danger signals at night and such other times and places as public safety may require.

28. PAYMENTS

- 28.1 The Owner acknowledges that any contributions or payments made to the City pursuant to this Agreement are separate and distinct from each other and any other payments the Owner may be liable for pursuant to the *Planning Act* or any other applicable legislation, including parks levy payments pursuant to section 42 of the *Planning Act* and including the Development Charges pursuant to the *Development Charges Act, 1997* unless specifically addressed in this Agreement.

- 28.2 The Owner acknowledges and agrees to pay, and fully indemnify the City in respect of any taxes, including the Excise Tax Act (harmonized sales tax) and/or registration fees, associated with the benefit to the City of any facility, service, matter or thing referenced in this Agreement to be provided by the Owner and provided to the City for the benefit of the City by the Owner, provided,

- (a) such indemnity shall be net of any rebate available to the City; and
- (b) the Owner may defend against the imposition of such taxes in the name of the City provided that the Owner may, in such event, elect to pay and satisfy any such claim for taxes and in such event the City shall inform the Owner fully of such claim for taxes and shall offer the Owner every co-operation in the defence of said claim for taxes.

29. MODIFICATION OF AGREEMENT

- 29.1 The Parties acknowledge that the City and Owner, or any subsequent owner(s) of any of the Lands and/or Site may wish to modify this Agreement as it relates to any portion of the Site without consent of each of the other owners of the remainder of the Site or portions thereof and to that end the Owner agrees that this Agreement may be amended in respect of any one component of the Site without the consent or agreement of the owner of any other component of the Site.

- 29.2 No waiver or modification of the terms of this Agreement shall be valid unless in writing and signed by the Parties.

- 29.3 This Agreement may be amended from time to time without the consent or agreement of the owners of any units located within any condominium corporation registered against any or all of the Lands and that any such amendment shall not relieve or release any such owner of a condominium unit from the provisions of this Agreement.

30. CITY NOT TO INCUR EXPENSES

- 30.1 It is the intent of this Agreement except where stated otherwise that the City shall not incur any expenses for the development of the Lands and every obligation of the Owner under this Agreement shall be deemed to include the words "at the Owner's expense", unless specifically stated otherwise.

31. JOINT AND SEVERAL LIABILITY

31.1 By execution hereof, any entities constituting the Owner acknowledge and agree that they are jointly and severally liable for the obligations set out in this Agreement.

32. INTERPRETATION

32.1 The headings in the body of this Agreement form no part of the Agreement but shall be deemed to be inserted for convenience of reference only.

32.2 Reference to an official of the City in this Agreement shall be deemed to include a reference to the official of the City who performs the duties of such referenced person from time to time. Further, whenever the provisions of this Agreement require an approval or consent of an officer of the City, in the event the City Council deems it appropriate, the approval or consent may be given by any other official of the City or may include the approval of City Council.

32.3 Reference to any legislation (statutes, regulations, by-laws, etc.) in this Agreement includes an amendment, replacement, subsequent enactment or consolidation of such legislation.

32.4 This Agreement shall be construed with all changes in number and gender as may be required by the context.

32.5 Time shall be of the essence of this Agreement.

32.6 This Agreement may be executed by the Parties in counterparts and when all parties have executed at least as many counterparts and there are Parties, all of such counterparts shall be deemed to be originals and all such counterparts taken together shall constitute one and the same agreement.

*[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE
FOLLOWS]*

IN WITNESS WHEREOF the parties have hereunto caused their corporate seal to be affixed as attested to by the hands of their proper signing officers duly authorized in that behalf.

EXECUTED AT _____, this _____ day of _____, 2019.

YSL RESIDENCES INC.

[Handwritten Signature] c/s
Name: Daniel Casey
Title: President

Name:

Title:

I/We have the authority to bind the City

EXECUTED AT Toronto, this 13th day of September, 2019.

CITY OF TORONTO

[Handwritten Signature] c/s
Name: Lynda McDonald
Title: Director, Community Planning

Name:

Title:

I/We have the authority to bind the City

APPROVED AS TO FORM

[Handwritten Signature]
For Wendy Walberg, City Solicitor

File # 204480204

Authorized on October 23, 2018 by the Local Planning Appeal Tribunal decision No. PL171277

City Clerk

SCHEDULE "A"

LEGAL DESCRIPTION

	Municipal Address	Property Identifier Number	Legal Description
1.	363-365 Yonge Street, Toronto, Ontario	PIN: 21101-0049 (LT)	PT LT 31 E/S YONGE ST PL 22A TORONTO AS IN EP126440; TORONTO, CITY OF TORONTO
2.	367 Yonge Street, Toronto, Ontario	PIN: 21101-0048 (LT)	PT LT 31 E/S YONGE ST, 32 E/S YONGE ST PL 22A TORONTO AS IN CA761626; TORONTO, CITY OF TORONTO
3.	369-371 Yonge Street, Toronto, Ontario	PIN: 21101-0047 (LT)	PT LT 32 E/S YONGE ST PL 22A TORONTO AS IN CA472341; TORONTO, CITY OF TORONTO
4.	373-375 Yonge Street, Toronto, Ontario	PIN: 21101-0046 (LT)	PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA540937; TORONTO, CITY OF TORONTO
5.	377 Yonge Street, Toronto, Ontario	PIN: 21101-0045 (LT)	PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA310343; TORONTO, CITY OF TORONTO
6.	379 Yonge Street, Toronto, Ontario	PIN: 21101-0044 (LT)	PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN CT497024; TORONTO, CITY OF TORONTO
7.	381 Yonge Street, Toronto, Ontario	PIN: 21101-0043 (LT)	PART OF LOT 34 ON THE EAST SIDE OF YONGE STREET, PLAN 22A AS DESCRIBED IN INSTRUMENT NO. OT46105, CITY OF TORONTO
8.	385 Yonge Street, Toronto, Ontario	PIN: 21101-0042 (LT)	LT 35 E/S YONGE ST, 36 E/S YONGE ST PL 22A TORONTO; TORONTO, CITY OF TORONTO
9.	357 1/2 Yonge Street, Toronto, Ontario	PIN: 21101-0053 (LT)	PT LT 29 E/S YONGE ST PL 22A TORONTO AS IN CT853134; T/W CT853134; TORONTO, CITY OF TORONTO
10.	357A Yonge Street, Toronto, Ontario	PIN: 21101-0052 (LT)	PT LT 29 E/S YONGE ST, PL 22A TORONTO AS IN CT891553, CITY OF TORONTO

SCHEDULE "B"

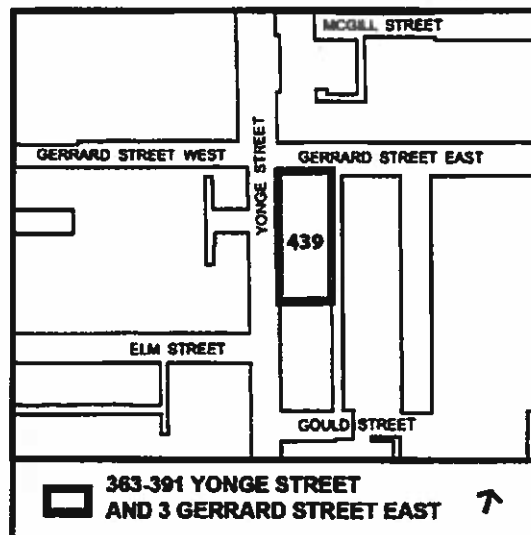
DRAFT OFFICIAL PLAN AMENDMENT

**LANDS MUNICIPALLY KNOWN IN THE YEAR 2018 AS 363-391 YONGE STREET AND
3 GERRARD STREET EAST
CITY OF TORONTO**

Chapter Seven – Site and Area Specific Policy No. 174 is hereby amended by adding the following policy (d):

"e) 363-391 Yonge Street and 3 Gerrard Street East

Notwithstanding Policy b) i) b) of this Site and Area Specific Policy, a mixed-use development with a maximum height of 299 metres is permitted."



SCHEDULE "C"

CITY OF TORONTO
BY-LAW No. XXX-2019 (LPAT)

To amend the general Zoning By-law No. 438-86, as amended, of the former City of Toronto with respect to the lands municipally known as 357½, 357A, 363 to 391 Yonge Street and 3 Gerrard Street East

Whereas the Local Planning Appeal Tribunal, formerly the Ontario Municipal Board, by its Order issued [~] in File PL171277, approved amendments to amend the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands known municipally as 357½, 357A, 363 to 391 Yonge Street and 3 Gerrard Street East; and

Whereas the Local Planning Appeal Tribunal has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended to pass this by-law; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by Zoning By-law 438-86, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Local Planning Appeal Tribunal Orders:

1. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended shall continue to apply to the *lot*.
2. None of the provisions of Section 2(1) *height*, 4(2)(a), 4(5)(b), 4(8), 4(12), 4(13), 8(3) Part I 1, 2 & 3, 8(3) Part II 1(a), 8(3) Part III 1(a), 12(1)397, 12(1)431, 12(2)132, 12(2)258, 12(2)260, 12(2)316, and 12(2)380 of By-law No. 438-86 of the former City of Toronto, as amended and By-laws 1106-2016 and 194-97, shall apply to prevent the erection or use of an 85 storey mixed-use building which may contain *dwelling units* and non-residential uses including a *commercial parking garage* and a *parking garage* below *grade* on the *lot* provided that:
 - (a) The *lot* comprises the lands shown as Block 1 on Map 1 attached to and forming part of this By-law;
 - (b) Despite Section 2(1) of By-law 438-86, *grade* shall mean a Canadian Geodetic Datum elevation of 95.42 metres;
 - (c) The *height* of any building or structure, including the mechanical penthouse, or portion thereof above *grade* shall not exceed those *heights* as indicated by the H symbol on Map 2;
 - (d) Despite (c) above, and provided these projecting elements are no higher than

299 metres above *grade*, the following elements of a *building* may project above the permitted maximum building heights shown on Map 2 of By-law No. [Clerks to insert By-law No.]:

- i. window washing equipment, lightning rods and wind mitigation features;
- ii. structures and elements related to outdoor flooring and roofing assembly may project above the height limits by no more than 0.5 metres;
- iii. safety railings, guard rails, railings, parapets, terraces, patios, planters, balustrades, bollards, stairs, accessory structures, retaining walls, wheelchair ramps and ornamental or architectural features may project above the height limits by no more than 1.5 metres;
- iv. elements on the roof of the *building* or structure used for *green roof* technology and related roofing material may project above the height limits by no more than 2.0 metres;
- v. mechanical elements, garbage chutes, vents, screens, emergency generators and lighting fixtures may project above the height limits by no more than 2.5 metres;
- vi. landscape features, privacy screens, terrace dividers, covered stairs or stair enclosures and fences may project above the height limits by no more than 2.75 metres;
- vii. cabanas and trellises may project above the height limits by no more than 3.6 metres; and,
- viii. cooling towers may project above the height limits by no more than 6.0 metres;

(e) A building or structure must be set back from the lot lines at least the distance shown on Map 2 of By-law No. [Clerks to insert By-law No.] with the exception of the following:

- i. bay windows, lighting fixtures, cornices, architectural cladding or design features, sills, eaves, awnings and art installations may encroach into a building setback by a maximum of 0.6 metres;
- ii. balconies may encroach into a building setback by a maximum of 2.0 metres:
 1. within the areas illustrated as 'Balcony Projection Zone' on Map 2; and,
 2. from the north face of the building provided these balconies are no closer than 11.3 metres to the Yonge Street *lot* line and 9.9 metres to the O'Keefe Lane *lot* line;
- iii. canopies may encroach into a building setback by a maximum of 2.0 metres; and,
- iv. wind mitigation features;

(f) The combined *residential gross floor area* and *non-residential gross floor area* shall not exceed 94,500 square metres, of which:

- i. no more than 75,871 square metres may be *residential gross floor area*; and,
- ii. no more than 18,629 square metres may be *non-residential gross floor area*;

(g) A maximum of 1,106 *dwelling units* are permitted on the *lot*;

(h) At least 10% of the *dwelling units* must have a floor area of at least 106 square metres, as measured to:

- i. the exterior side of a main wall;
- ii. the centerline of an interior wall where the *dwelling unit* shares a wall with another *dwelling unit*; and,
- iii. the exterior side of an interior wall where the *dwelling unit* does not share a wall with another *dwelling unit*;

(i) *Parking spaces* must be provided as follows:

- i. a minimum of 0.17 *parking spaces* per *dwelling unit* shall be allocated as long-term *parking spaces* for the *dwelling units* in the *mixed use building*;

- ii. no short-term *parking spaces* are required for the *dwelling units* in the *mixed use building*;
 - iii. a minimum of 48 *parking spaces* are required for the non-residential uses in the *mixed use building* and:
 - 1. these *parking spaces* may also be used by visitors of residents of the *dwelling units* in the *mixed use building*;
 - 2. these *parking spaces* may be allocated in any combination of short-term or long-term *parking spaces*; and,
 - 3. these *parking spaces* may be in a *commercial parking garage*;
 - iv. a minimum of 6 *car-share parking spaces* are required for the purposes of *car-share* and should there be a period of time where there is no *car-share* service provided, the *car-share parking spaces* shall still be counted toward meeting the by-law requirements; and,
 - v. in the event that the calculation of the number of required *parking spaces* results in a number with a fraction, the number shall be rounded down to the nearest whole number.
- (j) At least 381 square metres of outdoor *residential amenity space* and at least 2,212 square metres of indoor *residential amenity space* is required for the *dwelling units*;
- (k) Despite regulation 4(17) of By-law 438-86, 32 *parking spaces* may have minimum widths of 2.6 metres when obstructed on one side;
- (l) *Bicycle parking spaces* shall be provided in accordance with the following:
- i. at least 0.9 *bicycle parking spaces* per *dwelling unit* shall be allocated as *bicycle parking space – occupant* for the residential use;
 - ii. at least 0.1 *bicycle parking spaces* per *dwelling unit* shall be allocated as *bicycle parking space – visitor* for the residential use;
 - iii. at least 83 *bicycle parking spaces* shall be allocated as *bicycle parking space – occupant* for the non-residential uses;
 - iv. at least 61 *bicycle parking spaces* shall be allocated as *bicycle parking space – visitor* for the non-residential uses;
 - v. *bicycle parking spaces* may be provided in any combination of vertical, horizontal or stacked positions;
 - vi. *bicycle parking spaces* may be located anywhere above or below grade in the *mixed-use building*;
 - vii. at least 2 shower and change facilities are required for each gender;
 - viii. notwithstanding the definition of *bicycle parking space - occupant* and *bicycle parking space - visitor* in Section 2 of By-law 438-86, if *bicycle parking spaces* are provided in a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both *bicycle parking spaces*, the minimum vertical clearance for each *bicycle parking space* must be at least 1.2 metres; and,
 - ix. notwithstanding the definition of *bicycle parking space - visitor* in Section 2 of By-law 438-86, *bicycle parking spaces - visitor* may be provided in a secured room;
- (m) At least one (1) *loading space - Type "G"*, two (2) *loading space - Type "B"* and two (2) *loading space - Type "C"* must be provided on the *lot*;
- (n) In addition to the elements mentioned in section 2(1) of By-law 438-86, the *residential gross floor area* and *non-residential gross floor area* of a *mixed use building* is also reduced by the areas in a building used for:
- i. hallways, elevator vestibules and a *commercial parking garage* below-ground; and,
 - ii. mechanical areas on any level of the building;

- (o) Notwithstanding Section 2(1) of By-law 438-86, levels of the *mixed use building* used for a mechanical penthouse or mezzanine are not considered to be *storeys*;
 - (p) A *temporary sales office* shall be permitted on the *lot*;
3. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the following:
- (a) "*height*" means the vertical distance between *grade* and the highest point of the building roof shown on Map 2;
 - (b) "*temporary sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot*.
 - (c) "*car-share*" means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization and such car-share motor vehicles are made available to at least the occupants of the building for short term rental, including hourly rental;
 - (d) "*car-share parking space*" shall mean a parking space exclusively reserved and signed for a car used only for car-share purposes;
 - (e) "*green roof*" means an extension to a building's roof that allows vegetation to grow in a growing medium and which is designed, constructed and maintained in compliance with the Toronto Green Roof Construction Standard set out in Chapter 492 of the City of Toronto Municipal Code.
4. Despite any of the provisions of By-law 438-86, for the purposes of the building on the *lot*, the *residential gross floor area* and *non-residential gross floor area* shall be calculated in accordance with the applicable deductions in By-law 569-2013 and the deductions listed below:
- (a) areas in a building below-ground used for hallways, elevator vestibules and a *commercial parking garage*; and,
 - (b) mechanical areas on any level of the building;
5. Within the lands shown on Map 1, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
- (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
6. Section 37 Provisions
- (a) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and/or density of the development is permitted beyond that otherwise permitted on the lands shown on Map 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;

- (b) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and
- (c) The owner shall not use, or permit the use of, a building or structure erected with an increase in height or density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Pursuant to Order of the Local Planning Appeal Tribunal, formerly the Ontario Municipal Board, issued on [~] in File PL171277.

SCHEDULE A
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the Owner's expense in return for the increase in height and density of the proposed development on the lands shown on Map 1 in this By-law and secured in an agreement under Section 37(3) of the *Planning Act* where the Owner agrees as follows:

1. That the Owner provide Section 37 agreement contributions to the City as follows:
 - a. a community and/or cultural space to be located on the third level of the Development, which shall be a minimum of 241.5 square metres, with access from grade, finished to shell condition, to be conveyed to the City. Prior to the issuance of the first Above-Grade Building Permit, the Owner shall provide an upwardly indexed financial security to the City in the amount of \$350,000;
 - b. prior to the issuance of the first Above-Grade Building Permit, the Owner shall pay an upwardly indexed cash contribution to the City in the amount of \$4,000,000 towards the provision of new affordable rental housing in Ward 13;
 - c. prior to the issuance of the first Above-Grade Building Permit, the Owner shall:
 - i. pay an upwardly indexed cash contribution to the City in the amount of \$850,000 for the provision of public art;

OR

 - ii. prepare and submit to the Toronto Public Art Commission for recommendation a public art plan for the public art works equal in value to \$850,000, indexed upwardly, and obtain Council approval of the public art plan, which plan will detail the possible locations of any public art works on the site, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;

OR

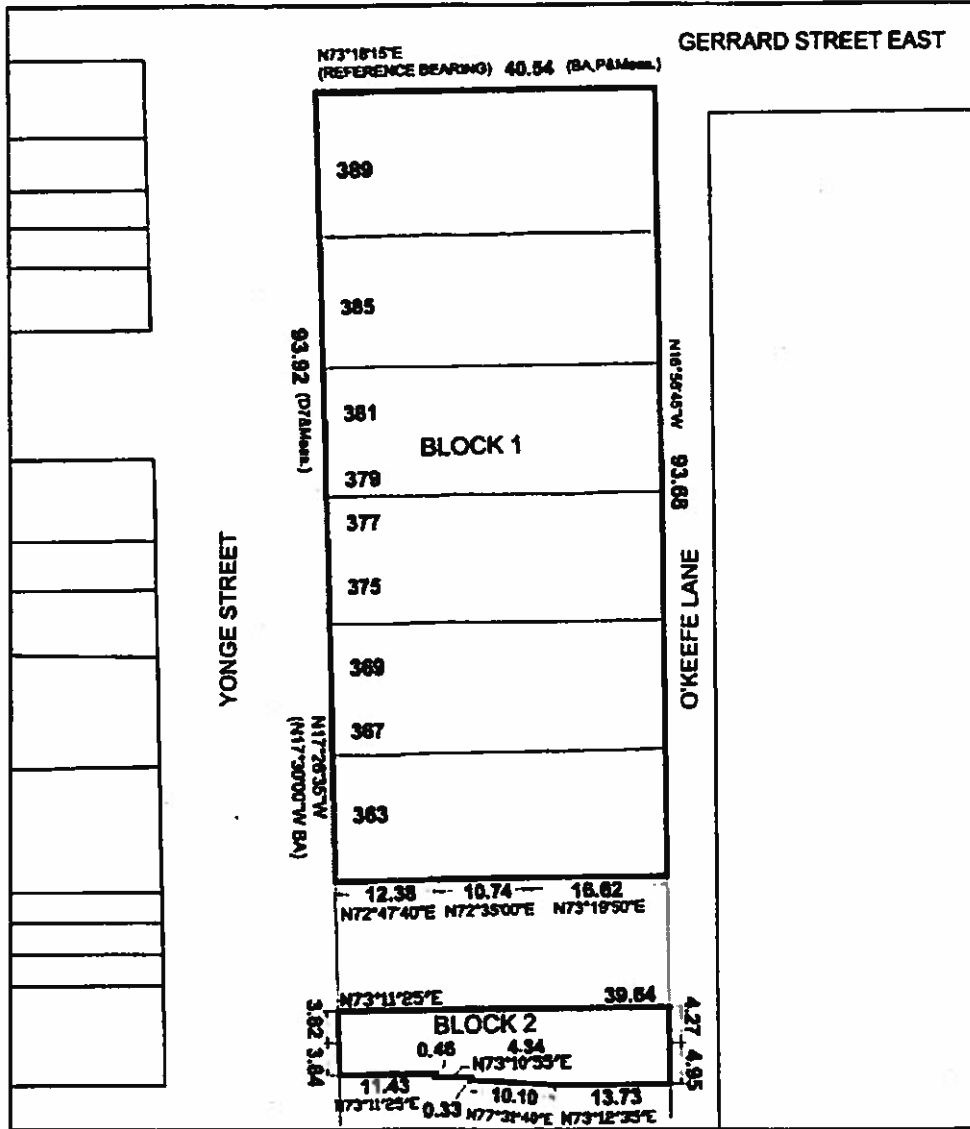
 - iii. provide a combination of cash contribution and commissioned public art works, as detailed in a public art plan, provided the total amount of the cash contribution and the public art works is equal to the upwardly indexed amount of \$850,000;
 - d. an above-grade elevated or below-grade pedestrian weather protected connection from the east elevation of the proposed tower to Ryerson University's Jorgensen Hall, in a manner acceptable to Ryerson University and in a location satisfactory to the City, in consultation with Ryerson University. Prior to the issuance of the first Above-Grade Building Permit for the development, the Owner shall:
 - i. Confirm to the City in writing that the Owner has obtained consent from Ryerson University to the construction of the pedestrian connection and has posted a financial security in the amount of \$1,200,000 to guarantee the construction of the pedestrian connection;

OR

 - ii. Provide proof, to the satisfaction of the Chief Planner and Executive Director, City Planning that the Owner has paid an upwardly indexed cash contribution to the City in the amount of \$1,200,000 to be dedicated to community benefits/facilities in the Ward at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
 - e. a mix of residential dwelling units with at least 10% of the total residential dwelling units having a minimum size of 106 square metres;

- f. the design, construction and provision of improvements to the public realm for O'Keefe Lane, equal to an upwardly indexed amount of \$750,000, which will include, but not be limited to, details regarding hard and soft landscaping, paving and curbing details, animation of the land with the wrapping of retail or institutional uses onto a portion of the lane from the Gerrard Street East frontage. The details of the streetscape and landscape improvement shall be secured through the site plan approval process with input from Ryerson University, and shall be constructed by the owner no later than three years following the first residential or commercial occupancy;
 - g. a Child and Family Centre facility located on the third level of the Development which shall be a minimum of 485 square metres. The Child and Family Centre facility shall be located on the interior of the Development and, for greater clarity, there shall be no requirement for outdoor space associated with the facility. The Owner will lease the Child and family Centre Facility to the City for a term of 99 years. Prior to the issuance of the First Above-Grade Building Permit, the Owner shall provide an upwardly indexed financial security to the City in the amount of \$650,000; and
 - h. prior to the issuance of the first Above-Grade Building Permit, the Owner shall pay an upwardly indexed cash contribution to the City in the amount of 1,080,000 towards improvements to Yonge Street.
2. That the Section 37 agreement referenced in paragraph 1 above, secure, as a legal convenience, the requirement for and associated details respecting the satisfaction of the following conditions:
- a. the Owner shall provide a minimum of 2,212 square metres of indoor amenity space and a minimum of 381 square metres of outdoor amenity space. It is acknowledged that any additional outdoor amenity space provided in association with the non-residential uses may be located on the lower podium levels. If for any reason the non-residential outdoor amenity space is not used for its intended purpose, it shall be reallocated as residential outdoor amenity space;
 - b. the Owner shall construct and maintain the Development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting of October 26 and 27, 2009 as amended by City Council at its meeting of July 16, 17, 19 and 19, 2013
 - c. a minimum of 0.17 resident parking spaces per Dwelling Unit shall be allocated as resident parking spaces, 48 non-residential parking spaces and 6 car-share parking spaces, shall be provided;
 - d. the provision of a minimum of 5 loading spaces (1 Type G, 2 Type B and 2 Type C);
 - e. the execution of a restrictive covenant to be registered on title at 357A and 357 ½ Yonge Street, to the satisfaction of the City Solicitor;
 - f. confirmation in writing from a duly authorized representative(s) of the Hospital for Sick Children and St. Michael's Hospital, to the satisfaction of the Chief Planner and Executive Director, City Planning, that there is no intrusion by the Development or by any structure or naturally growing object, into the helicopter flight path, in accordance with the requirements of By-law 1432-2017, as amended; and
 - g. the completion by the Owner of a TTC Technical Review and receipt by the City of the TTC's written acknowledgment that the Owner has satisfied all of the conditions arising out of the review, to the satisfaction of the Chief Planner and Executive Director, City Planning.

Map 1

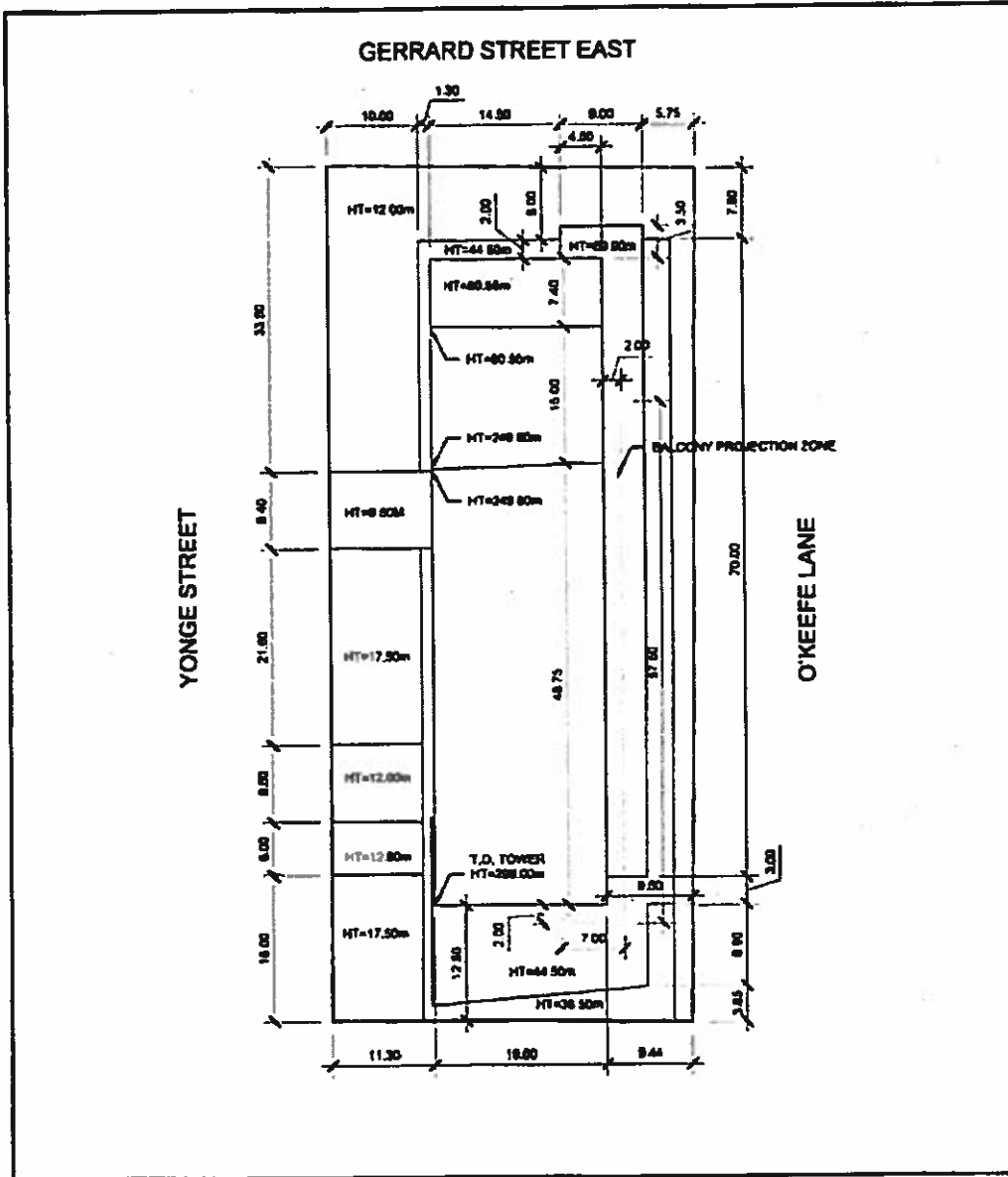


City of Toronto
Map 1

**363-391 Yonge Street and
3 Gerrard Street East**
File # 15 148478 STE 27 02

↑
City of Toronto By-law 438-88
Not to Scale
2/4/2019

Map 2



City of Toronto
Map 2

**363-391 Yonge Street and
3 Gerrard Street East**
File # 15 146478 STE 27 02

↑
City of Toronto By-law 438-88
Not to Scale
2/4/2018

**CITY OF TORONTO
BY-LAW No. XXX-2019 (LPAT)**

To amend the City of Toronto By-law No. 569-2013, as amended, with respect to lands known municipally as of 357½, 357A, 363 to 391 Yonge Street and 3 Gerrard Street East.

Whereas the Local Planning Appeal Tribunal, formerly the Ontario Municipal Board, by its Order issued [~] in File PL171277, approved amendments to amend City of Toronto Zoning By-law 569-2013, as amended, with respect to the lands known municipally as 357½, 357A, 363 to 391 Yonge Street and 3 Gerrard Street East; and

Whereas the Local Planning Appeal Tribunal has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended to pass this by-law; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Local Planning Appeal Tribunal Orders:

2. The lands subject to this By-law are outlined by heavy black lines and referred to as Block 1 and Block 2 on Diagram 1 attached to this By-law.
3. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
4. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines to CR 4.0 (c4.0; r1.5) SS1 (x175) as shown on Diagram 2 attached to this By-law; and
5. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number 175 so that it reads:

Exception CR 175

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections:

Site Specific Provisions:

- (A) If the requirements of Clause 5 and Schedule A of By-law xxxx-2019 [Clerks to insert By-law number] are complied with, clauses 40.10.40.10 and 40.10.40.40 do not apply to prevent the erection or use of an 85-storey mixed use building permitted in compliance with the clauses below;

- (B) The lot consists of those lands shown as Block 1 on Diagram 1 attached to By-law No. [Clerks to insert By-law No.];
- (C) Despite regulation 40.5.40.10(1), height is measured from the Canadian Geodetic Datum elevation of 95.42 metres and the elevation of the highest point of the building;
- (D) Regulation 600.10.10 with respect to Building Setbacks does not apply;
- (E) Despite regulation 40.10.40.10(1), the height for any portion of a building or structure must not exceed the maximum height permitted by the letter "HT" as shown on Diagram 3 of By-law No. [Clerks to insert By-law No.];
- (F) Despite (E) above, 40.5.40.10(4), (5), (6) & (7), and provided these projecting elements are no higher than 299 metres above the Canadian Geodetic Datum elevation of 95.42 metres, the following elements of a building may project above the permitted maximum building heights shown on Diagram 3 of By-law No. [Clerks to insert By-law No.]:
- i. window washing equipment, lightning rods and wind mitigation features;
 - ii. structures and elements related to outdoor flooring and roofing assembly may project above the height limits by no more than 0.5 metres;
 - iii. safety railings, guard rails, railings, parapets, terraces, patios, planters, balustrades, bollards, stairs, ancillary structures, retaining walls, wheelchair ramps and ornamental or architectural features may project above the height limits by no more than 1.5 metres;
 - iv. elements on the roof of the building or structure used for green roof technology and related roofing material may project above the height limits by no more than 2.0 metres;
 - v. mechanical elements, garbage chutes, vents, screens, emergency generators and lighting fixtures may project above the height limits by no more than 2.5 metres;
 - vi. landscape features, privacy screens, terrace dividers, covered stairs or stair enclosures and fences may project above the height limits by no more than 2.75 metres;
 - vii. cabanas and trellises may project above the height limits by no more than 3.6 metres; and,
 - viii. cooling towers may project above the height limits by no more than 6.0 metres;
- (G) Despite 40.10.40.70(1) and 40.10.40.80(1), a building must be set back from the lot lines at least the distance shown on Diagram 3 of By-law No. [Clerks to insert By-law No.] with the exception of the following:
- i. bay windows, lighting fixtures, cornices, architectural cladding or design features, sills, eaves, awnings and art installations may encroach into a building setback by a maximum of 0.6 metres;
 - ii. balconies may encroach into a building setback by a maximum of 2.0 metres:
 1. within the areas illustrated as 'Balcony Projection Zone' on Diagram 3; and,
 2. from the north face of the building provided these balconies are no closer than 11.3 metres to the Yonge Street lot line and 9.9 metres to the O'Keefe Lane lot line;
 - iii. canopies may encroach into a building setback by a maximum of 2.0 metres; and,
 - iv. wind mitigation features;
- (H) Despite 40.10.40.40(1):
- i. the maximum total residential and non-residential gross floor area is 94,500 square metres;
 - ii. the maximum residential gross floor area is 75,871 square metres; and,
 - iii. the maximum non-residential gross floor area is 18,629 square metres;

- (I) A maximum of 1,106 dwelling units are permitted on the lot;
- (J) At least 10% of the dwelling units must have a floor area of at least 106 square metres, as measured to:
- i. the exterior side of a main wall;
 - ii. the centerline of an interior wall where the dwelling unit shares a wall with another dwelling unit; and,
 - iii. the exterior side of an interior wall where the dwelling unit does not share a wall with another dwelling unit;
- (K) Despite 200.5.10.1(1), parking spaces must be provided as follows:
- i. a minimum of 0.17 parking spaces per dwelling unit for the tenants in the mixed use building;
 - ii. no parking spaces are required for the visitors of residents to dwelling units in the mixed use building;
 - iii. a minimum of 48 parking spaces are required for the non-residential uses in the mixed use building and:
 1. these parking spaces may also be used by visitors of residents of the dwelling units in the mixed use building; and,
 2. these parking spaces may be public parking;
 - iv. a minimum of 6 parking spaces for car-share and should there be a period of time where there is no car-share service provided, the car-share parking spaces shall still be counted toward meeting the by-law requirements;
- (L) Despite regulation 40.10.40.50(1):
- i. a minimum of 381 square metres of outdoor amenity space and a minimum of 2,212 square metres of indoor amenity space is required for the dwelling units; and,
 - ii. no more than 25% of the outdoor amenity space component may be a green roof;
- (M) Despite 40.10.40.50(2), a minimum of 175 square metres of outdoor amenity space must be provided on the lot for the non-residential use;
- (N) Despite regulation 40.10.40.1(1), residential use portions of the building may also be located on the same level or below non-residential use portions;
- (O) Despite regulation 200.5.1.10(2) of By-law 569-2013, a maximum of 32 parking spaces may have minimum widths of 2.6 metres when obstructed on one side;
- (P) Despite 200.15 and By-law 579-2017, accessible parking spaces must be provided as follows:
- i. of the required parking spaces in (K) above, a minimum of 8 must be accessible parking spaces and must be provided in the underground parking garage;
 - ii. accessible parking spaces must have the following minimum dimensions:
 1. length of 5.6 metre;
 2. width of 3.4 metres; and,
 3. vertical clearance of 2.1 metres;
 - iii. the entire length of an accessible parking space must be adjacent to a minimum 1.5 metre wide accessible barrier free aisle or path; and,
 - iv. despite 200.15.1.5 and 200.15.1(4), accessible parking spaces may be located anywhere in the underground parking garage;
- (Q) Despite regulation 230.5.1.10(7), at least 2 shower and change facilities are required for each gender;
- (R) Despite regulation 230.5.1.10(9), long term and short term bicycle parking spaces for dwelling units or for non-residential uses may be located anywhere above or below ground in the building;

- (S) Despite regulation 230.5.1.10(10), long term and short term **bicycle parking spaces for dwelling units** or for non-residential uses may be provided in any combination of vertical, horizontal or stacked positions;
- (T) Despite regulations 230.5.10.1(1), (2) and (5):
- i. at least 0.9 **bicycle parking spaces per dwelling unit** must be allocated as long-term **bicycle parking spaces for the dwelling units**;
 - ii. at least 0.1 **bicycle parking spaces per dwelling unit** must be allocated as short-term **bicycle parking spaces for the dwelling units**;
 - iii. at least 83 **bicycle parking spaces** must be allocated as long-term **bicycle parking spaces for the non-residential uses**;
 - iv. at least 61 **bicycle parking spaces** must be allocated as short-term **bicycle parking spaces for the non-residential uses**;
- (U) Despite regulation 230.40.1.20(2), a short-term **bicycle parking space** may be located more than 30 metres from a pedestrian entrance to the building on the lot and may be located in a secured room or an unsecured room;
- (V) Despite the requirements of 220.5.10.1, at least one (1) Type "G" **loading space**, two (2) Type "B" **loading spaces** and two (2) Type "C" **loading spaces** must be provided on the lot;
- (W) Despite regulation 40.10.100.10(1)(c), more than one **vehicle access** is permitted;
- (X) In addition to the **building elements** listed in regulation 40.5.40.40(3), the **gross floor area** of a mixed use building is also reduced by the areas in a building used for:
- i. **hallways, elevator vestibules and public parking below ground**; and,
 - ii. **mechanical rooms on any level of the building**;
- (Y) For the purpose of this exception, levels of a building used for a mechanical penthouse or a mezzanine are not storeys;
- (Z) Despite 40.10.40.10(5), the minimum height of the first storey may be less than 4.5 metres;
- (AA) Despite 40.10.20.100(21), an **outdoor patio** is not limited in size or area;
- (BB) Despite 40.10.20.100(33) and 150.100, there is no maximum **interior floor area** for an **eating establishment**;
- (CC) Despite any severance, partition or division of the lands, the provision of this By-law apply to the whole of the lands as if no severance, partition or division occurred;
- (DD) Prevailing Sections 12(1)397, 12(1)431, 12(2)132, 12(2)258, 12(2)260, 12(2)316, and 12(2)380 of By-law No. 438-86 of the former City of Toronto, as amended and Prevailing By-law 194-97 do not apply;

Prevailing By-laws and Prevailing Sections:

- (A) Section 12(1) 334 of former City of Toronto By-law 438-86;
 (B) Section 12(1)335 of former City of Toronto By-law 438-86;
 (C) Section 12(1)397 of former City of Toronto By-law 438-86;
 (D) Section 12(1)431 of former City of Toronto By-law 438-86;
 (E) Section 12(2)132 of former City of Toronto By-law 438-86;
 (F) Section 12(2)256 of former City of Toronto By-law 438-86;
 (G) Section 12(2)258 of former City of Toronto By-law 438-86;
 (H) Section 12(2)259 of former City of Toronto By-law 438-86;
 (I) Section 12(2)260 of former City of Toronto By-law 438-86;
 (J) Section 12(2)316 of former City of Toronto By-law 438-86;
 (K) Section 12(2)380 of former City of Toronto By-law 438-86; and

(L) City of Toronto By-law 97-0194.

6. Section 37 Provisions

(A) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and/or density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;

(B) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and

(C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height or density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Pursuant to Order of the Local Planning Appeal Tribunal, formerly the Ontario Municipal Board, issued on [-] in File PL171277.

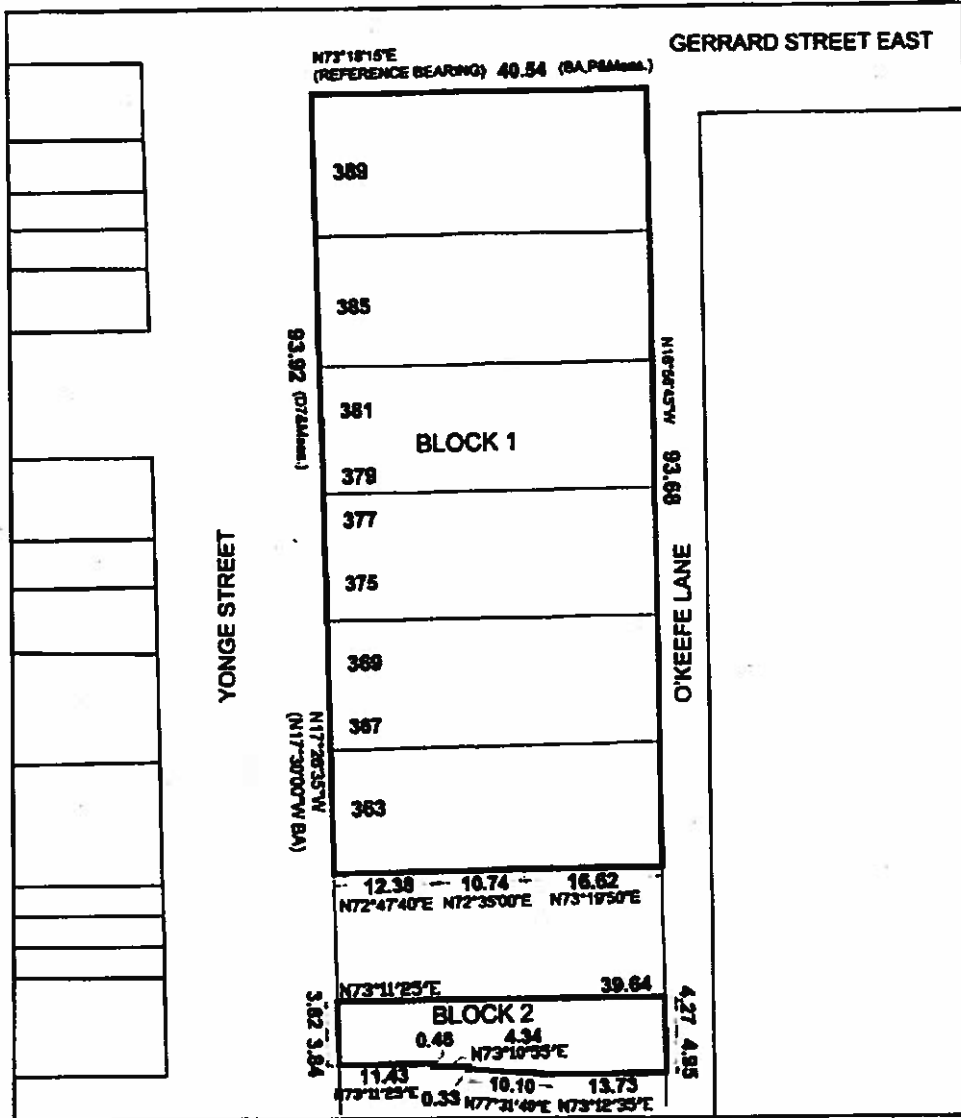
SCHEDULE A
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the Owner's expense in return for the increase in height and density of the proposed development on the lands shown on Diagram 1 in this By-law and secured in an agreement under Section 37(3) of the *Planning Act* where the Owner agrees as follows:

1. That the Owner provide Section 37 agreement contributions to the City as follows:
 - a. a community and/or cultural space to be located on the third level of the Development, which shall be a minimum of 241.5 square metres, with access from grade, finished to shell condition, to be conveyed to the City. Prior to the issuance of the first Above-Grade Building Permit, the Owner shall provide an upwardly indexed financial security to the City in the amount of \$350,000;
 - b. prior to the issuance of the first Above-Grade Building Permit, the Owner shall pay an upwardly indexed cash contribution to the City in the amount of \$4,000,000 towards the provision of new affordable rental housing in Ward 13;
 - c. prior to the issuance of the first Above-Grade Building Permit, the Owner shall:
 - i. pay an upwardly indexed cash contribution to the City in the amount of \$850,000 for the provision of public art;
 - OR
 - ii. prepare and submit to the Toronto Public Art Commission for recommendation a public art plan for the public art works to be equal in value to \$850,000, indexed upwardly, and obtain Council approval of the public art plan, which plan will detail the possible locations of any public art works on the site, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
 - OR
 - iii. provide a combination of cash contribution and commissioned public art works, as contemplated in a Council approved public art plan, provided the total amount of the cash contribution and the public art works is equal to the upwardly indexed amount of \$850,000;
 - d. an above-grade elevated or below-grade pedestrian weather protected connection from the east elevation of the proposed tower to Ryerson University's Jorgensen Hall, in a manner acceptable to Ryerson University and in a location satisfactory to the City, in consultation with Ryerson University. Prior to the issuance of the first Above-Grade Building Permit for the development, the Owner shall:
 - i. Confirm to the City in writing that the Owner has obtained consent from Ryerson University to the construction of the pedestrian connection and has posted a financial security in the amount of \$1,200,000 to guarantee the construction of the pedestrian connection;
 - OR
 - ii. Provide proof, to the satisfaction of the Chief Planner and Executive Director, City Planning, that the Owner has paid an upwardly indexed cash contribution to the City in the amount of \$1,200,000 to be dedicated to community benefits/facilities in the Ward at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
 - e. a mix of residential dwelling units with at least 10% of the total residential dwelling units having a minimum size of 106 square metres;

- f. the design, construction and provision of improvements to the public realm for O'Keefe Lane, equal to an upwardly indexed amount of \$750,000, which will include, but not be limited to, details regarding hard and soft landscaping, paving and curbing details, animation of the land with the wrapping of retail or institutional uses onto a portion of the lane from the Gerrard Street East frontage. The details of the streetscape and landscape improvement shall be secured through the site plan approval process with input from Ryerson University, and shall be constructed by the owner no later than three years following the first residential or commercial occupancy;
 - g. a Child and Family Centre facility located on the third level of the Development which shall be a minimum of 485 square metres. The Child and Family Centre facility shall be located on the interior of the Development and, for greater clarity, there shall be no requirement for outdoor space associated with the facility. The Owner will lease the Child and family Centre Facility to the City for a term of 99 years. Prior to the issuance of the First Above-Grade Building Permit, the Owner shall provide an upwardly indexed financial security to the City in the amount of \$650,000; and
 - h. prior to the issuance of the first Above-Grade Building Permit, the Owner shall pay an upwardly indexed cash contribution to the City in the amount of 1,080,000 towards improvements to Yonge Street.
2. That the Section 37 agreement referenced in paragraph 1 above, secure, as a legal convenience, the requirement for and associated details respecting the satisfaction of the following conditions:
- a. the Owner shall provide a minimum of 2,212 square metres of indoor amenity space and a minimum of 381 square metres of outdoor amenity space. It is acknowledged that any additional outdoor amenity space provided in association with the non-residential uses may be located on the lower podium levels. If for any reason the non-residential outdoor amenity space is not used for its intended purpose, it shall be reallocated as residential outdoor amenity space;
 - b. the Owner shall construct and maintain the Development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting of October 26 and 27, 2009 as amended by City Council at its meeting of July 16, 17, 19 and 19, 2013
 - c. a minimum of 0.17 resident parking spaces per Dwelling Unit shall be allocated as resident parking spaces, 48 non-residential parking spaces and 6 car-share parking spaces, shall be provided;
 - d. the provision of a minimum of 5 loading spaces (1 Type G, 2 Type B and 2 Type C);
 - e. the execution of a restrictive covenant to be registered on title at 357A and 357 ½ Yonge Street, to the satisfaction of the City Solicitor;
 - f. confirmation in writing from a duly authorized representative(s) of the Hospital for Sick Children and St. Michael's Hospital, to the satisfaction of the Chief Planner and Executive Director, City Planning, that there is no intrusion by the Development or by any structure or naturally growing object, into the helicopter flight path, in accordance with the requirements of By-law 1432-2017, as amended; and
 - g. the completion by the Owner of a TTC Technical Review and receipt by the City of the TTC's written acknowledgment that the Owner has satisfied all of the conditions arising out of the review, to the satisfaction of the Chief Planner and Executive Director, City Planning.

Diagram 1



Toronto
Diagram 1

**363-391 Yonge Street and
3 Gerrard Street East**
File # 15 148478 STE 27 02

City of Toronto By-law 568-2013
Not to Scale
24/2019

Diagram 2

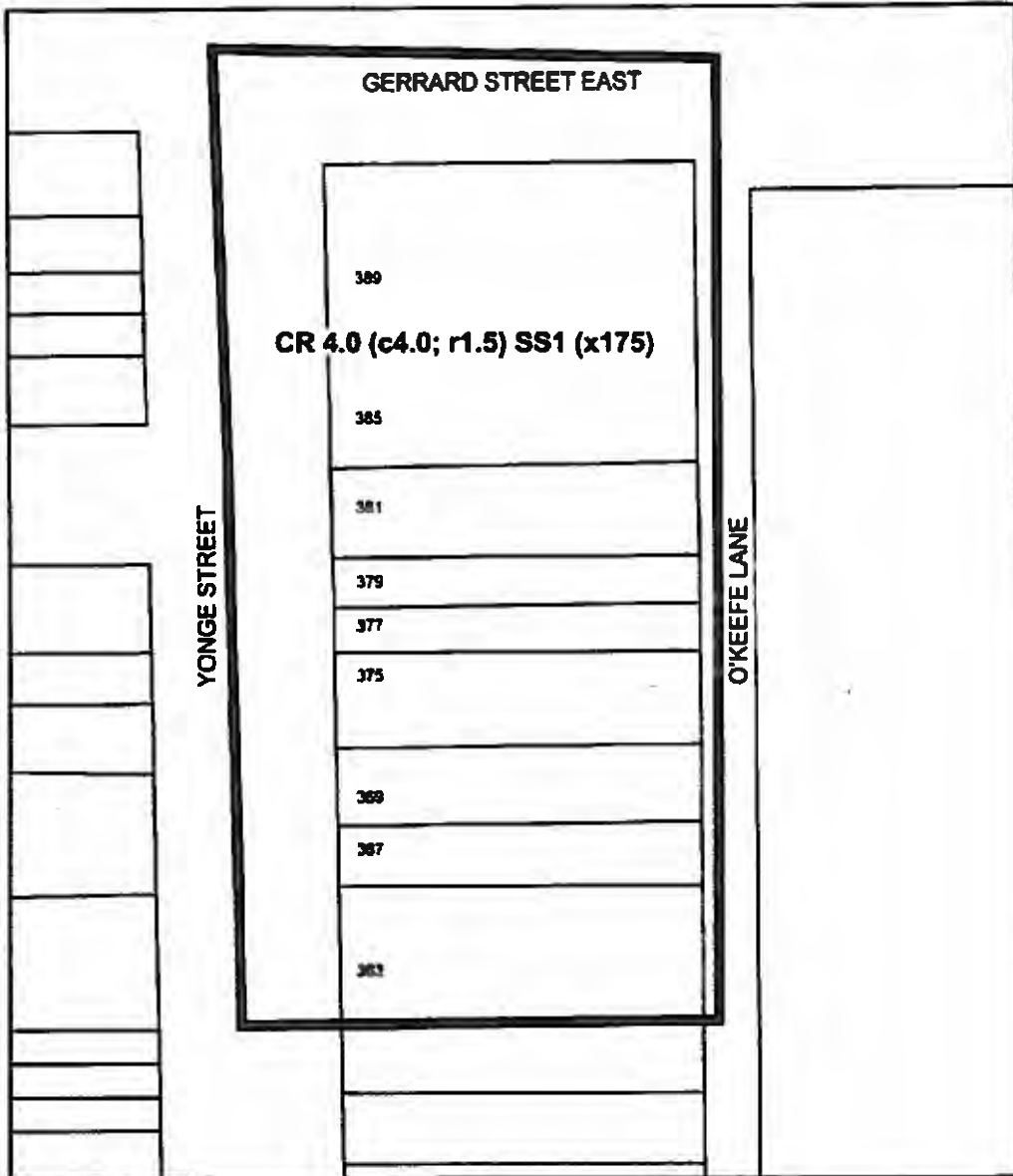



Diagram 2

363-391 Yonge Street and
3 Gerrard Street East
File # 15 146478 STE 27 02


City of Toronto By-law 568-2013
Not to Scale
2/4/2018

Diagram 3

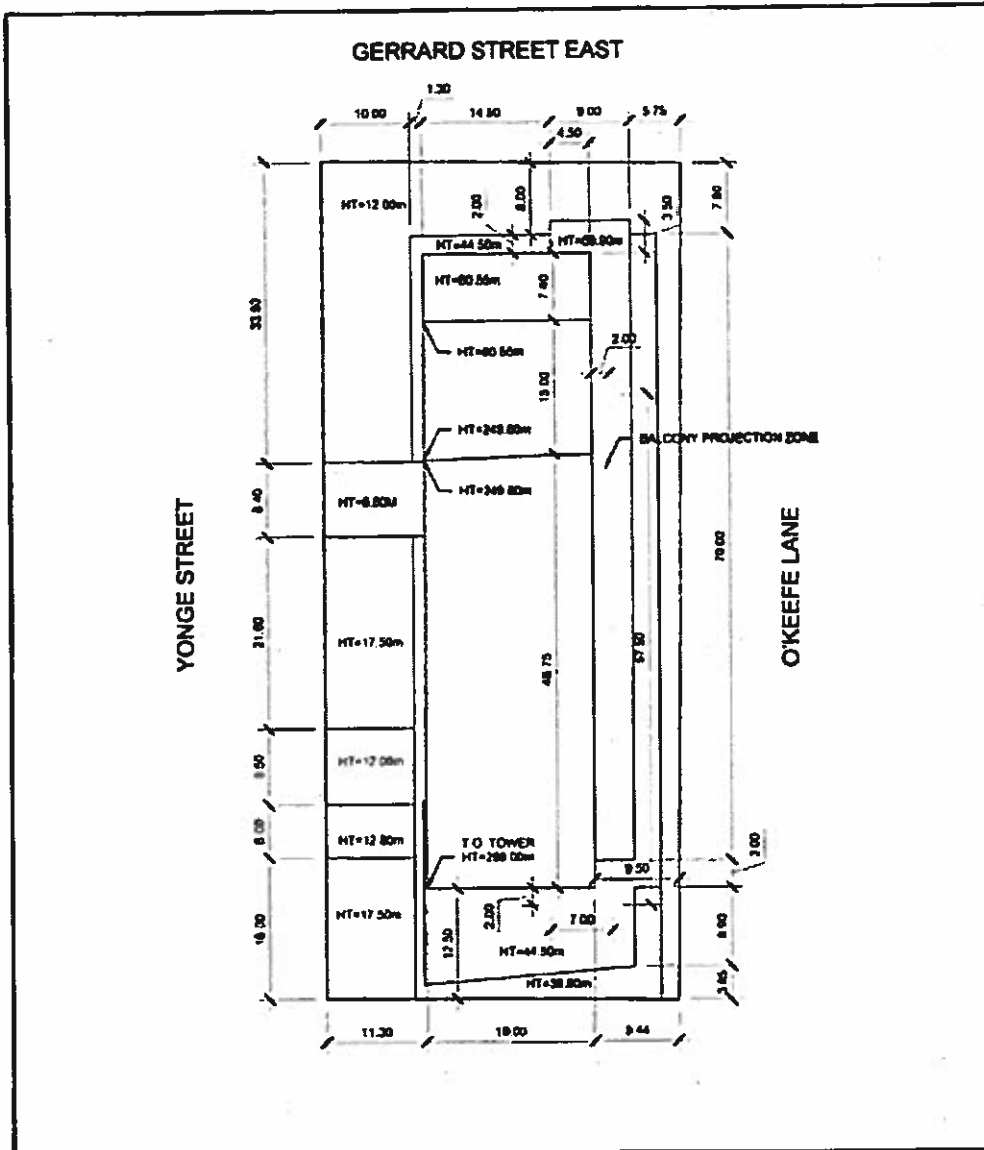



Diagram 3

363-391 Yonge Street and
3 Gerrard Street East
File # 15 148478 STE 27 0Z


City of Toronto By-law 569-2013
Not to Scale
2/4/2018

SCHEDULE "D"

FORM OF LETTER OF CREDIT

**PRINTED ON BANK LETTERHEAD
IRREVOCABLE STANDBY LETTER OF CREDIT**

Beneficiary: City of Toronto Corporate Finance Division, Treasury Services City Hall, 5 th Floor, East Tower 100 Queen Street West Toronto, Ontario, M5H 2N2	Issue Date:
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Letter of Credit Number:	Credit Amount (Canadian Funds):	Initial Expiry Date: <u>(12 months following issue date)</u>
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We hereby authorize you, the City of Toronto, to draw on (Bank name, address and branch) (the "Bank") for the account of (customer name and address), (the "Customer") up to an aggregate amount of \$ _____ Canadian Dollars (the "Credit Amount") available on demand up to _____ (date) _____ (the "Initial Expiry Date") or a subsequent anniversary date, and is hereby given to you pursuant to an agreement between the City of Toronto, and (name of customer) with respect to (insert municipal address of property, if applicable), dated _____ (the "Agreement").

Pursuant to the request of the Customer, the Bank hereby establishes in your favour and gives to you an Irrevocable Standby Letter of Credit in the Credit Amount on which you may draw in whole or in part at any time and from time to time, subject to the terms herein.

A drawing under this Letter of Credit shall be made by you presenting to the Bank, at the address noted below, a demand in writing authorized by the City Treasurer or delegate.

Partial drawings are permitted.

Upon receipt of said demand, the Bank shall pay to you the amount stated in the demand, to be payable to you without inquiring whether you have a right as between yourself and the Customer to make such demand, and without recognizing any claim of the Customer or objection by the Customer to payment by the Bank.

This Letter of Credit will continue up to the Initial Expiry Date but shall be subject to the condition that it shall be deemed to be automatically extended without amendment for one year from the present or any future expiration date hereof, unless 60 days prior to any such expiration date the Bank notifies you by notice in writing delivered to the City Treasurer by registered mail that it shall not renew this Letter of Credit for any such additional period. Upon receipt by you of such notice, you may draw hereunder, for the available balance of this Letter of Credit by presenting a written demand together with confirmation that the amounts drawn will be retained and used by you to meet obligations incurred or to be incurred in connection with the Agreement. The demand must be authorized by the City Treasurer or delegate.

Bank Name: _____ Countersigned: _____
Address: _____ Countersigned: _____

ADDRESS FOR NOTICE

1. NOTICE TO BANK

(bank to insert full address and contact information)

2. NOTICE TO CITY OF TORONTO

City of Toronto
Corporate Finance Division, Treasury Services
City Hall, 5th Floor, East Tower
100 Queen Street West
Toronto, Ontario, M5H

SCHEDULE "E"

FORM OF TITLE OPINION

Letterhead of Law Firm Giving Title Opinion

City of Toronto
 Legal Division
 Station 1260
 26th Floor, Metro Hall
 55 John Street
 Toronto ON M5V 3C6

Attention: Wendy Walberg, City Solicitor

Dear Madam/Sir:

Re: [Include reference to Schedule "A" and brief legal description of the subject land defined to be (the "Land") as well as a description of the type of agreement being entered into (ie Agreement under Section • of the • Act) defined to be (the "Agreement")]

Page 61 of 77

We act as solicitors for • (the "Owner") in connection with the execution and delivery of a • Agreement (the "Agreement") with the City of Toronto (the "City") and in connection with the giving of a title opinion to the City for the purpose of registration of the Agreement against title to the Land.

For the purpose of this opinion, we have examined title to the Lands as disclosed by the records of the Land Registry Office for the [insert Land Titles or Registry] Division of • (No. •)(the "LRO"), conducted necessary investigations as to the existence of prior corporate owners of all or part of the Land as disclosed by the records of the LRO in order to confirm the existence of each corporation during their respective period of ownership, conducted searches to ascertain any writs of execution or certificates of lien filed against the Owner. We have obtained a realty tax certificate and have made enquires to the City related to work orders, deficiency notices, zoning compliance and water/sewer charges respecting the Land.

We have obtained and relied upon statutory declarations and certificates where appropriate and have considered applicable questions of law. We have assumed with respect to documents examined by us, the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity to authentic originals of all documents submitted to us as photocopies, facsimile, certified, conformed or notarial copies. We have also assumed the accuracy and currency of the indices and filing systems maintained at any public offices where we have conducted searches or made enquiries or caused such searches or enquiries to be conducted or made.

[NTD: If applicable, insert the following paragraph regarding any statutory declarations or certificates relied upon for the purpose of the opinion:

We have relied upon a statutory declaration of [Name of Owner / if Owner is a corporation or other entity, indicate the name and position of the signing officer], dated •, 20•, in connection with Section 44(1)1, 2, 3 and 4 of the Land Titles Act and certain factual matters which [is/ are] relevant for the purpose of providing our opinion expressed in paragraph 1 below. We have also relied upon a certificate of [Name of Owner / if Owner is a corporation or other entity, indicate the name and position of the signing officer], dated •, 20•, as to certain corporate matters, which [is/are] relevant for the purpose of providing our opinion expressed in paragraphs 3 and 4 below.]

We are solicitors qualified to carry on the practice of law in the Province of Ontario. The opinion expressed extends only to the laws of the Province of Ontario and the federal laws of Canada applicable therein in force as of the date of this opinion.

Our enquiries and searches with respect to the Land confirm:

- (a) the Land has not escheated to the Crown;
- (b) there are no arrears in the payment of realty taxes;
- (c) there are no outstanding work orders or deficiency notices and there is no record of non-compliance with applicable building or zoning by-laws; and
- (d) there are no outstanding accounts for the supply of water or sewer services to the Land.

Based upon and subject to the foregoing, we are of the opinion that, as at ● [a.m./p.m.] on ●, 20●:

- 1. The Owner is the registered owner in fee simple of the Land, free from encumbrances, liens or claims registered in the LRO or filed with the Sherriff, including any outstanding writs of execution that affect title to the Land, other than those liens, encumbrances, exceptions and qualifications to title set out in Parts I and II to Schedule B attached.
- 2. None of the documents identified in Schedule B, Part II referred to above, that are not being postponed, discharged or otherwise released, contain rights or remedies in favour of the parties thereto, or their respective successors or assigns, that could preclude, defeat or adversely affect, in any material respect, the rights and interests of the City arising from the Agreement.

[Where the Owner is a Corporation insert 3 and 4]

- 3. The Owner is an existing corporation pursuant to the ● [insert applicable statute name] and has not been discontinued or dissolved.
- 4. The Owner has the corporate power and capacity to enter into and perform its obligations under the Agreement and has taken all necessary corporate action to authorize the execution and delivery of the Agreement.
- 5. The last registered instrument on title to the Land is ● [insert Instrument #].

Notwithstanding that our fee for this opinion will be paid by the Owner, and that we act for the Owner in this transaction, we acknowledge that the City is relying upon this opinion and the opinions expressed herein for the purpose of confirming that the Owner has good title to the Lands and to verify the priority of registration of the Agreement on title to the Land. We consent and agree to such reliance. Although this opinion may be relied upon by the City and its authorized agents for the purposes contemplated herein, it may not be relied upon or quoted, in whole or in part, by any other person or entity for any other purpose without our prior written consent.

Yours truly,

[]

- [NOTES:**
- i) this opinion must be drafted with all applicable inserts and should accompany all agreements submitted to the City. It must be forwarded directly to the Legal Services Division and the assigned file lawyer or law clerk as applicable; and*
 - ii) if the this opinion is signed by a "Law Firm" a cover letter must be attached confirming the name of the solicitor providing the opinion.]*

SCHEDULE "A"
LEGAL DESCRIPTION

Lands are registered in [*"X"one*]:

- REGISTRY
- LT ABSOLUTE
- LTCQ
- LT PLUS

[Insert PIN and brief legal description or a full metes and bounds description if the Lands are in Registry]

REFERENCE	Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i>
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SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in LT ABSOLUTE]

PART I – General Qualifications

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
3. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
4. The following exceptions and qualification contained in section 44(1) of the *Land Titles Act*: paragraph 7, 8, 9, 10, 12 and 14.

PART II – Specific Encumbrances

[Insert if applicable and indicate where postponements, discharges, releases etc are to be provided]

REFERENCE	Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i>
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SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in LT CONVERSION QUALIFIED (LTCQ)]

PART I – General Qualifications

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
3. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
4. The following exceptions and qualification contained in section 44(1) of the *Land Titles Act*: paragraph 7, 8, 9, 10, 12 and 14.
5. The exceptions and qualifications contained in section 44(1) 11 of the *Land Titles Act* to the date of conversion to LTCQ.

PART II – Specific Encumbrances

[Insert if applicable and indicate where postponements, discharges, releases etc. are to be provided]

REFERENCE	Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i>
-----------	---

SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in LT PLUS]

PART I – General Qualifications

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
3. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
4. The following exceptions and qualification contained in section 44(1) of the *Land Titles Act*: paragraph 3, 7, 8, 9, 10, 12 and 14.
5. The exceptions and qualifications contained in section 44(1) 11 of the *Land Titles Act* to the date of conversion to LTCQ.

PART II – Specific Encumbrances

[Insert if applicable and insert where postponements, discharges, releases etc. are to be provided]

REFERENCE	Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i>
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SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in REGISTRY]

PART I – General Qualifications

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
2. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
3. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
4. Where the registered owner is or a previous owner was a railway company, any interest that may be or may have been created by an instrument deposited in the office of the Secretary of State of Canada or the Registrar General of Canada, as the case may be, under section 81 of the *Railway Act* (Canada), or any predecessor thereof.

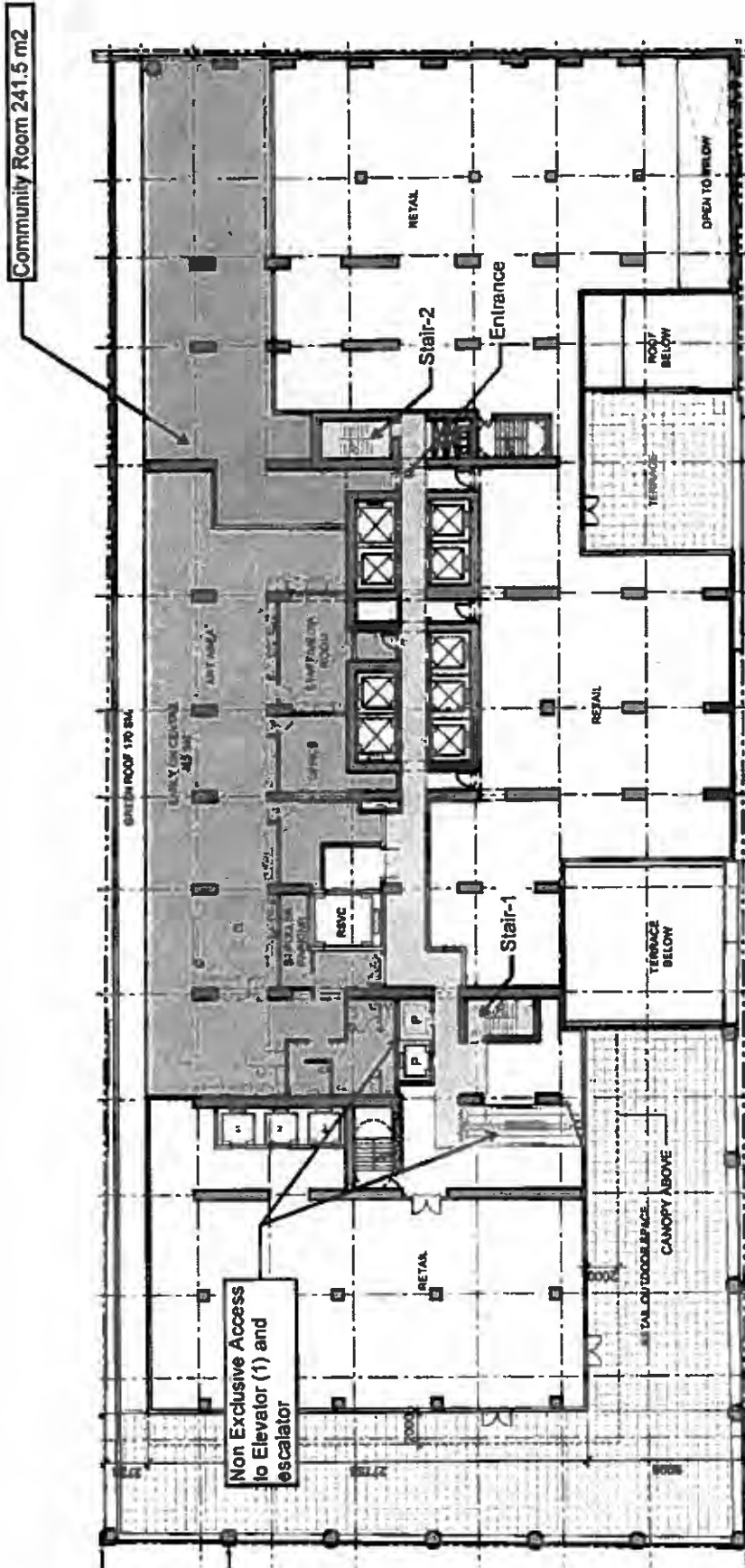
PART II – Specific Encumbrances

[Insert if applicable and insert where postponements, discharges, releases etc. are to be provided]

REFERENCE	Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i>
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SCHEDULE "F"

COMMUNITY SPACE AND CHILD AND FAMILY CENTRE FACILITY PLANS



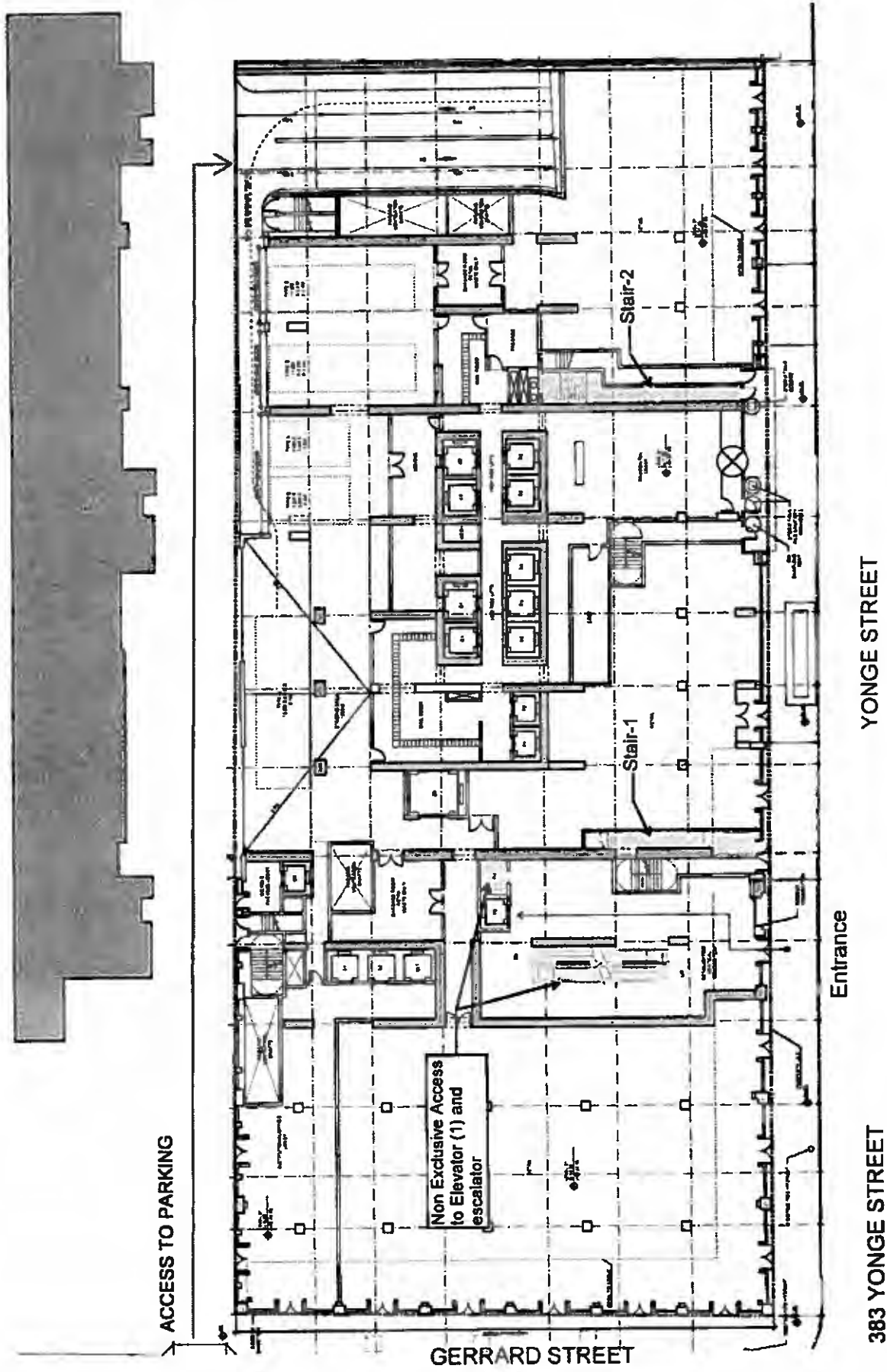
383 YONGE STREET



LEVEL 3 - PLAN

2018-08-28

Community Space and Child and Family Centre Facility



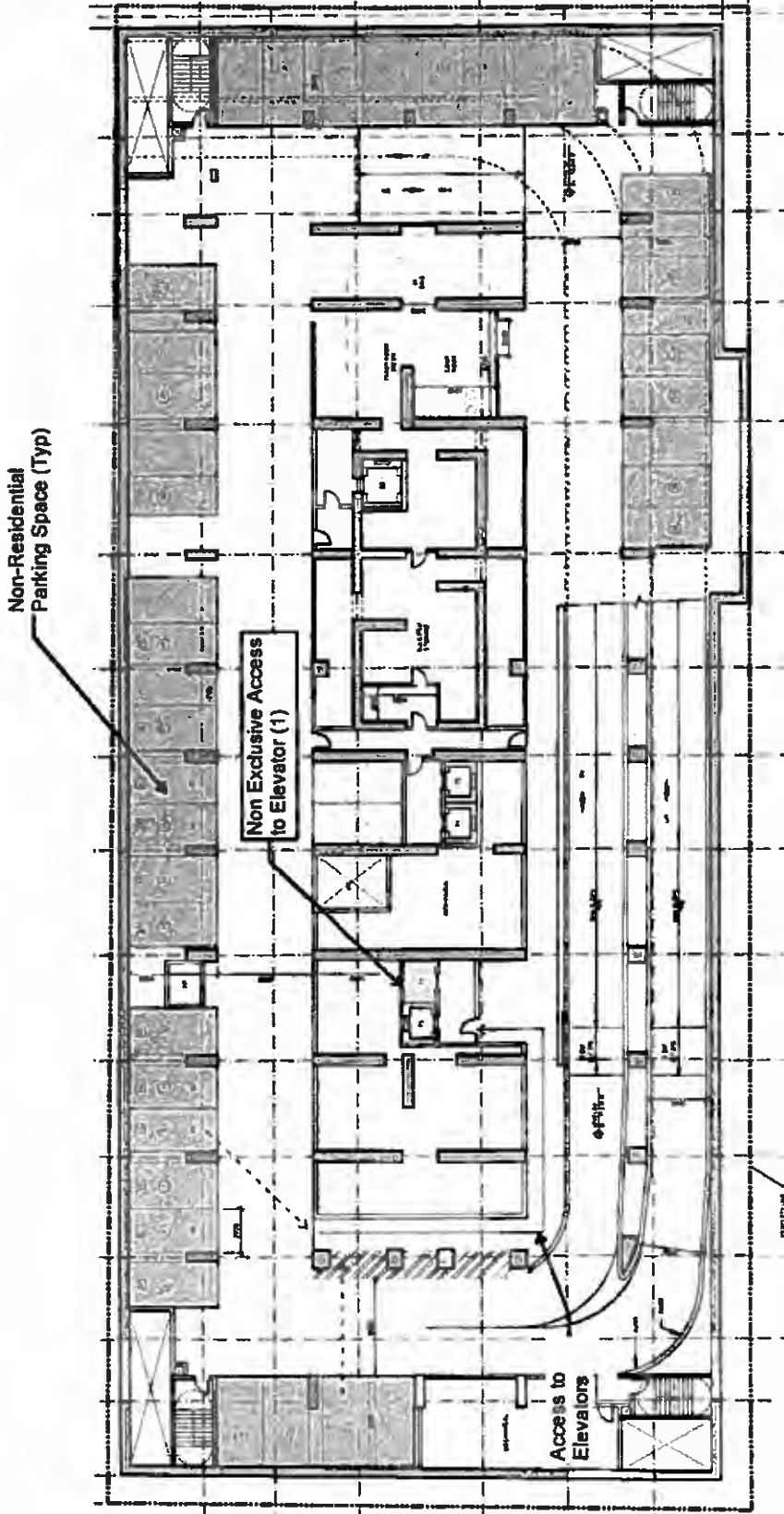
GROUND FLOOR - PLAN
 2019-06-26
Community Space and Child and Family Centre Facility



383 YONGE STREET

Entrance

YONGE STREET



383 YONGE STREET



LEVEL B2 - PLAN
2016-06-28

Community Space and Child and Family Centre Facility

SCHEDULE "G"

COMMUNITY SPACE DELIVERABLE

Owner should provide the Community Space with Base Building Improvements. "Base Building Improvements" means all basic improvements to the Community Space, including, but not limited to:

- a. Polished concrete floors, if intended to be the final finish, to be decided in consultation with City staff;
- b. All interior and exterior doors and locks;
- c. Perimeter demising walls finished with drywall walls taped, sanded, primed and painted together with trim, moldings, and detailing;
- d. All cladding, roofing, weather proofing, finishes and protective coatings completed, along with any exterior Development and/or building envelope, including doors and windows.
- e. (If Basement) Windows, glass doors or sunlight shafts to bring maximum sunlight. Or, (If on or above ground floor) windows along all exterior walls
- f. All insulation, fireproofing and sound proofing as required through applicable law and design process;
- g. Dropped ceilings with acoustic tiles;
- h. Life Safety Systems, "Life Safety Systems" means all infrastructure required for the safe occupancy of the Community Space, including but not limited to manual pull stations, notification devices (speaker or bells) throughout the Community Space to meet applicable law requirements for a 4 wall unoccupied space and emergency lighting and power services capable of supplying at minimum 1 developer per square foot. Supervisory valves and flow switches for the sprinkler system shall be monitored as part of the base building fire alarm system to be operated by the Owner or the Owner's designate.
- i. "All Utility and Service Connections. "Utility and Service Connections" means the following, all sized and located in the Property as appropriate for the intended function of the facility:
 - a. valved and capped domestic hot and cold water service and drain for kitchenette terminated inside the demising wall of the Community Space at a location to be determined by the City;
 - b. capped ventilation duct terminated inside the demising wall of the Community Space with capacity of ventilation air equal to ventilation air requirements per ASHRAE Standard 62 "Ventilation for Acceptable Indoor Air Quality";
 - c. valved and capped heat pump supply and return lines terminated inside the demising wall of the Community Space with approximate heating and cooling capacity of 30 btuh of cooling per square foot and 25 btuh of heating per square foot (or, with the consent of the City, equivalent system with the same specifications if building systems are modified by the Owner); and
 - d. basic lighting fixtures to meet basic life safety requirements and electric panel (minimum 8 developer per square foot) and appropriate distribution if the electrical requirements for normal commercial or office power service and terminated at a disconnect switch within the Community Space for typical power supply for an office use.
 - e. Necessary plumbing system that would be required or requested by the City, this would include but not be limited to bathrooms, janitorial closet, kitchen and any other requirements needed by the City for the proposed use.
- j. The Owner shall provide at least 1-2 washrooms in the Community Space and shall provide a janitorial closet. If the Ontario Building Code requires more than 1-2 washrooms, the Owner at his sole cost shall provide the required washrooms in the Community Space. For greater certainty, the Owner shall construct demising walls for the required washrooms and the janitorial closet and construct the necessary sanitary and water connections to the washrooms. The Owner at their sole cost shall install in each unit a water check meter and water usage.
- k. Separate gas, hydro and water meters for the Community Space.
- l. All interior structural, dividing or partition walls.
- m. All related and supporting mechanical and electrical systems including heating, air conditioning, lighting, intercom, public address, security, non-exclusive

- elevating devices, fire detection and suppression, automated door openers, computer cables, telephone, internet, and wiring.
- n. Owner should provide signage and way finding for the Community Space at street level.
 - o. International standardized signs for washrooms, elevators, exits and emergency exits, stairs, meeting rooms, etc.
 - p. No alterations to base building structure permitted, without City of Toronto consent
 - q. A minimum of three 1" empty conduits will be provided from telephone to the Community Space in locations to be agreed upon by the City and the Owner.
 - r. Waste diversion containers. The Owner shall provide at its cost the required container's to meet the City's waste diversion program.
 - s. Waste removal. The Owner is responsible for the cost of the removal of all construction debris and any and all demolition, stripping, clearing and grubbing, excavation, removal and disposal, clean-up and soil remediation as required in order to complete the project in accordance with all codes, standards and practices.
 - t. All materials, products, finishes, devices, appliances and systems shall be designed and specified with regard for the demands of an intensively used public building. The Owner will provide sample boards or catalogue sheets of products, finishes, devices, appliances and systems that are proposed to fit out the facility. The City has the right to accept and or reject any or all as proposed by the Owner.

SCHEDULE "H"**CHILD AND FAMILY CENTRE FACILITY TERM SHEET
APRIL 2019**

The Term Sheet is developed in consultation with City Planning, Social Development, Finance & Administration and Facilities Management. The Term Sheet is to guide City Planning in Section 37 matters that will result in the securing of community services and facilities space under the City's Community Space Tenancies (CST) Policy.

Section 37 community benefit to involve provision of on-site fully finished, furnished and equipped community services and facilities space for a 485 square metre Child and Family Centre Facility that meets the criteria noted below.

1. CHILD AND FAMILY CENTRE FACILITY DESCRIPTION

- 1.1 Owner to design and construct entirely at his own costs, a complete 485 square metre Facility with all of the program elements included and functional for the intended purpose of providing community recreation/human service programs.
- 1.2 Owner is responsible for constructing, furnishing and finishing the Child and Family Centre Facility, including supplying all furniture fittings and equipment required for the operation of the Child and Family Centre Facility (See Attached Schedule A – Deliverables listing equipment and furnishings such as capital built-ins, security/signage systems, kitchen appliances, moveable office furniture, etc.).
- 1.3 The Child and Family Centre Facility shall be made available for a minimum of 99 years at no cost to the City and/or its selected non-profit Operator (i.e. no property taxes or utility costs, land transfer tax, common area costs, operating or maintenance costs, or any other costs related to the facility and/or the occupation of the space).

2. OPERATOR

- 2.1 The Child and Family Centre Facility will be operated by the City and/or non-profit service provider (the "Operator") selected or approved by the City with a proven track record of providing local community services.

3. SELECTION PROCESS

- 3.1 Where the City uses a non-profit service provider, the City will conduct a selection process to identify non-profit service providers who will operate the Child and Family Centre Facility. Priority will be to local service delivery with final selection informed by a City needs assessment process and/or input from the appropriate City operating division.
- 3.2 The Child and Family Centre Facility Space will be allocated through a Request for Expressions of Interest "REOI" process. The REOI process is not required for service providers that exist on the site and may be displaced or impacted as a result of the proposed development, or in the event that a service provider is identified as part of the development proposal prior to the negotiation of the Section 37 Agreement.
- 3.3 In all circumstances the service provider(s) shall meet the Community Space Tenancy (CST) criteria.
- 3.4 Directed by the CST Policy, the space will be allocated through a two-stage process: Eligibility Review Stage and an Assessment Stage. Prospective service provider(s) must meet all of the eligibility criteria before proceeding to the assessment stage of the below-market space allocation process.

Stage 1: Eligibility Review

The organization must demonstrate:

1. That it has incorporated not-for-profit or holds charitable status;

2. That the activities of the organization serve City residents; and
3. That the activities of the organization support City objectives; and

Stage 2: Assessment

During this stage, the organization must demonstrate its fit with the City's priorities, goals and objectives. The best fit is determined by:

1. The degree to which organizations are aligned with City and divisional goals and objectives;
 2. The likelihood of organizations achieving defined service needs; and
 3. Financial ability to meet tenant obligations.
- 3.5. The City will use a service agreement to monitor ongoing eligibility for the CST space. The Service Agreement will be administered through the division responsible for the program area under which the service provider's programs fall.
 - 3.6. The City will conduct a full eligibility and assessment review at the end of each lease term. To ensure efficiency and transparency, the review process will commence in advance of the lease expiry date.
 - 3.7. In circumstances, where the existing service provider is deemed ineligible for the CST space, ceases to exist, or terminates the service agreement, the City will conduct a selection process to identify service provider(s) who will operate the Child and Family Centre Facility space according to the process listed in Section 3.2 above.

4. DESIGN INTENT

- 4.1 The Child and Family Centre Facility shall be designed to be:
 - Reflective of the principles, specifications and considerations laid out in similar agreements such as the Yonge-Sheppard Centre Section 37 Agreement;
 - Inspiring, welcoming, and befitting its context and the surrounding urban form;
 - Developed with the most current technologies and design principles, including green technologies and principles of sustainability and universal accessibility;
 - Self-contained unit within the building;
 - Easily recognizable with appropriate signage and fully serviced;
 - Full accessibility for the disabled, in accordance with the City's Accessibility Guidelines; and
 - Designed to maximize the programming potential and use of the space for the tenant(s) and their clients.
- 4.2 The City must approve of and fully participate in all phases of the design and construction process for the Child and Family Centre Facility.
- 4.3 Where possible, the City will engage the tenant organization(s) in the design process to ensure high quality and functioning programming space for the Child and Family Centre Facility.

5. COMPARABLE EXAMPLES

- 5.1 Develop a high quality Child and Family Centre Facility based on comparable examples of recently constructed City facilities, including the Yonge-Sheppard EarlyON Centre, in order to achieve the minimum level of design, materials, quality, fit and finish.

6. LOCATION AND PROGRAM

- 6.1 The location of the space, basic design considerations and facility program elements must be referenced in the final term sheet, including but not limited to:
 - Program elements such as: multi-purpose program and meeting rooms, art area with sinks, secure stroller parking, full kitchen, office, and administration space and all

associated and supporting circulation space, family washrooms (with change tables) and all mechanical, storage, laundry facilities, and servicing space;

- All vehicular access, vehicular parking in accordance with section 8.23 of this Agreement, service access and garbage pick-up required for the Child and Family Centre Facility in accordance with the most current by-laws, standards and codes;
- All related pedestrian connections required for the Child and Family Centre Facility;
- All associated mechanical, plumbing, security and electrical systems and devices; and,
- Ground floor access to the space, and appropriate street signage to facilitate resident access to the tenant organization(s) programs and services.

7. COSTS

- 7.1 All costs required to design and construct a complete, operational centre fully finished, furnished and equipped are the sole responsibility of the developer to the standards of design and finish acceptable to the City.
- 7.2 Any increase in anticipated costs due to inflation or other factors are the sole responsibility of the developer.
- 7.3 The City shall not be responsible for any costs associated with the design and construction of the Child and Family Centre Facility.
- 7.4 The Owner will be obligated to pay all taxes and levies, unless otherwise exempt.
- 7.5 The Owner shall pay for all common space costs if the facility is located within another building.
- 7.6 The Owner agrees to maintain and repair the space/facility at no cost to the City, as well as provide a detailed itemized Program Schedule identifying maintenance, repair and replacement items indicating timelines by year for any future improvements and/or replacement of systems or components that may be required.
- 7.7 The Owner shall pay for all finishings, furnishings, equipment and supplies required by the Operator for the opening of the Child and Family Centre Facility to the satisfaction of the City.

8. FINISHING

- 8.1 Child and Family Centre Facility shall be finished with flooring, ceilings, partitions, cupboards, full kitchen, fully functioning electrical, security, plumbing, heating and air conditioning systems, and fixtures.
- 8.2 All materials, products, finishes, devices, appliances and systems shall be designed and specified with regard for the demands of an intensively used public building. The Owner will provide sample boards or catalogue sheets of products, finishes, devices, appliances and systems that are proposed to fit out the facility. The City has the right to accept and or reject any or all as proposed by the Owner.

9. CONSTRUCTION

- 9.1 Child and Family Centre Facility shall be constructed in conjunction with construction of the building in which it is located.
- 9.2 Child and Family Centre Facility operation shall commence in association with occupancy of the building in which it is located.
- 9.3 Child and Family Centre Facility shall be constructed in compliance with all applicable provincial and municipal legislation, by-laws, regulations and standards applicable at the time of construction and with the plans, drawings, and specifications.

10.0 FINANCIAL SECURITY

10.1 Owner to provide Letters of Credit, as more specifically provided in this Agreement, for the construction of the Child and Family Centre Facility in order to guarantee the satisfactory performance and completion of all works in respect of the design, construction and provision to the City.

11.0 CHILD AND FAMILY CENTRE FACILITY LEASE TERMS

11.1 Owner agrees to enter into a Lease with the City. The City will occupy or sub-lease the space and/or facility to a non-profit operator.

11.2 On-going occupancy and maintenance costs shall be paid by the Owner for a term of 99 years.

11.3 Owner to be responsible for all costs related to the facility operations, repair and maintenance of the Child and Family Centre Facility and associated heating, ventilating and air conditioning systems; the building structure; the cost of all utilities and municipal services supplied to the Facility; realty taxes; local improvement charges; property damage and liability insurance and any other related costs.

11.4 Provision for staff/visitors parking, and service access and garbage pick-up area. NTD as defined in 5.9f)

12.0 CODES AND GOVERNING BODIES

12.1 All components will be designed, constructed delivered and installed in accordance with all relevant governing legislation, regulations and standards applicable to the intended use for public buildings. The most current codes, standards and practices for good construction at the time of construction shall prevail.

SCHEDULE 'A'

DELIVERABLES

Included in the scope of work by the Developer are the following:

1. Complete, operational Child and Family Centre Facility, fully equipped and functional for the intended purpose to the specified standard. All systems tested and demonstrated to be operational and as accepted by the City
2. Complete exterior and interior structure, weather proof and secure.
3. All interior and exterior doors, windows and locks.
4. All interior and exterior space must meet City accessibility requirements.
5. All cladding, roofing, weather proofing, finishes and protective coatings.
6. All floor coverings, wall and ceiling finishes, paint, protective coatings, floor coverings and treatments.
7. All trim, moldings, and detailing.
8. All insulation, fireproofing and sound proofing as required through OBC and design process.
9. All interior structural, dividing or partition walls.
10. All utility and service connections sized and located as appropriate for the intended function of the facility.
11. All fixtures, equipment, appurtenances, built-in furniture, counters, etc.
12. All window coverings, blinds, drapes etc.
13. All vehicular access, parking (including disabled requirements), service access and turn-rounds for garbage, delivery, etc. including all ancillary or related work (i.e. excavation, granular, paving, etc)
14. All related space, secured stroller parking area, walkways and pedestrian connections, stairs, ramps, lights etc.
15. All related and supporting mechanical and electrical systems including heating, air conditioning, lighting, intercom, public address, security, non-exclusive elevating devices, fire detection and suppression, automated door openers, computer cables, telephone, internet, and wiring.
16. International standardized signs for washrooms, elevators, exits and emergency exits, stairs, meeting rooms, etc.

17. Any and all demolition, stripping, clearing and grubbing, excavation, removal and disposal, clean-up and soil remediation as required in order to complete the project in accordance with all codes, standards and practices.

SCHEDULE "B"

REGULATIONS AND STANDARDS

The following is a list of typical regulations and standards that may be applicable. In all cases, users should refer to the most current version. The builder shall apply the principles, specifications, and considerations as laid out in the following documents:

- Yonge-Sheppard Centre Section 37 Agreement (*only* with respect to the design)
- Child Care and Early Years Act (CCEYA) 2014 (Bill 10), Ministry of Education.
- Ontario Building Code (OBC).
- Accessibility for Ontarians with Disabilities Act (AODA), S.O. 2005, Chapter 11.
- AODA Initial Proposed Accessible Built Environment Standard (ABE), June 2009. (This document is currently under review and is subject to change).
- City of Toronto Accessibility Design Guidelines, 2004.
- Toronto Green Standard, Low-Rise or Non-Residential, Mid- to High-Rise Development (as applicable), 2010.
- City of Toronto: Corporate Identity Program Manual. http://insideto.toronto.ca/cip/assets/pdf/cip_manual.pdf
- City of Toronto Bylaws.
- City of Toronto Shade Guidelines
- Cabling Standard: City of Toronto Corporate Services Information & Technology, Standards and Procedures, issued by: I.T. Network Services, V.4.2-January 28, 2010.
- How Does Learning Happen? Ontario's Pedagogy for the Early Years. A resource about learning through relationships for those who work with young children and their families. Government of Ontario, 2014.
- City of Toronto Public Health, Guidance Document. Infection Prevention and Control in Child Care Centres, 2016. OTHER RESOURCES
- Pascal, Charles E. "With Our Best Future in Mind. Implementing Early Learning in Ontario." Report to the Premier by the Special Advisor on Early Learning. Queen's Printer for Ontario, 2009.
- Ruth, Linda Cain. Design Standards for Children's Environments. New York: McGraw-Hill, 1999.

SCHEDULE "I"

ADDITIONAL LANDS RESTRICTIVE COVENANT

Section 1 Burden and Benefit

- (1) The Owner is the owner of the Additional Lands herein referred to in this schedule as the "Burdened Lands", being the burdened lands of the covenants set out herein.
- (2) The City is the owner in fee simple of lands legally described in Exhibit A-1 hereto (the "Benefiting Land"), being the lands benefitted of the covenants set out herein.
- (3) The covenants set out in Section 2 shall be binding on:
 - (a) the Owner, in its capacity as owner of the Burdened Land;
 - (b) the tenants, licensees and occupants of the Burdened Land under the Owner;
 - (c) the successors-in-title of the Owner to the Burdened Land; and
 - (d) the respective tenants, licensees and occupants of the Burdened Land under the successors-in-title of the Owner.
- (4) The covenants set out in Section 2 shall be for the benefit of:
 - (a) the City, in its capacity as owner of the Benefiting Land;
 - (b) the tenants, licensees and occupants of the Benefiting Land under the City;
 - (c) the successors-in-title of the City to the Benefiting Land; and
 - (d) the respective tenants, licensees and occupants of the Benefiting Land under the successors-in-title of the City.
- (5) The burden of the restrictive covenants in this Schedule run with and bind and are to the detriment of the Burdened Land and every part thereof and any person who may from time to time own, lease or otherwise have an interest in any part of the Burdened Land (including without limitation any chargee of the Burdened Land) and are for the benefit of and annexed to and run with the Benefiting Land and every part thereof and any person who may from time to time own, lease or otherwise have an interest in any part of the Benefiting Land (including without limitation any chargee of the Benefiting Land) and their respective successors and assigns, in each case for a term commencing on the date of this Agreement and expiring ninety-nine (99) years thereafter.

Section 2 Restrictive Covenants as to Development

- (1) The Owner covenants with the City that it will not construct any improvements within the No Build Area of the Burdened Lands, it being the intent that this covenant shall run with and burden the Burdened Lands, as servient tenement, and run with and benefit the Benefiting Land, as the dominant tenement. The "No Build Area" means the airspace above 20 metres from grade.

Section 3 Acknowledgement and Waiver by Owner

- (1) The Owner hereby acknowledges and agrees that the Burdened Land is intended to be restricted from development in the No Build Area in order to permit the development of lands owned by the Owner in proximity to the Burdened Lands as provided in the Section 37 Agreement between the Owner and the City registered on <*>, 2019 as Instrument No. <*> and that the Benefiting Land and the City will benefit from such restrictions.
- (2) The Owner hereby waives any rights that it may have pursuant to the *Land Titles Act* (Ontario), the *Conveyancing and Law of Property Act* (Ontario) or any other statutory provision to the same or similar effect and any other rights it may have at law to challenge or unilaterally modify or discharge the restrictive covenants set out herein. The Owner acknowledges and agrees that in the event that the Owner should hereafter challenge or attempt to unilaterally modify or discharge the restrictive covenants set out herein, this waiver may be raised as an estoppel to the same.

- (3) The Owner acknowledges and agrees that monetary damages may not be a sufficient remedy for any breach of the restrictive covenants set out in this Schedule by the Owner or its successors in title and that the City shall be entitled to seek an award of equitable relief, including an injunction and specific performance without proof of actual damages, as a remedy for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach of the restrictive covenants set out in this Schedule, but shall be in addition to all other remedies available at law or equity.

Section 4 Modification, Waiver and Cancellation

- (1) Subject to Section 4(3), this Schedule may only be amended, supplemented or otherwise modified by written agreement signed by each of the Owner and the City.
- (2) No waiver of any of the provisions of this Schedule will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the party to be bound by the waiver. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right it may have.
- (3) The City, in its capacity as owner of the Benefiting Land, may, but shall in no event be obliged to, in its sole and absolute discretion, so long as it is the owner of the Benefiting Land, waive, modify or cancel any or all of the covenants contained in Section 2 in their application to all or any part of the Burdened Land.

Section 5 Enurement

The Owner hereby agrees that it shall not sell, transfer, lease or otherwise convey, or mortgage or charge, all or any portion of its interest in the Burdened Land, unless the purchaser, transferee, lessee, mortgagee or chargee, as the case may be, as part of the completion thereof, executes and delivers an assumption agreement in favour of the City, in form and substance satisfactory to the City, pursuant to which it agrees to assume and be bound by all of the provisions of this Schedule.

Section 6 Expiration

The burden of these restrictive covenants shall run with the Burdened Land from the date hereof until ninety-nine (99) years thereafter and thereafter the provisions hereof will be of no further effect and the Owner and its successors in title to the Burdened Land shall then be entitled to delete these restrictive covenants from title without the consent of the City or its successors in title to the Benefiting Land.

Section 7 Invalidity and Severability

The invalidity in whole or in part of any of these restrictive covenants shall not affect the validity of the other restrictive covenants or the remaining portion of the restrictive covenants herein contained. If any provision of this Schedule is determined to be illegal, invalid or unenforceable, by an arbitrator or any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Schedule and the remaining provisions will remain in full force and effect.

Section 8 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**EXHIBIT A-1
LEGAL DESCRIPTION OF THE BENEFITING LAND**

PIN: 21101-0073 (LT)

**RDAL BTN PARKLT 8 & 9 CON 1 FTB TWP OF YORK BEING YONGE ST BTN
GERRARD ST E & DUNDAS SQUARE; T/W AN EASEMENT AS IN AT-1868230. , CITY
OF TORONTO**

Properties

PIN 21101 - 0053 LT
Description PT LT 29 E/S YONGE ST PL 22A TORONTO AS IN CT853134; T/W CT853134; TORONTO , CITY OF TORONTO
Address 357 1/2 YONGE ST
TORONTO

PIN 21101 - 0052 LT
Description PT LT 29 E/S YONGE ST PL 22A TORONTO AS IN CT891553; TORONTO , CITY OF TORONTO
Address 357 A YONGE ST
TORONTO

Consideration

Consideration \$2.00

Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land

Name CITY OF TORONTO
Address for Service Wendy Walberg
City Solicitor
City of Toronto Legal Services
Metro Hall
55 John Street
26th Floor
Toronto, ON M5V 3C6

This document is not authorized under Power of Attorney by this party.

This document is being authorized by a municipal corporation Roman Ivanov, Solicitor for the City of Toronto.

Party To(s)	Capacity	Share
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<i>Name</i>	YSL RESIDENCES INC.
<i>Address for Service</i>	59 Hayden Street Suite 200 Toronto, Ontario M4Y 0E7

I, Daniel C. Casey, President, have the authority to bind the corporation

This document is not authorized under Power of Attorney by this party.

Statements

This notice is pursuant to Section 71 of the Land Titles Act.

This notice is for an indeterminate period

Schedule: See Schedules

Signed By

Marie Elizabeth Knaz	55 John St., 26th Floor Toronto M5V 3C6	acting for Applicant(s)	Signed 2019 09 25
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Tel 416-392-8047

Fax 416-397-5624

I have the authority to sign and register the document on behalf of the Applicant(s).

Submitted By

CITY OF TORONTO	55 John St., 26th Floor Toronto M5V 3C6	2019 09 25
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Tel 416-392-8047

Fax 416-397-5624

Fees/Taxes/Payment

Statutory Registration Fee	\$64.40
Total Paid	\$64.40

SECTION 37 AGREEMENT

THIS AGREEMENT made this 13th day of September, 2019

BETWEEN:

YSL RESIDENCES INC.
(hereinafter collectively called the "Owner")

- and -

THE CORPORATION OF THE CITY OF TORONTO
(hereinafter called the "City")

WHEREAS:

WHEREAS:

- A. The Owner is the registered owner of certain lands and premises situated in the City of Toronto, in the Province of Ontario, known municipally in the year 2019 as 363-391 Yonge Street, 3 Gerrard Street E. (the "Development Site Lands") and 357A & 357½ Yonge Street, Toronto (the "Additional Lands"), as more specifically described in Schedule "A" attached hereto (collectively, the "Lands");
- B. On September 23, 2015, the predecessor landowner of the Development Site Lands applied for amendments to the Official Plan (the "OPA Application") and on April 24, 2015 applied for amendments to Zoning By-laws 438-86 and 569-2013 (the "ZBA Application") to permit an increase in height and density beyond what is otherwise permitted on the Development Site Lands;
- C. Subsequently, the Owner assumed the OPA Application and ZBA Application (collectively, the "Original Applications") from the predecessor landowner and filed a resubmission of the Original Applications on February 24, 2017 proposing to improve the Development Site Lands with a 98-storey mixed-use building, including retail spaces below and above grade, above-grade office and/or institutional uses and above grade residential uses (collectively, the "Revised Applications");
- D. The Owner appealed the failure of the City to make a decision on the Revised Applications (the "Appeal") to the Ontario Municipal Board, now the Local Planning Appeal Tribunal (the "LPAT"), on November 10, 2017, and the Appeal was assigned Case No. PL171277;
- E. The Owner participated in settlement discussions with the City, and the Parties agreed to settle the Appeal;
- F. Pursuant to the terms of the settlement, the Owner acquired the Additional Lands and incorporated such lands as part of the settlement, with the understanding that (a) the Additional Lands will not be developed beyond the permissions contained in Zoning By-laws 438-86 and 569-2013 and (b) a restrictive covenant will be registered on title to the Additional Lands, precluding any tower development on the Additional Lands in excess of the existing permissions contained in Zoning By-law 438-86;
- G. Council adopted the confidential recommendations of the City Solicitor at its meeting of June 26, 27, 28 and 29, 2018, and the Owner and the City have agreed to settle the Appeal on terms and conditions which were approved by the LPAT by way of a decision, dated October 23, 2018 (the "LPAT Approved Settlement");

- H. Thereafter the Parties continued working together to further refine the terms of the LPAT Approved Settlement and to identify details required to be addressed in order to facilitate the effective implementation of the LPAT Approved Settlement;
- I. Council adopted additional confidential recommendations of the City Solicitor at its meeting of February 26, 2019 amending the terms of the LPAT Approved Settlement and authorizing the City Solicitor to request the LPAT to amend its decision in accordance with the amended terms;
- J. As part of the LPAT Approved Settlement, the Owner proposes to develop a 85 storey mixed-use building with a maximum height of 299 metres, inclusive of the mechanical penthouse, a maximum of 75,871 square metres of residential gross floor area, a maximum of 1,106 residential units and a maximum of 18,629 square metres of retail/office/institutional gross floor area on the Development Site Lands (the “Development”);
- K. City Council has the power under subsection 37(1) of the *Planning Act*, R.S.O. 1990, c. P.13, whereby the Council of the City or the LPAT on an appeal may, in a by-law enacted under section 34 of the *Planning Act*, authorize increases in the density and height of development not otherwise permitted by the by-law in return for the provision of such facilities, services and matters as are set out in the By-law;
- L. Subsection 37(2) of the *Planning Act* requires that a by-law under subsection 37(1) may not be enacted unless the municipality has an official plan that contains provisions relating to the authorization of increases in height and density of development;
- M. The Toronto Official Plan contains provisions relating to the authorization of increases in height and density of development;
- N. Subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the density or height of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters;
- O. The Owner has elected to provide certain facilities, services and matters, as permitted by section 37 of the *Planning Act* in respect of the Lands in return for certain increases in density and height of development on the Development Site Lands as set out in the proposed Official Plan Amendment attached hereto as Schedule “B” (the “OPA Amendment”) and as set out in the proposed amendments to Zoning By-laws 438-86 and 569-2013, attached hereto as Schedule “C” (the “Zoning By-law Amendments”); and
- P. The City has required the Owner to enter into this agreement to secure the provision of certain facilities, services and matters in return for certain increases in density and height of development on the Development Site Lands (the “Agreement”).

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of TWO DOLLARS (\$2.00) of lawful money of Canada, now paid by each party to the other, the receipt and sufficiency of which is hereby acknowledged, and for other valuable consideration, and in further consideration of the mutual covenants and restrictions hereinafter set out, the Owner and the City agree to and with each other as follows:

1. DEFINITIONS AND FORM

1.1 For the purposes of this Agreement, the term

“Additional Lands” shall have the meaning ascribed to that term in the recitals to this Agreement and as legally described in Schedule “A” to this Agreement;

“Agreement” shall have the meaning ascribed to that term in the recitals to this Agreement;

“Application to Court” means an application for leave to appeal, an appeal, an application for judicial review, an application to quash pursuant to the *City of Toronto Act, 2006* and includes an appeal(s) from a Decision or Order in respect of any of these which are made to a Court;

“City” means the City of Toronto and where appropriate in the context, includes formerly The Corporation of the City of Toronto;

“City Council” means the elected council of the City of Toronto;

“*City of Toronto Act, 2006*” means the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A, as amended, superseded or replaced from time to time;

“City Solicitor” means the City Solicitor for the City of Toronto and shall include his or her designate;

“Council” means the Council of the City;

“Court” means a court of competent jurisdiction;

“Date of Final Approval of the Zoning By-law Amendments” means the first day upon which all of the provisions of the Zoning By-law Amendments have actually come into force and in effect, with all applicable appeal periods having lapsed with no appeals nor rehearing requests to the LPAT, and/or Applications to Court having been launched with respect thereto or with any such appeals or rehearing requests to the LPAT and/or Applications to Court having been finally determined in favour of the Zoning By-law Amendments, so that a Building Permit(s) would be issued by the Chief Building Official, permitting the construction contemplated by the Zoning By-law Amendments to the heights and densities as permitted thereunder, upon the Owner obtaining all requisite approvals, submitting the appropriate applications for a Building Permit(s), and paying the requisite application fees;

“Development” shall have the meaning ascribed to that term in the recitals to this Agreement with an increase in the height and density of development not otherwise permitted except as may be permitted by the Zoning By-law Amendments;

“Development Site Lands” shall have the meaning ascribed to that term in the recitals to this Agreement and as legally described in Schedule “B” to this Agreement;

“Final Confirmation Date” means the second (2nd) business day, other than a Saturday, following the later of:

- (i) the Date of Final Approval of the Zoning By-law Amendments, and
- (ii) such other date as may be agreed to by the Parties hereto, provided that the occurrence of the Final Confirmation Date in accordance with the foregoing shall be expressly conditional upon such Zoning By-law Amendments being approved, in force, and/or in effect in accordance with this section on the Final Confirmation Date;

“Final Disposition” means any of the following events:

- (i) the entry of an order of the LPAT finally disposing of the Zoning By-law Amendments which rejects the Zoning By-law Amendments or results in certain amendments to the Zoning By-law Amendments,
- (ii) the entry of an order of the LPAT which follows a rehearing by the LPAT finally disposing of the Zoning By-law Amendments or certain parts thereof which rejects the Zoning By-law Amendments or results in certain amendments to the Zoning By-law Amendments, and
- (iii) the entry of an order of the Court which finally disposes of an Application to Court and rejects Zoning By-law Amendments or results in certain amendments to the Zoning By-law Amendments;

“*Land Titles Act*” means the *Land Titles Act*, R.S.O. 1990, c. L.5, as amended, superseded or replaced from time to time;

“Lands” shall have the meaning ascribed to that term in the recitals to this Agreement;

“Official Plan Amendment” means the proposed amendment to the Toronto Official Plan for the Development substantially in the form and having the content of the Official Plan Amendment attached hereto as Schedule “C”;

“**Owner**” means YSL Residences Inc. and its respective successors and assigns being the registered owner of the Additional Lands and, for the purposes of this Agreement shall include subsequent owners of the Additional Lands;

“**Parties**” means, collectively, the Owner and the City;

“**Permitted Amendments**” shall have the meaning ascribed to that term in Section 4.3 of this Agreement;

“**Planning Act**” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended, superseded or replaced from time to time;

“**Restrictive Covenant**” shall have the meaning ascribed to that term Section 2.1 of this Agreement;

“**Site Plan Agreement**” means an agreement between the Owner and the City in accordance with Section 114 of the *City of Toronto Act, 2006*, which provides amongst other things for the approval of plans and drawings in respect of the Development;

“**Site Plan Approval**” means approval pursuant to section 114 of the *City of Toronto Act, 2006* and, as applicable, section 41 of the *Planning Act*;

“**Unwinding Date**” shall have the meaning ascribed to that term Section 4.2 of this Agreement;

“**Zoning By-laws**” means Zoning By-laws No. 438-86 and No. 569-2013; and

“**Zoning By-law Amendments**” means the proposed amendments to the Zoning By-laws, substantially in the form and having the content of the Zoning By-law Amendments attached hereto as Schedule “D”, respectively.

- 1.2 The following is a list of the schedules attached hereto which schedules shall form part of this Agreement for all purposes:

Schedule “A” Legal Description of the Additional Lands
 Schedule “B” Legal Description of the Development Site Lands
 Schedule “C” Official Plan Amendment
 Schedule “D” Zoning By-law Amendments
 Schedule “E” Form of Title Opinion
 Schedule “F” 357 Yonge Street Restrictive Covenant

- 1.3 The Parties confirm and agree that the recitals at the commencement of this Agreement are true, both in substance and in fact.

2. **AGREEMENT TO PROPOSED OFFICIAL PLAN AMENDMENT AND ZONING BY-LAW AMENDMENTS**

- 2.1 The Owner hereby consents and agrees to the form and substance of the Zoning By-law Amendments. The Owner has agreed that the Additional Lands will not be developed beyond the permissions contained in By-law 438-86 and Zoning By-law 569-2013 and that a restrictive covenant will be registered on title to the Additional Lands, precluding any tower development on the Additional Lands in the form attached as Schedule “F” (the “**Restrictive Covenant**”) which is required in return for the increase in height and density of the Development on the Development Site Lands and this Agreement is being entered into to secure the same. The Restrictive Covenant shall bind the Additional Lands and the Benefitted Lands (as such term is defined in Schedule “F”) effective as of the date hereof and the Owner agrees to register on title to the Additional Lands and the Benefitted Lands the Restrictive Covenant in accordance with Section 119 of the *Land Titles Act* (Ontario) in form and content acceptable to the Chief Planner and the City Solicitor within thirty (30) days of execution of this Agreement.
- 2.2 The Owner shall be responsible for all costs relating to the registration of the Restrictive Covenant, including the cost of preparing any surveys and/or reference plan(s) relating to the same, if required.

2.3 The Owner shall register the Restrictive Covenant in first priority, as determined by the City in its sole and unfettered discretion and the Owner agrees to execute any and all documents required for such purpose at the Owner's sole cost and expense. The Owner shall provide to the City at the Owner's sole cost and expense, immediately following registration of the Restrictive Covenant, final title opinion(s) in a form satisfactory to the City from the Owner's solicitor, confirming that the Restrictive Covenant has priority over any other interest on the lands registered and/or that any such agreement registered is enforceable against the Owner.

2.4 The Owner shall be responsible at its sole cost and expense for paying any and all sales tax; harmonized sales tax and/or land transfer tax payable for the Restrictive Covenant (which includes payment of provincial and municipal land transfer tax), if any. Notwithstanding the payment of all applicable tax payable as provided above, the Owner shall indemnify and save harmless the City from any and all liabilities, damages, costs, claims, suits or actions made or brought against, suffered by or imposed on the City or its property arising out of, or in respect of liability for tax payable for the Restrictive Covenant, if any.

3. REGISTRATION OF THIS AGREEMENT AND TITLE TO THE ADDITIONAL LANDS

3.1 The Owner warrants and represents that, as at the date of execution of this Agreement, it is the registered owner in fee simple of the Additional Lands.

3.2 The Owner consents to and agrees that, following execution, at its sole cost and expense, this Agreement, or notice thereof, shall be registered against title to the Additional Lands by the City, or by the Owner if agreed to by the City, to the satisfaction of the City Solicitor.

3.3 The Owner shall do such things and obtain such discharges, releases or postponements of any interest in or encumbrance of the Additional Lands as are required to ensure that this Agreement, once registered, shall have priority over any interest, other than the Owner's fee simple interest, and such encumbrances as may be accepted by the City Solicitor as permitted encumbrances.

3.4 The Owner shall, at its sole expense, provide the City with a title opinion, substantially in accordance with the form set out at Schedule "E" addressed to the City from its solicitors, being solicitors in good standing in the Province of Ontario, which opinion the Owner acknowledges and agrees may be relied upon by the City, wherein such solicitor opines to the City that:

- (a) the Owner is the registered owner in fee simple of the Additional Lands;
- (b) this Agreement, once registered on title to the Additional Lands, will have the priority over any interest other than the Owner's fee simple interest and such encumbrances as may be accepted by the City Solicitor as permitted encumbrances; and
- (c) with respect to any permitted encumbrance, that there are no liens, charges, mortgages or other security interests or options to purchase, leases or options to lease, or similar rights contained therein which could result in the exercise of rights and remedies by the holders thereof such that the City could not exercise its rights or enforce the provisions of this Agreement against the party or parties in possession or control of the Additional Lands; and

such title opinion to be in form and substance satisfactory to the City Solicitor.

4. COMPLETION AND UNWINDING

4.1 Subject to Sections 4.2 to 4.8 inclusive and to Section 7.1 hereof, this Agreement shall be effective, enure to the benefit of and be binding upon the Parties hereto, and their respective heirs, executors, administrators, successors and assigns on and after the date of this Agreement. On the Final Confirmation Date, the City and/or the Owner shall give notice in writing to the other Party that the Final Confirmation Date has occurred, and upon either Party hereto giving such notice, Sections 4.2 to 4.8 hereof shall have no further effect.

4.2 The date of unwinding of this Agreement, should such occur (hereinafter referred to as the "Unwinding Date"), shall be the earlier to occur of:

- (a) the date of Final Disposition of the Zoning By-law Amendments if the Final Disposition rejects the Zoning By-law Amendments; and
- (b) the date of expiry of the sixty (60) day period specified in a Notice of Termination, which is given pursuant to Sections 4.3, 4.4 or 4.5 hereof.

- 4.3 On the occurrence of a Final Disposition of the Zoning By-law Amendments which results in the Zoning By-law Amendments coming into force or effect with modification(s) or amendment(s) thereto, then sixty (60) days written Notice of Termination may be given by either the City or the Owner to the other. Unless the City and the Owner otherwise agree, the Unwinding Date shall occur on the expiry of the sixty (60) day period specified in such Notice of Termination. If a Notice of Termination is not given in accordance with this Section, the modification(s) or amendments) shall be deemed to be "Permitted Amendments" for the purposes of this Agreement.
- 4.4 If as a result of being required to do so by the Final Disposition of the Zoning By-law Amendments, City Council passes, or adopts a modification(s) or amendment(s) to the Zoning By-law Amendments which is not one of the Permitted Amendments pursuant to Section 4.3, then, at any time within thirty (30) days from the date of the giving of notice of the passing or adoption of such amendment(s) or modification(s) by the City to the Owner, sixty (60) days written Notice of Termination may be given by either the City or the Owner to the other. After passing or adopting one of the aforesaid amendment(s) or modification(s) the City forthwith shall give notice thereof to the Owner. Unless the City and the Owner otherwise agree, the Unwinding Date shall occur on the expiry of the sixty (60) day period specified in such Notice of Termination. If a Notice of Termination is not given in accordance with this Section, the modification(s) or amendment(s) shall be deemed to be one of the Permitted Amendments for the purposes of this Agreement.
- 4.5 If the Final Confirmation Date has not occurred on or before September 1, 2024 then written Notice of Termination may be given by either the City or the Owner to the other. Unless on or prior to the expiry of sixty (60) days after the date on which such Notice of Termination was given to such other Party, either the Date of Final Approval of the Zoning By-law Amendments occurs, or the City and the Owner hereto otherwise agree, the Unwinding Date shall occur on the expiry of such sixty (60) day period.
- 4.6 On or after the occurrence of the Unwinding Date, the Owner may expunge registration of this Agreement and the Restrictive Covenant by appropriate means according to the requirements of the land registry system pertaining to the affected property and the City shall cooperate with all requests of the Owner, acting reasonably, in such respect, including the execution of releases and quit claims in suitable form for registration.
- 4.7 Without fettering City Council, in any way, in the exercise of its discretionary powers, on or after the occurrence of the Unwinding Date, City Council may repeal or amend the Zoning By-law Amendments with the object of restoring the Zoning By-law provisions applicable to the Lands to the state they were in on the day immediately prior to the date of the passing of the Zoning By-law Amendments. In respect of any repealing or Zoning By-law Amendments which is passed pursuant to this Section either on or after the occurrence of the Unwinding Date, the Owner covenants and agrees that it will not object to the passing, approval, or coming into force and effect of such rescinding By-law.
- 4.8 On the occurrence of the Unwinding Date, the Treasurer shall return any cash or Letter of Credit deposited by the Owner pursuant to this Agreement, as well as any interest or investment income produced therein or therefrom which have been received by the City in respect thereof.

5. FURTHER ASSURANCES

- 5.1 The Parties hereto covenant and agree that at all times and from time to time hereafter upon every reasonable written request so to do, they shall make, execute, deliver or cause to be made, done, executed and delivered, all such further acts, deeds, assurances and things as may be required for more effectively implementing and carrying out the true intent and meaning of this Agreement.

6. INTENTION OF PARTIES

- 6.1 Notwithstanding any other provisions of this Agreement, the Parties hereto agree with each other that none of the provisions of this Agreement (including a provision stating the Parties' intention) is intended to operate, nor shall have the effect of operating in any way to fetter either the City Council which authorized the execution of this Agreement or any of its successors in the exercise of any of City Council's discretionary powers. Without limiting the generality of the foregoing, such discretionary powers include the power to pass, amend or repeal by-laws; to adopt, amend or rescind official plan amendments; or any discretionary power that the City has under law to approve or withhold approval to permit any demolition, relocation, construction, alteration, remodeling or any other things or act which may materially affect any building, structure or part thereof that is the subject of this Agreement; to impose conditions on any approval to permit any demolition or any building on the Lands and to approve or refuse Site Plan Approval and any conditions thereto and to approve or withhold approval to permit the conversion to condominium of any rental unit on the Lands, and to impose conditions on any approval respecting condominium conversion.
- 6.2 The Parties acknowledge and agree that nothing herein shall be construed as purporting to limit the authority of the LPAT to make amendments to the Zoning By-law Amendments affecting the Lands on appeal.

7. ENUREMENT

- 7.1 The Parties hereto agree that the covenants, easements, restrictions, rights, duties, provisos, conditions and obligations herein contained shall enure to the benefit of and be binding upon the City and its successors and assigns.
- 7.2 The Owner agrees that the covenants, easements, restrictions, rights, duties, provisos, conditions and obligations herein contained, as they apply to the Owner, shall run with the Additional Lands and shall enure to the benefit of and be binding upon the Owner and its successors and assigns, including a future condominium corporation and including all subsequent owners of all or any portion of the Additional Lands on a joint and several basis. The City shall have the right to approve all provisions relating to this Agreement contained in any disclosure statement, declaration or any other document pertaining to the Development to ensure that any such document adequately discloses the obligations under this Agreement to be assumed by any party to such document.
- 7.3 Notwithstanding anything in this Agreement to the contrary, in the event the City acquires any part of the Additional Lands for any municipal purpose, including but not limited to road widenings, the City shall not be bound by this Agreement as an Owner, nor as a successor or assign of an Owner.
- 7.4 The Owner agrees that any document relating to the conveyance of any of the lands included in the Additional Lands shall not contain any provision that the person or corporation acquiring the lands is not required to comply with the terms and provision of this Agreement, or that is contrary to the provisions hereof.

8. NOTICES

- 8.1 Any notices required or desired to be given to either of the Parties hereto in connection with this Agreement or arising herefrom, shall be in writing and delivered to the intended Party at the following addresses:

To the Owner: YSL Residences Inc.
59 Hayden Street, Suite 200 Toronto, ON
M4Y0E7

Attention: Daniel Casey
E-mail: dcasey@cresford.com
Fax: 416.971.7557

To the City: **CITY OF TORONTO**
2nd Floor, City Hall
Queen Street, West

Toronto, ON M5H 2N2

Attention: City Clerk
Facsimile No.: 416-392-6990

Copy to:

CITY OF TORONTO
26th Floor, Metro Hall
55 John Street
Toronto, ON M5V 3C6

Attention: City Solicitor
Facsimile No.: 416-397-5624

- 8.2 Notice given pursuant to Section 8.1 will be given by personally delivery, prepaid registered mail, by facsimile transmission or by email transmission. Notice will be deemed to have been received by a Party on the date of personal delivery and email transmission, on the third day after its mailing by prepaid registered mail or on the next business day (excluding Saturdays, Sundays and statutory holidays) following the date of facsimile transmission (provided confirmation of transmission is produced at the time of such transmission to the intended party).
- 8.3 Either Party may by written notice sent to the other Party hereto, in accordance with the foregoing provisions, change the address, email address or facsimile number to which its notices are to be delivered or transmitted, as the case may be.
- 8.4 In the event of any interruption in the postal service, notice shall be given to any Party at its respective address as set out herein by personal delivery, email transmission or facsimile transmission in the manner as set out herein.

9. JURISDICTION TO ENTER INTO AGREEMENT

- 9.1 This Agreement is entered into pursuant to subsection 37(3) of the Planning Act. If this agreement is determined by a Court to be illegal or beyond the power and jurisdiction of the City, and appeals from such decision have been exhausted, the Owner and the City agree that the Zoning By-law Amendments may be repealed by the City, and the Owner covenants and agrees not to oppose or question or cause to be opposed or questioned, the repeal thereof.
- 9.2 Notwithstanding Section 9.1, if any individual provision(s) of this Agreement is or are determined by a Court to be illegal or beyond the power, jurisdiction, or capacity of any party bound hereby, such provision shall be severed from this Agreement if the Owner and the City agree, and the remainder of the Agreement shall continue in full force and effect, mutatis mutandis; and in such case, the Owner and the City agree to negotiate in good faith to amend this Agreement in order to implement the intentions as set out herein. If the Owner and the City cannot agree that such provision or provisions shall be severed, the City may repeal the Zoning By-law Amendments and the provisions of Section 9.1 shall apply to such repeal.
- 9.3 It is agreed and acknowledged by the parties hereto that each is satisfied as to the jurisdiction of the City to pass the Zoning By-law Amendments and each party hereto is satisfied as to the jurisdiction of the other to enter into this Agreement. The Owner therefore covenants and agrees that it shall not question the jurisdiction of the City to enter into this Agreement, nor question the legality of any portion thereof, and likewise the City agrees it shall not question the jurisdiction of the Owner to enter into this Agreement nor question the legality of any portion hereof. The parties hereto, their successors, assigns, lessees and sub-lessees are and shall be estopped from contending otherwise in any proceeding before a Court.

10. COMMENCEMENT

- 10.1 This Agreement shall commence on the date of execution and delivery hereof by the Owner and the City.

11. FORCE MAJEURE

- 11.1 Notwithstanding anything in this Agreement to the contrary, and subject to Section 11.2, if the Owner or the City is bona fide delayed in or prevented from performing any obligation arising under this Agreement by reason of strikes or other labour disturbances, civil

disturbance, restrictive government laws, regulations or directives, acts of public enemy, war, riots, sabotage, crime, lightning, earthquake, fire, hurricane, tornado, flood, explosion or other act of God, and not caused by its default and not avoidable by exercise of reasonable effort or foresight, then performance of such obligation is excused for so long as such cause exists, and the party so delayed shall and is entitled, without being in breach of this agreement, to carry out such obligation within the appropriate time period after the cessation of such cause.

- 11.2 Nothing in Section 11.1 shall operate to excuse the Owner from prompt payment of all sums required to be paid to the City pursuant to the terms of this Agreement and prompt provision of any Letter of Credit required to be provided to the City pursuant to the terms of this Agreement.

12. ENFORCEMENT

- 12.1 The Owner agrees that the facilities, works and matters required by this Agreement shall be provided and maintained by the Owner at its sole risk and expense and to the satisfaction of the City. In addition, the Owner agrees that upon failure by it to do any act that is required by this Agreement, the City may, in addition to any other remedy under this Agreement, enter upon the Lands if necessary and do the said act at the Owner's expense and collect the cost in like manner as municipal taxes as provided for in section 386 of the *City of Toronto Act, 2006*.
- 12.2 No remedy herein conferred upon or reserved to the City shall exclude any other remedy, but each remedy shall be cumulative and in addition to every other remedy given hereunder or hereafter existing at law or in equity or by statute.
- 12.3 The Parties agree that for the purposes of subsection 8(2) of the *Building Code Act*, this Agreement shall be considered to be other applicable law.
- 12.4 The failure of the City at any time to require performance by the Owner of any obligation under this Agreement shall not constitute a waiver by the City to require full and complete performance of such obligation, or any other obligation of the Owner under this Agreement, and shall in no way affect the City's rights thereafter to enforce such obligation, nor shall any such failure or decision be taken or held to be a waiver of the performance of the same or any other obligation hereunder at any later time.

13. SPECIFIC PERFORMANCE

- 13.1 The Owner acknowledges that any breach of this Agreement by the Owner may not be adequately compensated by payment of damages and, accordingly, the Owner admits that specific performance is an appropriate form of remedy in the event of default by the Owner.

14. SEVERABILITY

- 14.1 If any covenant or provision of this Agreement, is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision and all other provisions hereof shall continue in full force and effect.
- 14.2 Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as part of this Agreement, a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable in order to effectively implement and carry out the true intent and meaning of this Agreement.

15. INDEMNIFICATION

- 15.1 The Owner will save, defend and keep harmless and fully indemnify the City and each of its elected officials, officers, employees and agents of, from and against all manner of actions, suits, claims, executions and demands which may be brought against or made upon the City, its elected officials, officers, employees and agents or any of them and of, from and against all loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the City, its elected officials, officers, employees and agents, or any of them, by reason of, or on account of, or in consequence of the fulfilment by the Owner of the obligations of the Owner under this Agreement including the default or breach by the Owner of its obligations under this Agreement or by reason of any negligence or wilful default of the Owner, its

officers, employees, agents or persons acting under its direction in connection with the Owner's obligations hereunder. The Owner will pay to the City and to each such elected official, officer, employee or agent on demand any loss, costs, damages and expenses which may be sustained, incurred or paid by the City or by any of its elected officials, officers, employees and agents in consequence of any such action, suit, claim, lien, execution or demand and any monies paid or payable by the City or any of its elected officials, officers, employees or agents in settlement of or in discharge or on account thereof. The Owner releases the City and each of its elected officials, officers, employees and agents of, from and against all manner of actions, suits, claims, executions and demands which could be brought against or made upon the City its elected officials, officers, employees and agents or any of them and of, from and against all loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the Owner by reason of, or on account of, or in consequence of the fulfilment of their respective obligations or exercise of their respective powers under this Agreement, provided, however, that such release shall not apply to any loss, costs, charges, damages, liens and expenses incurred by the Owner arising from the gross negligence and/or wilful misconduct of the City, its officers, employees, agents or persons for whom it is responsible in law. Any amounts owing to the City pursuant to the obligation of the Owner to indemnify the City pursuant to the terms of this Agreement may be collected by the City, in addition to any other remedies it may have, as taxes with all such amounts to be payable as directed by City Council pursuant to section 386 of the *City of Toronto Act, 2006*.

- 15.2 Notwithstanding anything hereinbefore or hereinafter provided to the contrary, the City acknowledges and agrees that the foregoing indemnity from the Owner shall not apply to any loss, costs, charges, damages and expenses arising from the gross negligence and/or wilful misconduct of the City and/or any persons under the City's jurisdiction.

Owner may Defend

- 15.3 If the City is made a party to any action, suit or proceeding in respect of a claim to which the Owner's obligations under the provisions of this Section extend, the Owner may defend such action, suit or proceedings in the name of the City, provided that the Owner may, in such event, elect to pay and satisfy any such claim, and in such event, the City shall inform the Owner fully of such claims and shall afford the Owner every reasonable co-operation in the defence of such action, suit or proceeding.
- 15.4 The obligations of the Owner to defend, indemnify and release the City under the provision of this Agreement shall survive any termination or release in whole or in part of this Agreement, anything in this Agreement to the contrary notwithstanding.

16. MODIFICATION OF AGREEMENT

- 16.1 No waiver or modification of the terms of this Agreement shall be valid unless in writing and signed by the Parties.

17. CITY NOT TO INCUR EXPENSES

- 17.1 It is the intent of this Agreement except where stated otherwise that the City shall not incur any expenses for the development, if any, of the Additional Lands and every obligation of the Owner under this Agreement shall be deemed to include the words "at the Owner's expense", unless specifically stated otherwise.

18. JOINT AND SEVERAL LIABILITY

- 18.1 By execution hereof, the entities constituting the Owner acknowledge and agree that they are jointly and severally liable for the obligations set out in this Agreement.

19. INTERPRETATION

- 19.1 The headings in the body of this Agreement form no part of the Agreement but shall be deemed to be inserted for convenience of reference only.
- 19.2 Reference to an official of the City in this Agreement shall be deemed to include a reference to the official of the City who performs the duties of such referenced person from time to time. Further, whenever the provisions of this Agreement require an approval or consent of

an officer of the City, in the event the City Council deems it appropriate, the approval or consent may be given by any other official of the City or may include the approval of the City Council.

- 19.3 Reference to any legislation (statutes, regulations, by-laws, etc.) in this Agreement includes an amendment, replacement, subsequent enactment or consolidation of such legislation.
- 19.4 This Agreement shall be construed with all changes in number and gender as may be required by the context.
- 19.5 Time shall be of the essence of this Agreement.
- 19.6 This Agreement may be executed by the Parties in counterparts and when all parties have executed at least as many counterparts and there are Parties, all of such counterparts shall be deemed to be originals and all such counterparts taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF the parties have hereunto caused their corporate seal to be affixed as attested to by the hands of their proper signing officers duly authorized in that behalf.

EXECUTED AT _____, this _____ day of _____, 2019.

YSL RESIDENCES INC.

[Handwritten Signature]
Name: *David Casey*
Title: *President*

c/s

Name:

Title:

I/We have the authority to bind the City

EXECUTED AT Toronto, this 13th day of September, 2019.

CITY OF TORONTO

[Handwritten Signature] c/s
Name: *Lynda Macdonald*
Title: *Director, Community Planning*

c/s

Name:

Title:

I/We have the authority to bind the City

APPROVED AS TO FORM

[Handwritten Signature]

For Wendy Walberg, City Solicitor

File # 204480204

<p>Authorized on October 23, 2018 by the Local Planning Appeal Tribunal decision No. PL171277</p> <p>_____</p> <p>City Clerk</p>
--

SCHEDULE "A"
LEGAL DESCRIPTION OF THE ADDITIONAL LANDS

1.	357 1/2 Yonge Street, Toronto, Ontario	PIN: 21101-0053 (LT)	PT LT 29 E/S YONGE ST PL 22A TORONTO AS IN CT853134; T/W CT853134; TORONTO, CITY OF TORONTO
2.	357A Yonge Street, Toronto, Ontario	PIN: 21101-0052 (LT)	PT LT 29 E/S YONGE ST, PL 22A TORONTO AS IN CT891553, CITY OF TORONTO

SCHEDULE "B"
LEGAL DESCRIPTION OF THE DEVELOPMENT SITE LANDS

	Municipal Address	Property Identifier Number	Legal Description
1.	363-365 Yonge Street, Toronto, Ontario	PIN: 21101-0049 (LT)	PT LT 31 E/S YONGE ST PL 22A TORONTO AS IN EP126440; TORONTO, CITY OF TORONTO
2.	367 Yonge Street, Toronto, Ontario	PIN: 21101-0048 (LT)	PT LT 31 E/S YONGE ST, 32 E/S YONGE ST PL 22A TORONTO AS IN CA761626; TORONTO , CITY OF TORONTO
3.	369-371 Yonge Street, Toronto, Ontario	PIN: 21101-0047 (LT)	PT LT 32 E/S YONGE ST PL 22A TORONTO AS IN CA472341; TORONTO , CITY OF TORONTO
4.	373-375 Yonge Street, Toronto, Ontario	PIN: 21101-0046 (LT)	PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA540937; TORONTO, CITY OF TORONTO
5.	377 Yonge Street, Toronto, Ontario	PIN: 21101-0045 (LT)	PT LT 33 E/S YONGE ST PL 22A TORONTO AS IN CA310343; TORONTO , CITY OF TORONTO
6.	379 Yonge Street, Toronto, Ontario	PIN: 21101-0044 (LT)	PT LT 34 E/S YONGE ST PL 22A TORONTO AS IN CT497024; TORONTO, CITY OF TORONTO
7.	381 Yonge Street, Toronto, Ontario	PIN: 21101-0043 (LT)	PART OF LOT 34 ON THE EAST SIDE OF YONGE STREET, PLAN 22A AS DESCRIBED IN INSTRUMENT NO. OT46105, CITY OF TORONTO
8.	385 Yonge Street, Toronto, Ontario	PIN: 21101-0042 (LT)	LT 35 E/S YONGE ST, 36 E/S YONGE ST PL 22A TORONTO; TORONTO , CITY OF TORONTO

SCHEDULE "C"

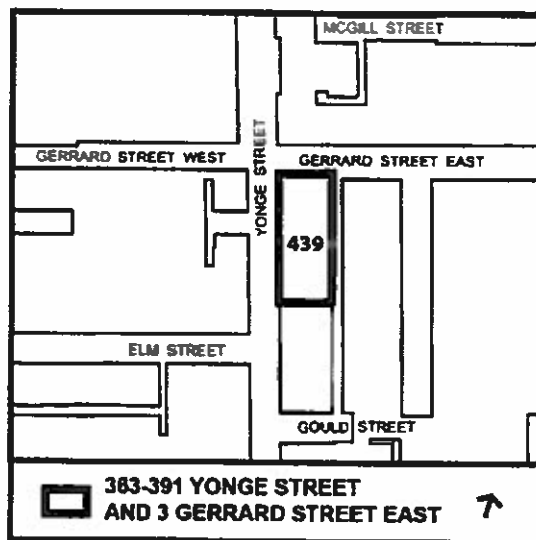
DRAFT OFFICIAL PLAN AMENDMENT

**LANDS MUNICIPALLY KNOWN IN THE YEAR 2018 AS 363-391 YONGE STREET AND 3 GERRARD STREET EAST
CITY OF TORONTO**

Chapter Seven – Site and Area Specific Policy No. 174 is hereby amended by adding the following policy (d):

"e) 363-391 Yonge Street and 3 Gerrard Street East

Notwithstanding Policy b) i) b) of this Site and Area Specific Policy, a mixed-use development with a maximum height of 299 metres is permitted."



SCHEDULE "D"

CITY OF TORONTO
BY-LAW No. XXX-2019 (LPAT)

To amend the general Zoning By-law No. 438-86, as amended, of the former City of Toronto with respect to the lands municipally known as 357½, 357A, 363 to 391 Yonge Street and 3 Gerrard Street East

Whereas the Local Planning Appeal Tribunal, formerly the Ontario Municipal Board, by its Order issued [~] in File PL171277, approved amendments to amend the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands known municipally as 357½, 357A, 363 to 391 Yonge Street and 3 Gerrard Street East; and

Whereas the Local Planning Appeal Tribunal has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended to pass this by-law; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by Zoning By-law 438-86, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Local Planning Appeal Tribunal Orders:

1. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended shall continue to apply to the *lot*.
2. None of the provisions of Section 2(1) *height*, 4(2)(a), 4(5)(b), 4(8), 4(12), 4(13), 8(3) Part I 1, 2 & 3, 8(3) Part II 1(a), 8(3) Part III 1(a), 12(1)397, 12(1)431, 12(2)132, 12(2)258, 12(2)260, 12(2)316, and 12(2)380 of By-law No. 438-86 of the former City of Toronto, as amended and By-laws 1106-2016 and 194-97, shall apply to prevent the erection or use of an 85 *storey mixed-use building* which may contain *dwelling units* and non-residential uses including a *commercial parking garage* and a *parking garage* below *grade* on the *lot* provided that:
 - (a) The *lot* comprises the lands shown as Block 1 on Map 1 attached to and forming part of this By-law;
 - (b) Despite Section 2(1) of By-law 438-86, *grade* shall mean a Canadian Geodetic Datum elevation of 95.42 metres;
 - (c) The *height* of any building or structure, including the mechanical penthouse, or portion thereof above *grade* shall not exceed those *heights* as indicated by the H symbol on Map 2;
 - (d) Despite (c) above, and provided these projecting elements are no higher than

299 metres above *grade*, the following elements of a *building* may project above the permitted maximum building heights shown on Map 2 of By-law No. [Clerks to insert By-law No.]:

- i. window washing equipment, lightning rods and wind mitigation features;
- ii. structures and elements related to outdoor flooring and roofing assembly may project above the height limits by no more than 0.5 metres;
- iii. safety railings, guard rails, railings, parapets, terraces, patios, planters, balustrades, bollards, stairs, accessory structures, retaining walls, wheelchair ramps and ornamental or architectural features may project above the height limits by no more than 1.5 metres;
- iv. elements on the roof of the *building* or structure used for *green roof* technology and related roofing material may project above the height limits by no more than 2.0 metres;
- v. mechanical elements, garbage chutes, vents, screens, emergency generators and lighting fixtures may project above the height limits by no more than 2.5 metres;
- vi. landscape features, privacy screens, terrace dividers, covered stairs or stair enclosures and fences may project above the height limits by no more than 2.75 metres;
- vii. cabanas and trellises may project above the height limits by no more than 3.6 metres; and,
- viii. cooling towers may project above the height limits by no more than 6.0 metres;

(e) A building or structure must be set back from the lot lines at least the distance shown on Map 2 of By-law No. [Clerks to insert By-law No.] with the exception of the following:

- i. bay windows, lighting fixtures, cornices, architectural cladding or design features, sills, eaves, awnings and art installations may encroach into a building setback by a maximum of 0.6 metres;
- ii. balconies may encroach into a building setback by a maximum of 2.0 metres:
 1. within the areas illustrated as 'Balcony Projection Zone' on Map 2; and,
 2. from the north face of the building provided these balconies are no closer than 11.3 metres to the Yonge Street *lot* line and 9.9 metres to the O'Keefe Lane *lot* line;
- iii. canopies may encroach into a building setback by a maximum of 2.0 metres; and,
- iv. wind mitigation features;

(f) The combined *residential gross floor area* and *non-residential gross floor area* shall not exceed 94,500 square metres, of which;

- i. no more than 75,871 square metres may be *residential gross floor area*; and,
- ii. no more than 18,629 square metres may be *non-residential gross floor area*;

(g) A maximum of 1,106 *dwelling units* are permitted on the *lot*;

(h) At least 10% of the *dwelling units* must have a floor area of at least 106 square metres, as measured to:

- i. the exterior side of a main wall;
- ii. the centerline of an interior wall where the *dwelling unit* shares a wall with another *dwelling unit*; and,
- iii. the exterior side of an interior wall where the *dwelling unit* does not share a wall with another *dwelling unit*;

(i) *Parking spaces* must be provided as follows:

- i. a minimum of 0.17 *parking spaces* per *dwelling unit* shall be allocated as long-term *parking spaces* for the *dwelling units* in the *mixed use building*;

- ii. no short-term *parking spaces* are required for the *dwelling units* in the *mixed use building*;
 - iii. a minimum of 48 *parking spaces* are required for the non-residential uses in the *mixed use building* and:
 - 1. these *parking spaces* may also be used by visitors of residents of the *dwelling units* in the *mixed use building*;
 - 2. these *parking spaces* may be allocated in any combination of short-term or long-term *parking spaces*; and,
 - 3. these *parking spaces* may be in a *commercial parking garage*;
 - iv. a minimum of 6 *car-share parking spaces* are required for the purposes of *car-share* and should there be a period of time where there is no *car-share* service provided, the *car-share parking spaces* shall still be counted toward meeting the by-law requirements; and,
 - v. in the event that the calculation of the number of required *parking spaces* results in a number with a fraction, the number shall be rounded down to the nearest whole number.
- (j) At least 381 square metres of outdoor *residential amenity space* and at least 2,212 square metres of indoor *residential amenity space* is required for the *dwelling units*;
- (k) Despite regulation 4(17) of By-law 438-86, 32 *parking spaces* may have minimum widths of 2.6 metres when obstructed on one side;
- (l) *Bicycle parking spaces* shall be provided in accordance with the following:
- i. at least 0.9 *bicycle parking spaces* per *dwelling unit* shall be allocated as *bicycle parking space – occupant* for the residential use;
 - ii. at least 0.1 *bicycle parking spaces* per *dwelling unit* shall be allocated as *bicycle parking space – visitor* for the residential use;
 - iii. at least 83 *bicycle parking spaces* shall be allocated as *bicycle parking space – occupant* for the non-residential uses;
 - iv. at least 61 *bicycle parking spaces* shall be allocated as *bicycle parking space – visitor* for the non-residential uses;
 - v. *bicycle parking spaces* may be provided in any combination of vertical, horizontal or stacked positions;
 - vi. *bicycle parking spaces* may be located anywhere above or below grade in the *mixed-use building*;
 - vii. at least 2 shower and change facilities are required for each gender;
 - viii. notwithstanding the definition of *bicycle parking space - occupant* and *bicycle parking space - visitor* in Section 2 of By-law 438-86, if *bicycle parking spaces* are provided in a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both *bicycle parking spaces*, the minimum vertical clearance for each *bicycle parking space* must be at least 1.2 metres; and,
 - ix. notwithstanding the definition of *bicycle parking space - visitor* in Section 2 of By-law 438-86, *bicycle parking spaces - visitor* may be provided in a secured room;
- (m) At least one (1) *loading space - Type "G"*, two (2) *loading space - Type "B"* and two (2) *loading space - Type "C"* must be provided on the *lot*;
- (n) In addition to the elements mentioned in section 2(1) of By-law 438-86, the *residential gross floor area* and *non-residential gross floor area* of a *mixed use building* is also reduced by the areas in a building used for:
- i. hallways, elevator vestibules and a *commercial parking garage* below-ground; and,
 - ii. mechanical areas on any level of the building;

- (o) Notwithstanding Section 2(1) of By-law 438-86, levels of the *mixed use building* used for a mechanical penthouse or mezzanine are not considered to be *storeys*;
 - (p) A *temporary sales office* shall be permitted on the *lot*;
3. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the following:
- (a) "*height*" means the vertical distance between *grade* and the highest point of the building roof shown on Map 2;
 - (b) "*temporary sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot*.
 - (c) "*car-share*" means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization and such car-share motor vehicles are made available to at least the occupants of the building for short term rental, including hourly rental;
 - (d) "*car-share parking space*" shall mean a parking space exclusively reserved and signed for a car used only for car-share purposes;
 - (e) "*green roof*" means an extension to a building's roof that allows vegetation to grow in a growing medium and which is designed, constructed and maintained in compliance with the Toronto Green Roof Construction Standard set out in Chapter 492 of the City of Toronto Municipal Code.
4. Despite any of the provisions of By-law 438-86, for the purposes of the building on the *lot*, the *residential gross floor area* and *non-residential gross floor area* shall be calculated in accordance with the applicable deductions in By-law 569-2013 and the deductions listed below:
- (a) areas in a building below-ground used for hallways, elevator vestibules and a *commercial parking garage*; and,
 - (b) mechanical areas on any level of the building;
5. Within the lands shown on Map I, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
- (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
6. Section 37 Provisions
- (a) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and/or density of the development is permitted beyond that otherwise permitted on the lands shown on Map I in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;

- (b) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and
- (c) The owner shall not use, or permit the use of, a building or structure erected with an increase in height or density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Pursuant to Order of the Local Planning Appeal Tribunal, formerly the Ontario Municipal Board, issued on [~] in File PL171277.

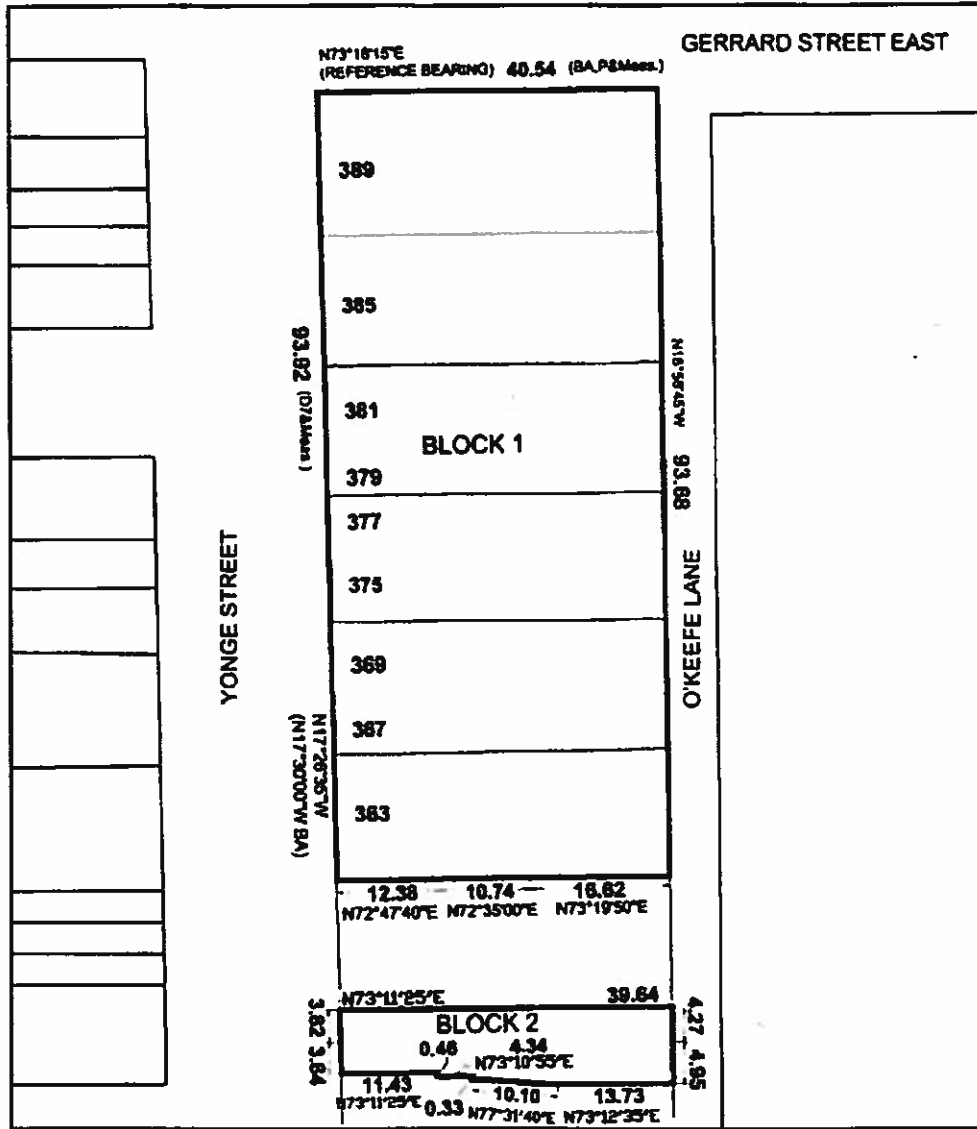
SCHEDULE A
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the Owner's expense in return for the increase in height and density of the proposed development on the lands shown on Map 1 in this By-law and secured in an agreement under Section 37(3) of the *Planning Act* where the Owner agrees as follows:

1. That the Owner provide Section 37 agreement contributions to the City as follows:
 - a. a community and/or cultural space to be located on the third level of the Development, which shall be a minimum of 241.5 square metres, with access from grade, finished to shell condition, to be conveyed to the City. Prior to the issuance of the first Above-Grade Building Permit, the Owner shall provide an upwardly indexed financial security to the City in the amount of \$350,000;
 - b. prior to the issuance of the first Above-Grade Building Permit, the Owner shall pay an upwardly indexed cash contribution to the City in the amount of \$4,000,000 towards the provision of new affordable rental housing in Ward 13;
 - c. prior to the issuance of the first Above-Grade Building Permit, the Owner shall:
 - i. pay an upwardly indexed cash contribution to the City in the amount of \$850,000 for the provision of public art;
 - OR
 - ii. prepare and submit to the Toronto Public Art Commission for recommendation a public art plan for the public art works equal in value to \$850,000, indexed upwardly, and obtain Council approval of the public art plan, which plan will detail the possible locations of any public art works on the site, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
 - OR
 - iii. provide a combination of cash contribution and commissioned public art works, as detailed in a public art plan, provided the total amount of the cash contribution and the public art works is equal to the upwardly indexed amount of \$850,000;
 - d. an above-grade elevated or below-grade pedestrian weather protected connection from the east elevation of the proposed tower to Ryerson University's Jorgensen Hall, in a manner acceptable to Ryerson University and in a location satisfactory to the City, in consultation with Ryerson University. Prior to the issuance of the first Above-Grade Building Permit for the development, the Owner shall:
 - i. Confirm to the City in writing that the Owner has obtained consent from Ryerson University to the construction of the pedestrian connection and has posted a financial security in the amount of \$1,200,000 to guarantee the construction of the pedestrian connection;
 - OR
 - ii. Provide proof, to the satisfaction of the Chief Planner and Executive Director, City Planning that the Owner has paid an upwardly indexed cash contribution to the City in the amount of \$1,200,000 to be dedicated to community benefits/facilities in the Ward at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
 - e. a mix of residential dwelling units with at least 10% of the total residential dwelling units having a minimum size of 106 square metres;

- f. the design, construction and provision of improvements to the public realm for O'Keefe Lane, equal to an upwardly indexed amount of \$750,000, which will include, but not be limited to, details regarding hard and soft landscaping, paving and curbing details, animation of the land with the wrapping of retail or institutional uses onto a portion of the lane from the Gerrard Street East frontage. The details of the streetscape and landscape improvement shall be secured through the site plan approval process with input from Ryerson University, and shall be constructed by the owner no later than three years following the first residential or commercial occupancy;
 - g. a Child and Family Centre facility located on the third level of the Development which shall be a minimum of 485 square metres. The Child and Family Centre facility shall be located on the interior of the Development and, for greater clarity, there shall be no requirement for outdoor space associated with the facility. The Owner will lease the Child and family Centre Facility to the City for a term of 99 years. Prior to the issuance of the First Above-Grade Building Permit, the Owner shall provide an upwardly indexed financial security to the City in the amount of \$650,000; and
 - h. prior to the issuance of the first Above-Grade Building Permit, the Owner shall pay an upwardly indexed cash contribution to the City in the amount of 1,080,000 towards improvements to Yonge Street.
2. That the Section 37 agreement referenced in paragraph 1 above, secure, as a legal convenience, the requirement for and associated details respecting the satisfaction of the following conditions:
- a. the Owner shall provide a minimum of 2,212 square metres of indoor amenity space and a minimum of 381 square metres of outdoor amenity space. It is acknowledged that any additional outdoor amenity space provided in association with the non-residential uses may be located on the lower podium levels. If for any reason the non-residential outdoor amenity space is not used for its intended purpose, it shall be reallocated as residential outdoor amenity space;
 - b. the Owner shall construct and maintain the Development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting of October 26 and 27, 2009 as amended by City Council at its meeting of July 16, 17, 19 and 19, 2013
 - c. a minimum of 0.17 resident parking spaces per Dwelling Unit shall be allocated as resident parking spaces, 48 non-residential parking spaces and 6 car-share parking spaces, shall be provided;
 - d. the provision of a minimum of 5 loading spaces (1 Type G, 2 Type B and 2 Type C);
 - e. the execution of a restrictive covenant to be registered on title at 357A and 357 ½ Yonge Street, to the satisfaction of the City Solicitor;
 - f. confirmation in writing from a duly authorized representative(s) of the Hospital for Sick Children and St. Michael's Hospital, to the satisfaction of the Chief Planner and Executive Director, City Planning, that there is no intrusion by the Development or by any structure or naturally growing object, into the helicopter flight path, in accordance with the requirements of By-law 1432-2017, as amended; and
 - g. the completion by the Owner of a TTC Technical Review and receipt by the City of the TTC's written acknowledgment that the Owner has satisfied all of the conditions arising out of the review, to the satisfaction of the Chief Planner and Executive Director, City Planning.

Map 1

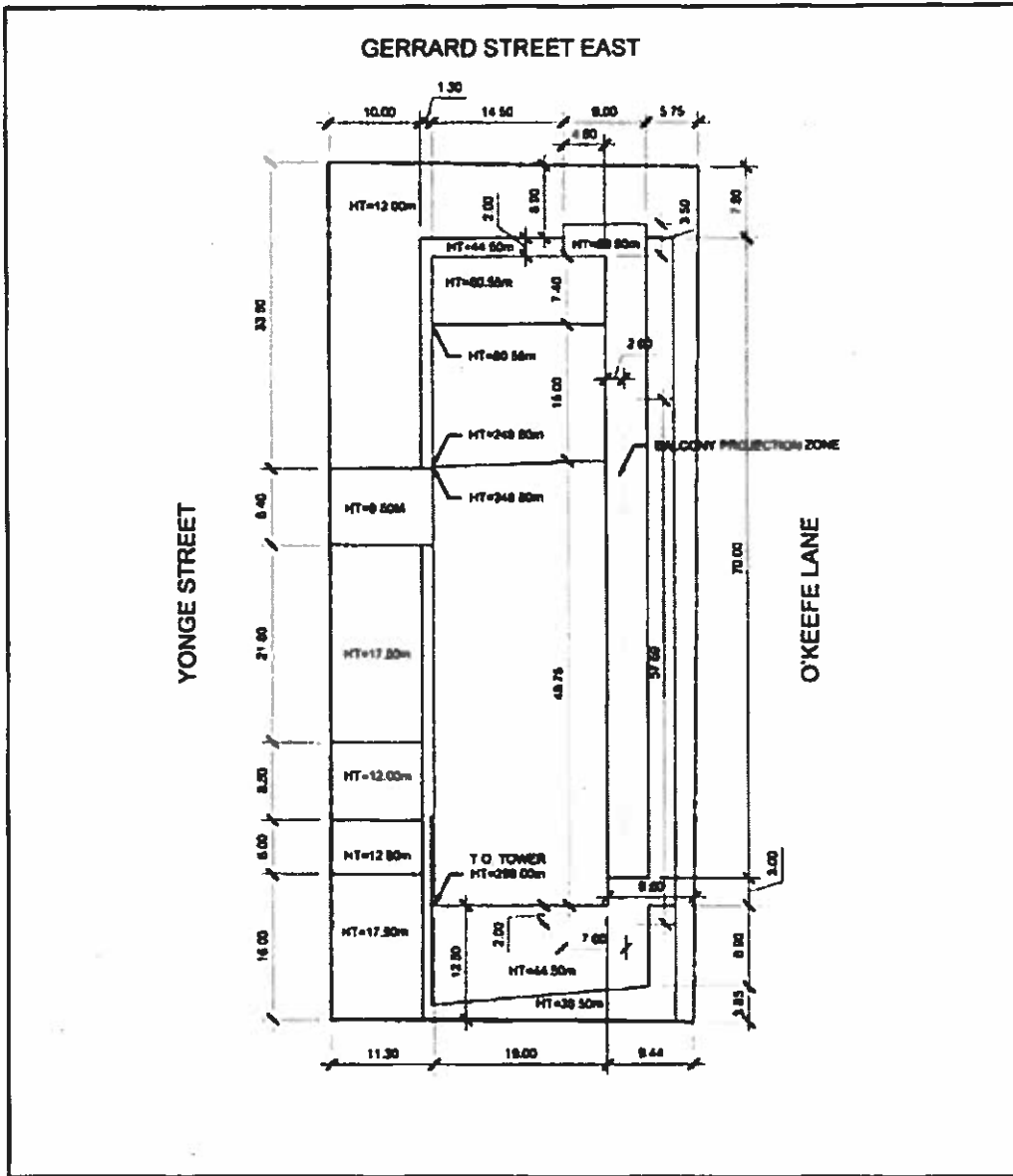


City of Toronto
Map 1

**363-391 Yonge Street and
3 Gerrard Street East**
File # 15 146478 STE 27 02


City of Toronto By-law 438-88
Not to Scale
2/4/2019

Map 2



 Toronto
Map 2

363-391 Yonge Street and
3 Gerrard Street East
File # 15 148478 STE 27 02


City of Toronto By-law 430-88
Not to Scale
2/4/2018

CITY OF TORONTO
BY-LAW No. XXX-2019 (LPAT)

To amend the City of Toronto By-law No. 569-2013, as amended, with respect to lands known municipally as of 357½, 357A, 363 to 391 Yonge Street and 3 Gerrard Street East.

Whereas the Local Planning Appeal Tribunal, formerly the Ontario Municipal Board, by its Order issued [~] in File PL171277, approved amendments to amend City of Toronto Zoning By-law 569-2013, as amended, with respect to the lands known municipally as 357½, 357A, 363 to 391 Yonge Street and 3 Gerrard Street East; and

Whereas the Local Planning Appeal Tribunal has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended to pass this by-law; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Local Planning Appeal Tribunal Orders:

2. The lands subject to this By-law are outlined by heavy black lines and referred to as Block 1 and Block 2 on Diagram 1 attached to this By-law.
3. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
4. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines to CR 4.0 (c4.0; r1.5) SS1 (x175) as shown on Diagram 2 attached to this By-law; and
5. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number 175 so that it reads:

Exception CR 175

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections:

Site Specific Provisions:

- (A) If the requirements of Clause 5 and Schedule A of By-law xxxx-2019 [Clerks to insert By-law number] are complied with, clauses 40.10.40.10 and 40.10.40.40 do not apply to prevent the erection or use of an 85-storey mixed use building permitted in compliance with the clauses below;

- (B) The lot consists of those lands shown as Block 1 on Diagram 1 attached to By-law No. [Clerks to insert By-law No.];
- (C) Despite regulation 40.5.40.10(1), height is measured from the Canadian Geodetic Datum elevation of 95.42 metres and the elevation of the highest point of the building;
- (D) Regulation 600.10.10 with respect to Building Setbacks does not apply;
- (E) Despite regulation 40.10.40.10(1), the height for any portion of a **building** or **structure** must not exceed the maximum height permitted by the letter "HT" as shown on Diagram 3 of By-law No. [Clerks to insert By-law No.];
- (F) Despite (E) above, 40.5.40.10(4), (5), (6) & (7), and provided these projecting elements are no higher than 299 metres above the Canadian Geodetic Datum elevation of 95.42 metres, the following elements of a **building** may project above the permitted maximum **building** heights shown on Diagram 3 of By-law No. [Clerks to insert By-law No.]:
- i. window washing equipment, lightning rods and wind mitigation features;
 - ii. **structures** and elements related to outdoor flooring and roofing assembly may project above the height limits by no more than 0.5 metres;
 - iii. safety railings, guard rails, railings, parapets, terraces, patios, planters, balustrades, bollards, stairs, **ancillary structures**, retaining walls, wheelchair ramps and ornamental or architectural features may project above the height limits by no more than 1.5 metres;
 - iv. elements on the roof of the **building** or structure used for **green roof** technology and related roofing material may project above the height limits by no more than 2.0 metres;
 - v. mechanical elements, garbage chutes, vents, screens, emergency generators and lighting fixtures may project above the height limits by no more than 2.5 metres;
 - vi. landscape features, privacy screens, terrace dividers, covered stairs or stair enclosures and fences may project above the height limits by no more than 2.75 metres;
 - vii. cabanas and trellises may project above the height limits by no more than 3.6 metres; and,
 - viii. cooling towers may project above the height limits by no more than 6.0 metres;
- (G) Despite 40.10.40.70(1) and 40.10.40.80(1), a **building** must be set back from the **lot lines** at least the distance shown on Diagram 3 of By-law No. [Clerks to insert By-law No.] with the exception of the following:
- i. bay windows, lighting fixtures, cornices, architectural cladding or design features, sills, eaves, awnings and art installations may encroach into a **building setback** by a maximum of 0.6 metres;
 - ii. balconies may encroach into a **building setback** by a maximum of 2.0 metres:
 1. within the areas illustrated as 'Balcony Projection Zone' on Diagram 3; and,
 2. from the north face of the **building** provided these balconies are no closer than 11.3 metres to the Yonge Street lot line and 9.9 metres to the O'Keefe Lane lot line;
 - iii. canopies may encroach into a **building setback** by a maximum of 2.0 metres; and,
 - iv. wind mitigation features;
- (H) Despite 40.10.40.40(1):
- i. the maximum total residential and non-residential **gross floor area** is 94,500 square metres;
 - ii. the maximum residential **gross floor area** is 75,871 square metres; and,
 - iii. the maximum non-residential **gross floor area** is 18,629 square metres;

- (I) A maximum of 1,106 dwelling units are permitted on the lot;
- (J) At least 10% of the dwelling units must have a floor area of at least 106 square metres, as measured to:
- i. the exterior side of a main wall;
 - ii. the centerline of an interior wall where the dwelling unit shares a wall with another dwelling unit; and,
 - iii. the exterior side of an interior wall where the dwelling unit does not share a wall with another dwelling unit;
- (K) Despite 200.5.10.1(1), parking spaces must be provided as follows:
- i. a minimum of 0.17 parking spaces per dwelling unit for the tenants in the mixed use building;
 - ii. no parking spaces are required for the visitors of residents to dwelling units in the mixed use building;
 - iii. a minimum of 48 parking spaces are required for the non-residential uses in the mixed use building and:
 1. these parking spaces may also be used by visitors of residents of the dwelling units in the mixed use building; and,
 2. these parking spaces may be public parking;
 - iv. a minimum of 6 parking spaces for car-share and should there be a period of time where there is no car-share service provided, the car-share parking spaces shall still be counted toward meeting the by-law requirements;
- (L) Despite regulation 40.10.40.50(1):
- i. a minimum of 381 square metres of outdoor amenity space and a minimum of 2,212 square metres of indoor amenity space is required for the dwelling units; and,
 - ii. no more than 25% of the outdoor amenity space component may be a green roof;
- (M) Despite 40.10.40.50(2), a minimum of 175 square metres of outdoor amenity space must be provided on the lot for the non-residential use;
- (N) Despite regulation 40.10.40.1(1), residential use portions of the building may also be located on the same level or below non-residential use portions;
- (O) Despite regulation 200.5.1.10(2) of By-law 569-2013, a maximum of 32 parking spaces may have minimum widths of 2.6 metres when obstructed on one side;
- (P) Despite 200.15 and By-law 579-2017, accessible parking spaces must be provided as follows:
- i. of the required parking spaces in (K) above, a minimum of 8 must be accessible parking spaces and must be provided in the underground parking garage;
 - ii. accessible parking spaces must have the following minimum dimensions:
 1. length of 5.6 metre;
 2. width of 3.4 metres; and,
 3. vertical clearance of 2.1 metres;
 - iii. the entire length of an accessible parking space must be adjacent to a minimum 1.5 metre wide accessible barrier free aisle or path; and,
 - iv. despite 200.15.1.5 and 200.15.1(4), accessible parking spaces may be located anywhere in the underground parking garage;
- (Q) Despite regulation 230.5.1.10(7), at least 2 shower and change facilities are required for each gender;
- (R) Despite regulation 230.5.1.10(9), long term and short term bicycle parking spaces for dwelling units or for non-residential uses may be located anywhere above or below ground in the building;

- (S) Despite regulation 230.5.1.10(10), long term and short term **bicycle parking spaces for dwelling units** or for non-residential uses may be provided in any combination of vertical, horizontal or stacked positions;
- (T) Despite regulations 230.5.10.1(1), (2) and (5):
- i. at least 0.9 **bicycle parking spaces per dwelling unit** must be allocated as long-term **bicycle parking spaces** for the dwelling units;
 - ii. at least 0.1 **bicycle parking spaces per dwelling unit** must be allocated as short-term **bicycle parking spaces** for the dwelling units;
 - iii. at least 83 **bicycle parking spaces** must be allocated as long-term **bicycle parking spaces** for the non-residential uses;
 - iv. at least 61 **bicycle parking spaces** must be allocated as short-term **bicycle parking spaces** for the non-residential uses;
- (U) Despite regulation 230.40.1.20(2), a short-term **bicycle parking space** may be located more than 30 metres from a pedestrian entrance to the **building** on the lot and may be located in a secured room or an unsecured room;
- (V) Despite the requirements of 220.5.10.1, at least one (1) Type "G" **loading space**, two (2) Type "B" **loading spaces** and two (2) Type "C" **loading spaces** must be provided on the lot;
- (W) Despite regulation 40.10.100.10(1)(c), more than one **vehicle access** is permitted;
- (X) In addition to the **building elements** listed in regulation 40.5.40.40(3), the **gross floor area** of a **mixed use building** is also reduced by the areas in a **building** used for:
- i. hallways, elevator vestibules and **public parking** below ground; and,
 - ii. **mechanical rooms** on any level of the **building**;
- (Y) For the purpose of this exception, levels of a **building** used for a **mechanical penthouse** or a **mezzanine** are not **storeys**;
- (Z) Despite 40.10.40.10(5), the minimum height of the first storey may be less than 4.5 metres;
- (AA) Despite 40.10.20.100(21), an **outdoor patio** is not limited in size or area;
- (BB) Despite 40.10.20.100(33) and 150.100, there is no maximum **interior floor area** for an **eating establishment**;
- (CC) Despite any severance, partition or division of the lands, the provision of this By-law apply to the whole of the lands as if no severance, partition or division occurred;
- (DD) Prevailing Sections 12(1)397, 12(1)431, 12(2)132, 12(2)258, 12(2)260, 12(2)316, and 12(2)380 of By-law No. 438-86 of the former City of Toronto, as amended and Prevailing By-law 194-97 do not apply;

Prevailing By-laws and Prevailing Sections:

- (A) Section 12(1) 334 of former City of Toronto By-law 438-86;
 (B) Section 12(1)335 of former City of Toronto By-law 438-86;
 (C) Section 12(1)397 of former City of Toronto By-law 438-86;
 (D) Section 12(1)431 of former City of Toronto By-law 438-86;
 (E) Section 12(2)132 of former City of Toronto By-law 438-86;
 (F) Section 12(2)256 of former City of Toronto By-law 438-86;
 (G) Section 12(2)258 of former City of Toronto By-law 438-86;
 (H) Section 12(2)259 of former City of Toronto By-law 438-86;
 (I) Section 12(2)260 of former City of Toronto By-law 438-86;
 (J) Section 12(2)316 of former City of Toronto By-law 438-86;
 (K) Section 12(2)380 of former City of Toronto By-law 438-86; and

(L) City of Toronto By-law 97-0194.

6. Section 37 Provisions

- (A) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and/or density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
- (B) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and
- (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height or density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Pursuant to Order of the Local Planning Appeal Tribunal, formerly the Ontario Municipal Board, issued on [~] in File PL171277.

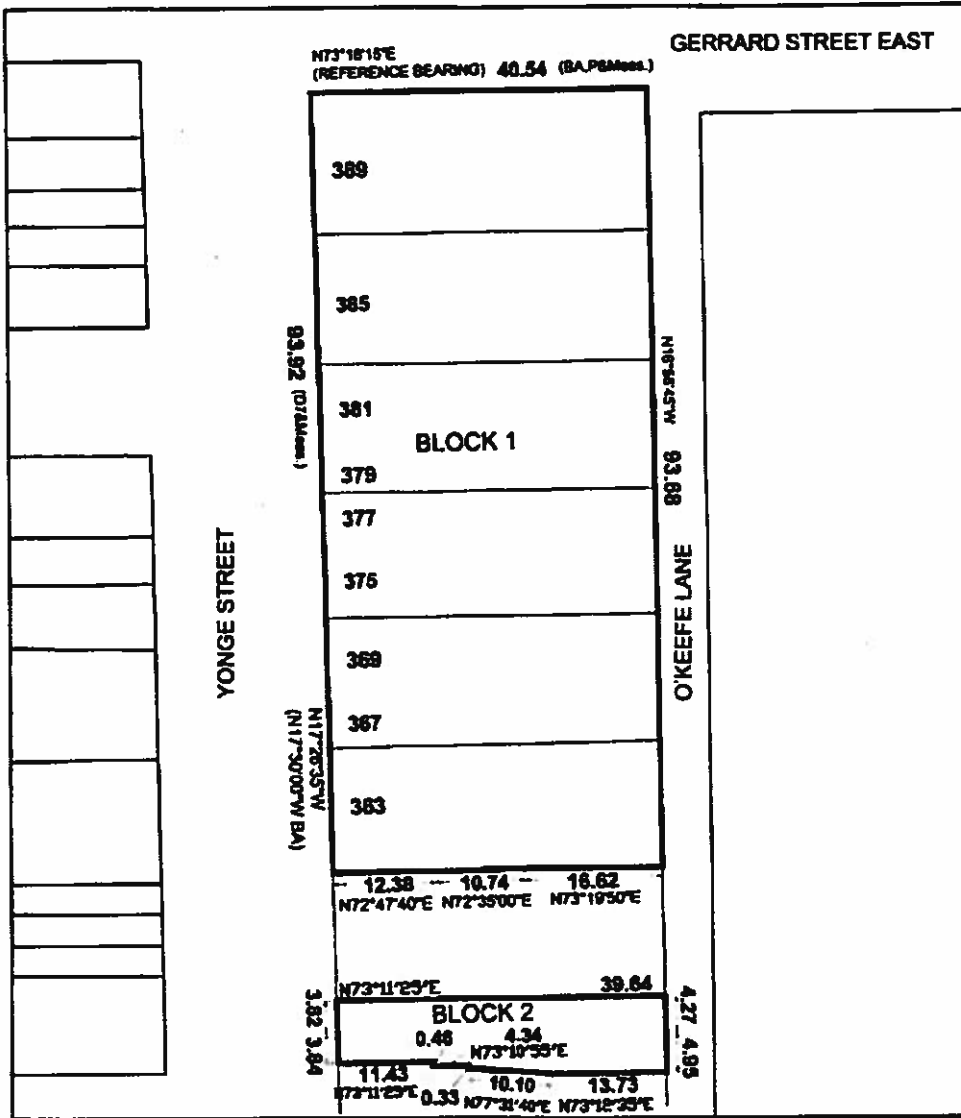
SCHEDULE A
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the Owner's expense in return for the increase in height and density of the proposed development on the lands shown on Diagram 1 in this By-law and secured in an agreement under Section 37(3) of the *Planning Act* where the Owner agrees as follows:

1. That the Owner provide Section 37 agreement contributions to the City as follows:
 - a. a community and/or cultural space to be located on the third level of the Development, which shall be a minimum of 241.5 square metres, with access from grade, finished to shell condition, to be conveyed to the City. Prior to the issuance of the first Above-Grade Building Permit, the Owner shall provide an upwardly indexed financial security to the City in the amount of \$350,000;
 - b. prior to the issuance of the first Above-Grade Building Permit, the Owner shall pay an upwardly indexed cash contribution to the City in the amount of \$4,000,000 towards the provision of new affordable rental housing in Ward 13;
 - c. prior to the issuance of the first Above-Grade Building Permit, the Owner shall:
 - i. pay an upwardly indexed cash contribution to the City in the amount of \$850,000 for the provision of public art;
 - OR
 - ii. prepare and submit to the Toronto Public Art Commission for recommendation a public art plan for the public art works to be equal in value to \$850,000, indexed upwardly, and obtain Council approval of the public art plan, which plan will detail the possible locations of any public art works on the site, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
 - OR
 - iii. provide a combination of cash contribution and commissioned public art works, as contemplated in a Council approved public art plan, provided the total amount of the cash contribution and the public art works is equal to the upwardly indexed amount of \$850,000;
 - d. an above-grade elevated or below-grade pedestrian weather protected connection from the east elevation of the proposed tower to Ryerson University's Jorgensen Hall, in a manner acceptable to Ryerson University and in a location satisfactory to the City, in consultation with Ryerson University. Prior to the issuance of the first Above-Grade Building Permit for the development, the Owner shall:
 - i. Confirm to the City in writing that the Owner has obtained consent from Ryerson University to the construction of the pedestrian connection and has posted a financial security in the amount of \$1,200,000 to guarantee the construction of the pedestrian connection;
 - OR
 - ii. Provide proof, to the satisfaction of the Chief Planner and Executive Director, City Planning, that the Owner has paid an upwardly indexed cash contribution to the City in the amount of \$1,200,000 to be dedicated to community benefits/facilities in the Ward at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
 - e. a mix of residential dwelling units with at least 10% of the total residential dwelling units having a minimum size of 106 square metres;

- f. the design, construction and provision of improvements to the public realm for O'Keefe Lane, equal to an upwardly indexed amount of \$750,000, which will include, but not be limited to, details regarding hard and soft landscaping, paving and curbing details, animation of the land with the wrapping of retail or institutional uses onto a portion of the lane from the Gerrard Street East frontage. The details of the streetscape and landscape improvement shall be secured through the site plan approval process with input from Ryerson University, and shall be constructed by the owner no later than three years following the first residential or commercial occupancy;
 - g. a Child and Family Centre facility located on the third level of the Development which shall be a minimum of 485 square metres. The Child and Family Centre facility shall be located on the interior of the Development and, for greater clarity, there shall be no requirement for outdoor space associated with the facility. The Owner will lease the Child and family Centre Facility to the City for a term of 99 years. Prior to the issuance of the First Above-Grade Building Permit, the Owner shall provide an upwardly indexed financial security to the City in the amount of \$650,000; and
 - h. prior to the issuance of the first Above-Grade Building Permit, the Owner shall pay an upwardly indexed cash contribution to the City in the amount of 1,080,000 towards improvements to Yonge Street.
2. That the Section 37 agreement referenced in paragraph 1 above, secure, as a legal convenience, the requirement for and associated details respecting the satisfaction of the following conditions:
- a. the Owner shall provide a minimum of 2,212 square metres of indoor amenity space and a minimum of 381 square metres of outdoor amenity space. It is acknowledged that any additional outdoor amenity space provided in association with the non-residential uses may be located on the lower podium levels. If for any reason the non-residential outdoor amenity space is not used for its intended purpose, it shall be reallocated as residential outdoor amenity space;
 - b. the Owner shall construct and maintain the Development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting of October 26 and 27, 2009 as amended by City Council at its meeting of July 16, 17, 19 and 19, 2013
 - c. a minimum of 0.17 resident parking spaces per Dwelling Unit shall be allocated as resident parking spaces, 48 non-residential parking spaces and 6 car-share parking spaces, shall be provided;
 - d. the provision of a minimum of 5 loading spaces (1 Type G, 2 Type B and 2 Type C);
 - e. the execution of a restrictive covenant to be registered on title at 357A and 357 ½ Yonge Street, to the satisfaction of the City Solicitor;
 - f. confirmation in writing from a duly authorized representative(s) of the Hospital for Sick Children and St. Michael's Hospital, to the satisfaction of the Chief Planner and Executive Director, City Planning, that there is no intrusion by the Development or by any structure or naturally growing object, into the helicopter flight path, in accordance with the requirements of By-law 1432-2017, as amended; and
 - g. the completion by the Owner of a TTC Technical Review and receipt by the City of the TTC's written acknowledgment that the Owner has satisfied all of the conditions arising out of the review, to the satisfaction of the Chief Planner and Executive Director, City Planning.

Diagram 1



Toronto
Diagram 1

**363-391 Yonge Street and
3 Gerrard Street East**
File # 15 148478 STE 27 02

City of Toronto By-law 568-2013
Not in Scale
2/4/2018

Diagram 2

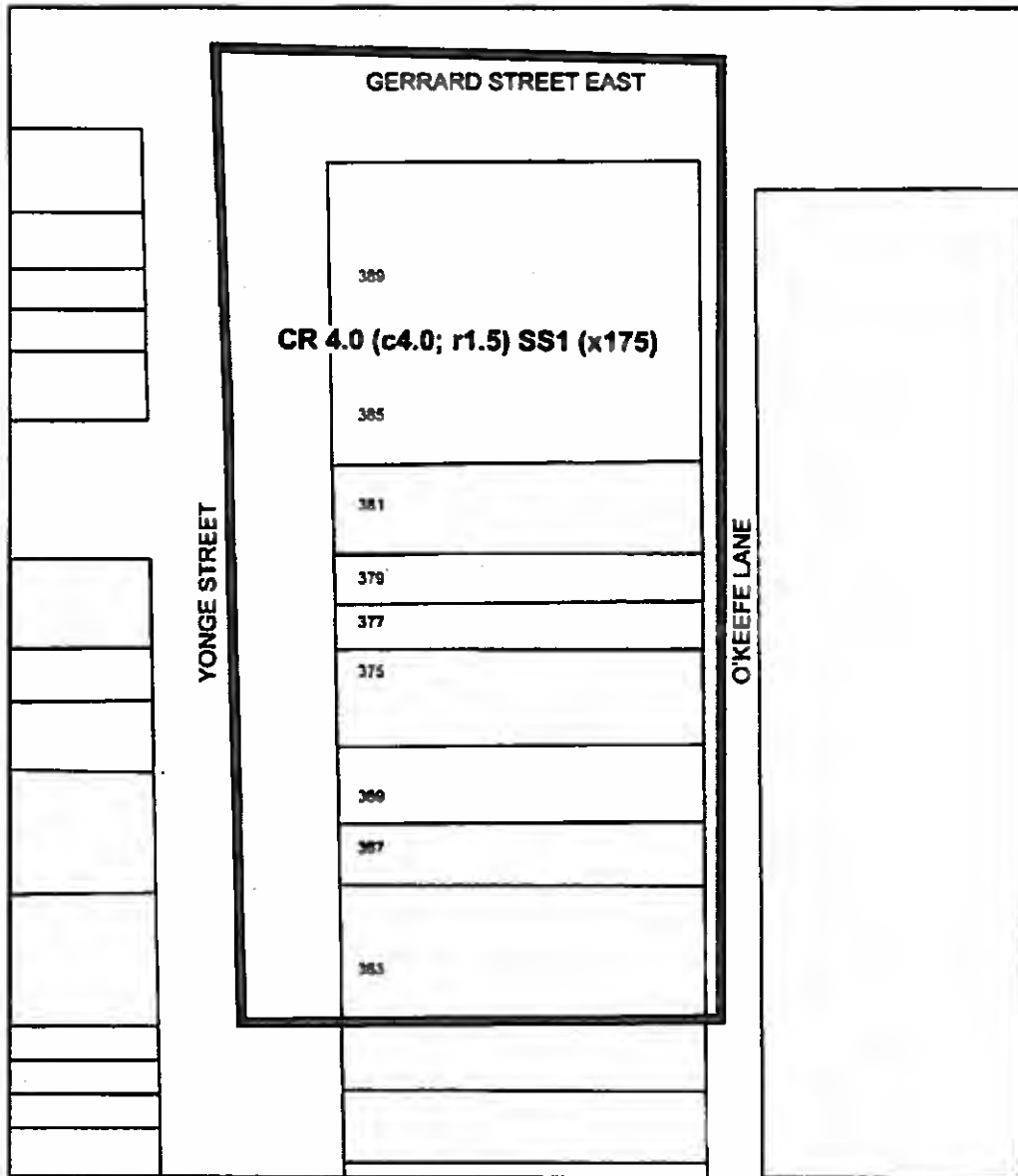
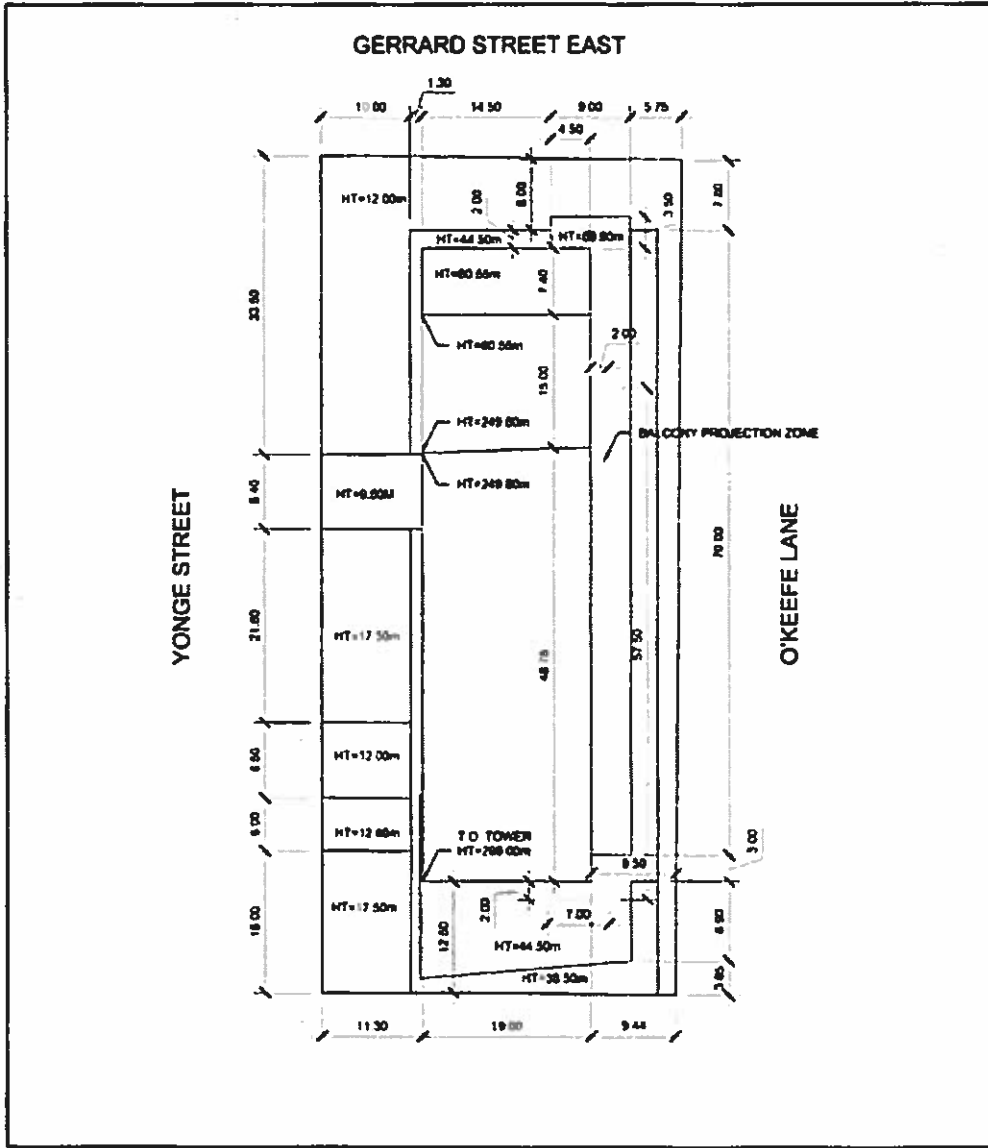



Diagram 2

363-391 Yonge Street and
3 Gerrard Street East
File # 15 148478 STE 27 02

↑
City of Toronto By-law 569-2013
Not to Scale
2/4/2019

Diagram 3



 Toronto
Diagram 3

363-391 Yonge Street and
3 Gerrard Street East
File # 15 146478 STE 27 02


City of Toronto By-law 569-2013
Not to Scale
2/4/2018

SCHEDULE "E"
FORM OF TITLE OPINION

Letterhead of Law Firm Giving Title Opinion

City of Toronto
Legal Division
Station 1260
26th Floor, Metro Hall
55 John Street
Toronto ON M5V 3C6

Attention: Wendy Walberg, City Solicitor

Dear Madam/Sir:

Re: *[Include reference to Schedule "A" and brief legal description of the subject land defined to be (the "Land") as well as a description of the type of agreement being entered into (ie Agreement under Section ● of the ● Act] defined to be (the "Agreement")]*

We act as solicitors for ● (the "Owner") in connection with the execution and delivery of a ● Agreement (the "Agreement") with the City of Toronto (the "City") and in connection with the giving of a title opinion to the City for the purpose of registration of the Agreement against title to the Land.

For the purpose of this opinion, we have examined title to the Lands as disclosed by the records of the Land Registry Office for the *[insert Land Titles or Registry]* Division of ● (No. ●)(the "LRO"), conducted necessary investigations as to the existence of prior corporate owners of all or part of the Land as disclosed by the records of the LRO in order to confirm the existence of each corporation during their respective period of ownership, conducted searches to ascertain any writs of execution or certificates of lien filed against the Owner. We have obtained a realty tax certificate and have made enquires to the City related to work orders, deficiency notices, zoning compliance and water/sewer charges respecting the Land.

We have obtained and relied upon statutory declarations and certificates where appropriate and have considered applicable questions of law. We have assumed with respect to documents examined by us, the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity to authentic originals of all documents submitted to us as photocopies, facsimile, certified, conformed or notarial copies. We have also assumed the accuracy and currency of the indices and filing systems maintained at any public offices where we have conducted searches or made enquiries or caused such searches or enquiries to be conducted or made.

[NTD: If applicable, insert the following paragraph regarding any statutory declarations or certificates relied upon for the purpose of the opinion:

We have relied upon a statutory declaration of [Name of Owner / if Owner is a corporation or other entity, indicate the name and position of the signing officer], dated ●, 20●, in connection with Section 44(1)1, 2, 3 and 4 of the Land Titles Act and certain factual matters which [is/ are] relevant for the purpose of providing our opinion expressed in paragraph 1 below. We have also relied upon a certificate of [Name of Owner / if Owner is a corporation or other entity, indicate the name and position of the signing officer], dated ●, 20●, as to certain corporate matters, which [is/are] relevant for the purpose of providing our opinion expressed in paragraphs 3 and 4 below.]

We are solicitors qualified to carry on the practice of law in the Province of Ontario. The opinion expressed extends only to the laws of the Province of Ontario and the federal laws of Canada applicable therein in force as of the date of this opinion.

Our enquiries and searches with respect to the Land confirm:

- (a) the Land has not escheated to the Crown;
- (b) there are no arrears in the payment of realty taxes;
- (c) there are no outstanding work orders or deficiency notices and there is no record of non-compliance with applicable building or zoning by-laws; and
- (d) there are no outstanding accounts for the supply of water or sewer services to the Land.

Based upon and subject to the foregoing, we are of the opinion that, as at ● [a.m./p.m.] on ●, 20●●:

- 1. The Owner is the registered owner in fee simple of the Land, free from encumbrances, liens or claims registered in the LRO or filed with the Sherriff, including any outstanding writs of execution that affect title to the Land, other than those liens, encumbrances, exceptions and qualifications to title set out in Parts I and II to Schedule B attached.
- 2. None of the documents identified in Schedule B, Part II referred to above, that are not being postponed, discharged or otherwise released, contain rights or remedies in favour of the parties thereto, or their respective successors or assigns, that could preclude, defeat or adversely affect, in any material respect, the rights and interests of the City arising from the Agreement.

[Where the Owner is a Corporation insert 3 and 4]

- 3. The Owner is an existing corporation pursuant to the ● [insert applicable statute name] and has not been discontinued or dissolved.
- 4. The Owner has the corporate power and capacity to enter into and perform its obligations under the Agreement and has taken all necessary corporate action to authorize the execution and delivery of the Agreement.
- 5. The last registered instrument on title to the Land is ● [insert Instrument #].

Notwithstanding that our fee for this opinion will be paid by the Owner, and that we act for the Owner in this transaction, we acknowledge that the City is relying upon this opinion and the opinions expressed herein for the purpose of confirming that the Owner has good title to the Lands and to verify the priority of registration of the Agreement on title to the Land. We consent and agree to such reliance. Although this opinion may be relied upon by the City and its authorized agents for the purposes contemplated herein, it may not be relied upon or quoted, in whole or in part, by any other person or entity for any other purpose without our prior written consent.

Yours truly,

[]

- [NOTES:
- i) this opinion must be drafted with all applicable inserts and should accompany all agreements submitted to the City. It must be forwarded directly to the Legal Services Division and the assigned file lawyer or law clerk as applicable; and
 - ii) if the this opinion is signed by a "Law Firm" a cover letter must be attached confirming the name of the solicitor providing the opinion.]

SCHEDULE "A"
LEGAL DESCRIPTION

Lands are registered in [*"X"one*]:

- REGISTRY
- LT ABSOLUTE
- LTCQ
- LT PLUS

[Insert PIN and brief legal description or a full metes and bounds description if the Lands are in Registry]

REFERENCE	Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i>
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SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in LT ABSOLUTE]

PART I – General Qualifications

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
3. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
4. The following exceptions and qualification contained in section 44(1) of the *Land Titles Act*: paragraph 7, 8, 9, 10, 12 and 14.

PART II – Specific Encumbrances

[Insert if applicable and indicate where postponements, discharges, releases etc are to be provided]

REFERENCE	Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i>
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SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in LT CONVERSION QUALIFIED (LTCQ)]

PART I – General Qualifications

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
3. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
4. The following exceptions and qualification contained in section 44(1) of the *Land Titles Act*: paragraph 7, 8, 9, 10, 12 and 14.
5. The exceptions and qualifications contained in section 44(1) 11 of the *Land Titles Act* to the date of conversion to LTCQ.

PART II – Specific Encumbrances

[Insert if applicable and indicate where postponements, discharges, releases etc. are to be provided]

REFERENCE	Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i>
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SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in LT PLUS]

PART I – General Qualifications

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
3. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
4. The following exceptions and qualification contained in section 44(1) of the *Land Titles Act*: paragraph 3, 7, 8, 9, 10, 12 and 14.
5. The exceptions and qualifications contained in section 44(1) 11 of the *Land Titles Act* to the date of conversion to LTCQ.

PART II – Specific Encumbrances

[Insert if applicable and insert where postponements, discharges, releases etc. are to be provided]

REFERENCE	Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i>
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SCHEDULE "B"
ENCUMBRANCES/QUALIFICATIONS

[Lands in REGISTRY]

PART I – General Qualifications

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates.
2. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute.
3. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including, without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes.
4. Where the registered owner is or a previous owner was a railway company, any interest that may be or may have been created by an instrument deposited in the office of the Secretary of State of Canada or the Registrar General of Canada, as the case may be, under section 81 of the *Railway Act* (Canada), or any predecessor thereof.

PART II – Specific Encumbrances

[Insert if applicable and insert where postponements, discharges, releases etc. are to be provided]

REFERENCE	Opinion for <i>[insert brief property reference]</i> dated • by <i>[insert name of opining solicitor]</i>
-----------	---

SCHEDULE "F"

ADDITIONAL LANDS RESTRICTIVE COVENANT

Section 1 Burden and Benefit

- (1) The Owner is the owner of the Additional Lands herein referred to in this schedule as the "**Burdened Land**", being the burdened lands of the covenants set out herein.
- (2) The City is the owner in fee simple of lands legally described in Exhibit A-I hereto (the "**Benefiting Land**"), being the lands benefitted of the covenants set out herein.
- (3) The covenants set out in **Error! Reference source not found.** shall be binding on:
 - (a) the Owner, in its capacity as owner of the Burdened Land;
 - (b) the tenants, licensees and occupants of the Burdened Land under the Owner;
 - (c) the successors-in-title of the Owner to the Burdened Land; and
 - (d) the respective tenants, licensees and occupants of the Burdened Land under the successors-in-title of the Owner.
- (4) The covenants set out in **Error! Reference source not found.** shall be for the benefit of:
 - (a) the City, in its capacity as owner of the Benefiting Land;
 - (b) the tenants, licensees and occupants of the Benefiting Land under the City;
 - (c) the successors-in-title of the City to the Benefiting Land; and
 - (d) the respective tenants, licensees and occupants of the Benefiting Land under the successors-in-title of the City.
- (5) The burden of the restrictive covenants in this Schedule run with and bind and are to the detriment of the Burdened Land and every part thereof and any person who may from time to time own, lease or otherwise have an interest in any part of the Burdened Land (including without limitation any chargee of the Burdened Land) and are for the benefit of and annexed to and run with the Benefiting Land and every part thereof and any person who may from time to time own, lease or otherwise have an interest in any part of the Benefiting Land (including without limitation any chargee of the Benefiting Land) and their respective successors and assigns, in each case for a term commencing on the date of this Agreement and expiring ninety-nine (99) years thereafter.

Section 2 Restrictive Covenants as to Development

- (1) The Owner covenants with the City that it will not construct any improvements within the No Build Area of the Burdened Land, it being the intent that this covenant shall run with and burden the Burdened Land, as servient tenement, and run with and benefit the Benefiting Land, as the dominant tenement. The "No Build Area" means the airspace above 20 metres from grade.

Section 3 Acknowledgement and Waiver by Owner

- (1) The Owner hereby acknowledges and agrees that the Burdened Land is intended to be restricted from development in the No Build Area in order to permit the development of lands owned by the Owner in proximity to the Burdened Land as provided in the Section 37 Agreement between the Owner and the City registered on <*>, 2019 as Instrument No. <*> and that the Benefiting Land and the City will benefit from such restrictions.
- (2) The Owner hereby waives any rights that it may have pursuant to the *Land Titles Act* (Ontario), the *Conveyancing and Law of Property Act* (Ontario) or any other statutory provision to the same or similar effect and any other rights it may have at law to challenge or unilaterally modify or discharge the restrictive covenants set out herein. The Owner acknowledges and agrees that in the event that the Owner should hereafter challenge or attempt to unilaterally modify or discharge the restrictive covenants set out herein, this waiver may be raised as an estoppel to the same.

- (3) The Owner acknowledges and agrees that monetary damages may not be a sufficient remedy for any breach of the restrictive covenants set out in this Schedule by the Owner or its successors in title and that the City shall be entitled to seek an award of equitable relief, including an injunction and specific performance without proof of actual damages, as a remedy for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach of the restrictive covenants set out in this Schedule, but shall be in addition to all other remedies available at law or equity.

Section 4 Modification, Waiver and Cancellation

- (1) Subject to Section 4(3), this Schedule may only be amended, supplemented or otherwise modified by written agreement signed by each of the Owner and the City.
- (2) No waiver of any of the provisions of this Schedule will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the party to be bound by the waiver. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right it may have.
- (3) The City, in its capacity as owner of the Benefiting Land, may, but shall in no event be obliged to, in its sole and absolute discretion, so long as it is the owner of the Benefiting Land, waive, modify or cancel any or all of the covenants contained in Section 2 in their application to all or any part of the Burdened Land.

Section 5 Enurement

The Owner hereby agrees that it shall not sell, transfer, lease or otherwise convey, or mortgage or charge, all or any portion of its interest in the Burdened Land unless the purchaser, transferee, lessee, mortgagee or chargee, as the case may be, as part of the completion thereof, executes and delivers an assumption agreement in favour of the City, in form and substance satisfactory to the City, pursuant to which it agrees to assume and be bound by all of the provisions of this Schedule.

Section 6 Expiration

The burden of these restrictive covenants shall run with the Burdened Land from the date hereof until ninety-nine (99) years thereafter and thereafter the provisions hereof will be of no further effect and the Owner and its successors in title to the Burdened Land shall then be entitled to delete these restrictive covenants from title without the consent of the City or its successors in title to the Benefiting Land.

Section 7 Invalidity and Severability

The invalidity in whole or in part of any of these restrictive covenants shall not affect the validity of the other restrictive covenants or the remaining portion of the restrictive covenants herein contained. If any provision of this Schedule is determined to be illegal, invalid or unenforceable, by an arbitrator or any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Schedule and the remaining provisions will remain in full force and effect.

Section 8 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**EXHIBIT A-1
LEGAL DESCRIPTION OF THE BENEFITING LAND**

PIN: 21101-0073 (LT)

**RDAL BTN PARKLT 8 & 9 CON 1 FTB TWP OF YORK BEING YONGE ST BTN
GERRARD ST E & DUNDAS SQUARE; T/W AN EASEMENT AS IN AT-1868230. , CITY
OF TORONTO**



APPENDIX T – INSURANCE DOCUMENTATION

CONFIRMATION OF INSURANCE**NAMED INSURED**

YG Limited Partnership a/o YSL Residences Inc, a/o 9615334
Canada Inc. a/o Cresford (Rosedale) Developments Inc.
59 Hayden Street, Suite 200
Toronto, ON M4Y 0E7

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies below.

INSURANCE COMPANIES AFFORDING COVERAGE**COMPANY**

A Starr Insurance & Reinsurance Limited

COMPANY

B HDI Global SE Canada Branch

COMPANY

C Arch Insurance Canada Ltd.

COMPANY

D Certain Lloyd's Underwriters as represented by QBE Services Inc.

CERTIFICATE HOLDER

Otéra Capital Inc., as Agent for the Lenders
413 St-Jacques Street, Suite 700
Montreal, Quebec H2Y 1N9

COVERAGES

This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain. The insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

LIMITS ARE IN CANADIAN DOLLARS UNLESS INDICATED OTHERWISE.

LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	CO LTR	POLICY NUMBER	POLICY EFFECTIVE DATE (YYYY/MM/DD)	POLICY EXPIRATION DATE (YYYY/MM/DD)	LIMITS OF LIABILITY	
WRAP-UP LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> PRODUCTS AND COMPLETED OPERATIONS <input type="checkbox"/> EMPLOYERS LIABILITY <input checked="" type="checkbox"/> CROSS LIABILITY <input checked="" type="checkbox"/> WAIVER OF SUBROGATION <input checked="" type="checkbox"/> SEVERABILITY OF INTEREST <input checked="" type="checkbox"/> SEPARATION OF INSURED	A	1000024383191	2019/08/06	2024/08/06	\$ 10,000,000	EACH OCCURRENCE
					\$ 10,000,000	GENERAL AGGREGATE
					\$ 10,000,000	PRODUCTS - COMPLETED OPERATIONS AGGREGATE
					\$ 10,000,000	PERSONAL & ADVERTISING INJURY LIABILITY
					\$ 10,000,000	TENANT'S LEGAL LIABILITY
					\$ 10,000	DEDUCTIBLE
					\$ 45,000,000	SUDDEN & ACCIDENTAL POLLUTION

ADDITIONAL INSURED: Otéra Capital Inc., as Agent for the Lenders, but only with respect to liability arising out of the operations of the Named Insured.

EXCESS LIABILITY - 1ST LAYER <input type="checkbox"/> UMBRELLA <input checked="" type="checkbox"/> OTHER	B	01861867-14000	2019/08/06	2024/08/06	\$ 10,000,000	EACH OCCURRENCE
					\$ 10,000,000	AGGREGATE
EXCESS LIABILITY - 2ND LAYER <input type="checkbox"/> UMBRELLA <input checked="" type="checkbox"/> OTHER	C	UFP0063876-00	2019/08/06	2024/08/06	\$ 10,000,000	EACH OCCURRENCE
					\$ 10,000,000	AGGREGATE
EXCESS LIABILITY - 3RD LAYER <input type="checkbox"/> UMBRELLA <input checked="" type="checkbox"/> OTHER	D	WREX13384	2019/08/06	2024/08/06	\$ 20,000,000	EACH OCCURRENCE
					\$ 20,000,000	AGGREGATE
BUILDERS RISK PROPERTY \$50,000 deductible except Flood / Water Sewer Back Up \$100,000 deductible - first loss Flood / Water Sewer Back Up \$250,000 deductible - subsequent losses Earthquake 3%, \$100,000 min deductible DE5 \$250,000 deductible Testing & Commissioning 90 days	E	CAE000485190	2019/08/23	2025/05/23	\$ 397,000,000	HARD COSTS
					\$ 79,000,000	SOFT COSTS
					\$ 7,500,000	DELAY IN STARTUP (6 MONTH INDEMNITY)
					\$ 5,000,000	BY-LAWS
					\$ INCLUDED	EQUIPMENT BREAKDOWN

LOSS PAYEE: Otéra Capital Inc., as Agent for the Lenders, as First Mortgagee, subject to the IBC Standard Mortgage Clause

DESCRIPTION OF OPERATIONS / LOCATIONS / SPECIAL PROVISIONS: YSL RESIDENCES: 363-385 YONGE STREET

Waiver of Subrogation in favour of Otéra Capital Inc., as Agent for the Lenders and the Lenders.

BROKER

Arthur J. Gallagher Canada Limited
120 South Town Centre Blvd.
Markham, ON L6G 1C3

CANCELLATION

Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavour to mail 60 days written notice to the certificate holder named above. Failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

SIGNATURE OF AUTHORIZED REPRESENTATIVE



PRINT NAME

DAVID YEATES

DATE (YYYY/MM/DD)

2019/09/19

CERTIFICATE OF INSURANCE**NAMED INSURED**

YG Limited Partnership a/o YSL Residences Inc, a/o
9615334 Canada Inc. a/o Cresford (Rosedale)
Developments Inc.
59 Hayden Street, Suite 200
Toronto, ON M4Y 0E7

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies below.

INSURANCE COMPANIES AFFORDING COVERAGE**COMPANY**

A Starr Insurance & Reinsurance Limited

COMPANY

B HDI Global SE Canada Branch

CERTIFICATE HOLDER

Westmount Guarantee Services Inc.
600 Cochrane Drive, Suite 205,
Markham ON L3R 5K3

COMPANY

C Arch Insurance Canada Ltd.

COMPANY

D Certain Lloyd's Underwriters as represented by QBE Services Inc.

COMPANY

E 30% Allianz Globe Risks US Insurance Company

30% Chubb Insurance Company of Canada

20% Starr Technical Risks Canada Inc.

20% Westport Insurance Corporation – Canadian Branch

COVERAGES

This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain. The insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

LIMITS ARE IN CANADIAN DOLLARS UNLESS INDICATED OTHERWISE.

LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	CO LTR	POLICY NUMBER	POLICY EFFECTIVE DATE (YYYY/MM/DD)	POLICY EXPIRATION DATE (YYYY/MM/DD)	LIMITS OF LIABILITY	
WRAP-UP LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCURRENCE <input checked="" type="checkbox"/> PRODUCTS AND COMPLETED OPERATIONS <input type="checkbox"/> EMPLOYERS LIABILITY <input checked="" type="checkbox"/> CROSS LIABILITY	A	1000024383191	2019/08/06	2024/08/06	\$ 10,000,000	EACH OCCURRENCE
					\$ 10,000,000	GENERAL AGGREGATE
					\$ 10,000,000	PRODUCTS – COMPLETED OPERATIONS AGGREGATE
					\$ 10,000,000	PERSONAL & ADVERTISING INJURY LIABILITY
					\$ 10,000,000	TENANT'S LEGAL LIABILITY
					\$ 10,000	DEDUCTIBLE

ADDITIONAL INSURED: Westmount Guarantee Services Inc., but only with respect to liability arising out of the operations of the Named Insured.

EXCESS LIABILITY – 1ST LAYER <input type="checkbox"/> UMBRELLA <input checked="" type="checkbox"/> OTHER	B	01861867-14000	2019/08/06	2024/08/06	\$ 10,000,000	EACH OCCURRENCE
					\$ 10,000,000	AGGREGATE
EXCESS LIABILITY – 2ND LAYER <input type="checkbox"/> UMBRELLA <input checked="" type="checkbox"/> OTHER	C	UFP0063876-00	2019/08/06	2024/08/06	\$ 10,000,000	EACH OCCURRENCE
					\$ 10,000,000	AGGREGATE
EXCESS LIABILITY – 3RD LAYER <input type="checkbox"/> UMBRELLA <input checked="" type="checkbox"/> OTHER	D	WREX13384	2019/08/06	2024/08/06	\$ 20,000,000	EACH OCCURRENCE
					\$ 20,000,000	AGGREGATE
BUILDERS RISK PROPERTY \$50,000 deductible except Flood / Water Sewer Back Up \$100,000 deductible – first loss Flood / Water Sewer Back Up \$250,000 deductible – subsequent losses Earthquake 3%, \$100,000 min deductible DE5 \$250,000 deductible Testing & Commissioning 90 days	E	CAE000485190	2019/08/23	2025/05/23	\$ 397,000,000	HARD COSTS
					\$ 79,000,000	SOFT COSTS
					\$ 7,500,000	DELAY IN STARTUP (6 MONTH INDEMNITY)
					\$ 5,000,000	BY-LAWS
					\$ INCLUDED	EQUIPMENT BREAKDOWN

LOSS PAYEE: Westmount Guarantee Services Inc., as Second Mortgagee, subject to the IBC Standard Mortgage Clause

DESCRIPTION OF OPERATIONS / LOCATIONS / SPECIAL PROVISIONS:

Re: YSL Residences: 363-385 Yonge Street
Additional Insured extends to the Excess Liability policies from the underlying policy

BROKER

Arthur J. Gallagher Canada Limited
120 South Town Centre Blvd.
Markham, ON L6G 1C3

CANCELLATION

Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavour to mail 30 days written notice to the certificate holder named above. Failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

SIGNATURE OF AUTHORIZED REPRESENTATIVE



PRINT NAME

DAVID YEATES

DATE (YYYY/MM/DD)

2019/09/19

CERTIFICATE OF INSURANCE**NAMED INSURED**

YG Limited Partnership a/o YSL Residences Inc, a/o
9615334 Canada Inc. a/o Cresford (Rosedale)
Developments Inc.
59 Hayden Street, Suite 200
Toronto, ON M4Y 0E7

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies below.

INSURANCE COMPANIES AFFORDING COVERAGE**COMPANY**

A Starr Insurance & Reinsurance Limited

COMPANY

B HDI Global SE Canada Branch

CERTIFICATE HOLDER

KingSett Mortgage Corporation
40 King St W
Toronto, ON M5H 3Y2

COMPANY

C Arch Insurance Canada Ltd.

COMPANY

D Certain Lloyd's Underwriters as represented by QBE Services Inc.

COMPANY

E 30% Allianz Globe Risks US Insurance Company

30% Chubb Insurance Company of Canada

20% Starr Technical Risks Canada Inc.

20% Westport Insurance Corporation – Canadian Branch

COVERAGES

This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain. The insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

LIMITS ARE IN CANADIAN DOLLARS UNLESS INDICATED OTHERWISE.

LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	CO LTR	POLICY NUMBER	POLICY EFFECTIVE DATE (YYYY/MM/DD)	POLICY EXPIRATION DATE (YYYY/MM/DD)	LIMITS OF LIABILITY	
WRAP-UP LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCURRENCE <input checked="" type="checkbox"/> PRODUCTS AND COMPLETED OPERATIONS <input type="checkbox"/> EMPLOYERS LIABILITY <input checked="" type="checkbox"/> CROSS LIABILITY	A	1000024383191	2019/08/06	2024/08/06	\$ 10,000,000	EACH OCCURRENCE
					\$ 10,000,000	GENERAL AGGREGATE
					\$ 10,000,000	PRODUCTS – COMPLETED OPERATIONS AGGREGATE
					\$ 10,000,000	PERSONAL & ADVERTISING INJURY LIABILITY
					\$ 10,000,000	TENANT'S LEGAL LIABILITY
					\$ 10,000	DEDUCTIBLE

ADDITIONAL INSURED: KingSett Mortgage Corporation, but only with respect to liability arising out of the operations of the Named Insured.

EXCESS LIABILITY – 1ST LAYER <input type="checkbox"/> UMBRELLA <input checked="" type="checkbox"/> OTHER	B	01861867-14000	2019/08/06	2024/08/06	\$ 10,000,000	EACH OCCURRENCE
					\$ 10,000,000	AGGREGATE
EXCESS LIABILITY – 2ND LAYER <input type="checkbox"/> UMBRELLA <input checked="" type="checkbox"/> OTHER	C	UFP0063876-00	2019/08/06	2024/08/06	\$ 10,000,000	EACH OCCURRENCE
					\$ 10,000,000	AGGREGATE
EXCESS LIABILITY – 3RD LAYER <input type="checkbox"/> UMBRELLA <input checked="" type="checkbox"/> OTHER	D	WREX13384	2019/08/06	2024/08/06	\$ 20,000,000	EACH OCCURRENCE
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BUILDERS RISK PROPERTY \$50,000 deductible except Flood / Water Sewer Back Up \$100,000 deductible – first loss Flood / Water Sewer Back Up \$250,000 deductible – subsequent losses Earthquake 3%, \$100,000 min deductible DE5 \$250,000 deductible Testing & Commissioning 90 days	E	CAE000485190	2019/08/23	2025/05/23	\$ 397,000,000	HARD COSTS
					\$ 79,000,000	SOFT COSTS
					\$ 7,500,000	DELAY IN STARTUP (6 MONTH INDEMNITY)
					\$ 5,000,000	BY-LAWS
					\$ INCLUDED	EQUIPMENT BREAKDOWN

LOSS PAYEE: KingSett Mortgage Corporation, as Third Mortgagee, subject to the IBC Standard Mortgage Clause

DESCRIPTION OF OPERATIONS / LOCATIONS / SPECIAL PROVISIONS:

Re: YSL Residences: 363-385 Yonge Street
Additional Insured extends to the Excess Liability policies from the underlying policy

BROKER

Arthur J. Gallagher Canada Limited
120 South Town Centre Blvd.
Markham, ON L6G 1C3

CANCELLATION

Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavour to mail 30 days written notice to the certificate holder named above. Failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

SIGNATURE OF AUTHORIZED REPRESENTATIVE



PRINT NAME

DAVID YEATES

DATE (YYYY/MM/DD)

2019/09/18

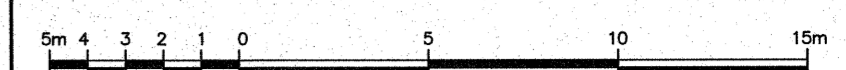


APPENDIX U – LEGAL SURVEY

BOUNDARY AND TOPOGRAPHICAL SURVEY OF
LOTS 32 TO 36 INCLUSIVE AND
PART OF LOT 31
REGISTERED PLAN 22A

CITY OF TORONTO

SCALE 1 : 200



R. AVIS SURVEYING INC.

METRIC : DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE
CONVERTED TO FEET BY DIVIDING BY 0.3048.

© COPYRIGHT: "NO PERSON MAY COPY, REPRODUCE, DISTRIBUTE OR ALTER THIS
PLAN IN WHOLE OR IN PART WITHOUT THE WRITTEN PERMISSION
OF R. AVIS, O.L.S."

NOTES AND LEGEND

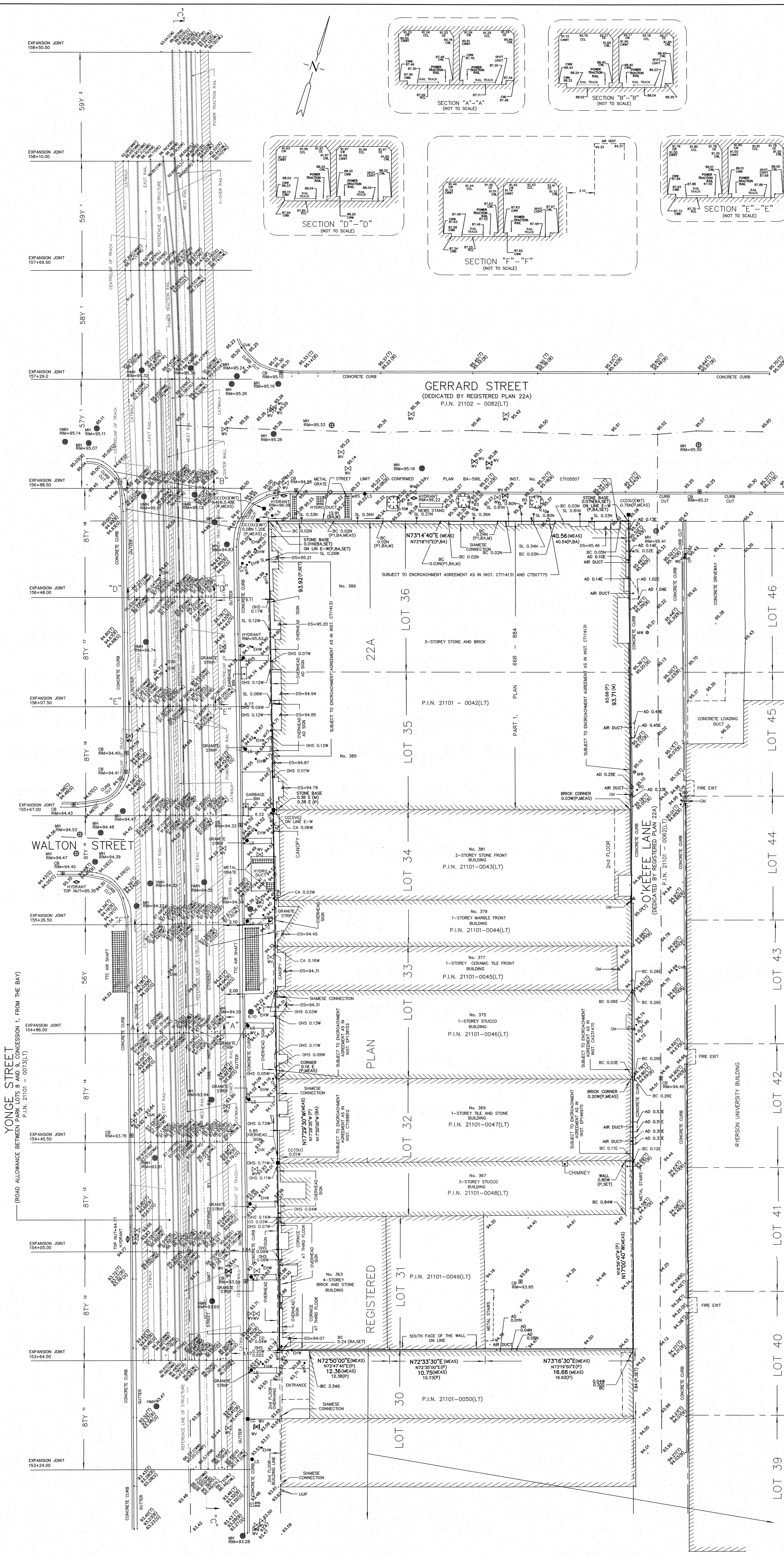
BEARINGS SHOWN HEREON ARE GRID BEARINGS AND ARE DERIVED FROM HORIZONTAL CONTROL
MONUMENTS No. 02060101 AND No. 022740214, ZONE 10,
CENTRAL MERIDIAN 79° 30' WEST LONGITUDE.
(3' MODIFIED TRANSVERSE MERCATOR PROJECTION, NAD 27 (1974-ADJ))

HCM No. 02060101 HCM No. 022740214
N 4835509.453 N 4835509.487
E 314310.152 E 314201.856

ELEVATIONS SHOWN HEREON ARE GEODETIC AND ARE REFERRED TO CITY OF TORONTO
BENCH MARK NO. CTT768, HAVING AN ELEVATION = 100.667 metres.

DISTANCES SHOWN HEREON ARE ADJUSTED GROUND DISTANCES AND CAN BE CONVERTED TO
GRID DISTANCES BY MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.999885.

■	DENOTES	SURVEY MONUMENT FOUND
□	DENOTES	SURVEY MONUMENT PLANTED
○	DENOTES	STANDARD IRON BAR
○	DENOTES	SHORT STANDARD IRON BAR
○	DENOTES	IRON BAR
○	DENOTES	CUT CROSS
○	DENOTES	WITNESS
○	DENOTES	MEASURED
N.S.E.W	DENOTES	NORTH, SOUTH, EAST, WEST
P	DENOTES	TOPOGRAPHIC SURVEY BY SPEIGHT, VAN NOSTRAND & GIBSON LIMITED DATED AUGUST 25, 2014 PLAN C8R-884
P1	DENOTES	PLAN BA-598
AD	DENOTES	ADJUSTED
(B)	DENOTES	BOTTOM OF THE CURB
BO	DENOTES	BOLLARD
BS	DENOTES	BICYCLE STAND
CW/C1	DENOTES	CATWALK WALL SIDE TOP
CW/C2	DENOTES	CATWALK WALL SIDE BOTTOM
CWB	DENOTES	CATWALK BOTTOM
CE/C	DENOTES	CEILING WEST ELEVATION
CE/E	DENOTES	CEILING EAST ELEVATION
CCL	DENOTES	CEILING CENTRELINE ELEVATION
CWL	DENOTES	CENTRE WALL
CA	DENOTES	CANOPY
CB	DENOTES	CATCH BASIN
CS	DENOTES	DOOR SILL
DSS	DENOTES	ELECTRIC HAND WELL
EH	DENOTES	FIRE HYDRANT
EVK	DENOTES	GAS VALVE KEY
SM	DENOTES	GAS METER
(G)	DENOTES	GUTTER ELEVATION
HP	DENOTES	HYDRO POLE
HMH	DENOTES	HYDRO MANHOLE
LS	DENOTES	LIGHT STANDARD
MH	DENOTES	MANHOLE
MW	DENOTES	MONITORING WELL
OH	DENOTES	OVERHEAD WIRE
PTR	DENOTES	POWER TRACTION RAIL
R	DENOTES	RAIL ELEVATION
RE	DENOTES	RAIL EAST ELEVATION
RW	DENOTES	RAIL WEST ELEVATION
RCL	DENOTES	RAIL CENTRELINE ELEVATION
SLS	DENOTES	SPOT LIGHT
TL	DENOTES	TOP OF CURB
TLS	DENOTES	TRAFFIC LIGHT STANDARD
(T)	DENOTES	TOP OF CURB
UUP	DENOTES	UNDERGROUND UTILITY PIPE
UV	DENOTES	UNDER VALVE
WS	DENOTES	WARNING SIGN
CO	DENOTES	CORNICE
BC	DENOTES	BUILDING CORNER
○	DENOTES	SPOT ELEVATION
○	DENOTES	DECIDUOUS TREE WITH TRUNK DIAMETER 0.10 metres



TUNNEL SURVEY WAS COMPLETED BASED ON R. AVIS SURVEYING'S CONTROL NETWORKS.

PLEASE NOTE THAT TTC TUNNELS ARE REFERRED FROM TTC DRAWINGS
G-1250, G-1251, G-1252, G-1813, G-1815, G-1254, S-1309, T-4258, AND T-4259

AREA = 3766.6 sq. m.

SURVEYOR'S CERTIFICATE
I CERTIFY THAT
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT,
THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON THE 9th DAY OF JUNE, 2016.

JUNE 9, 2016
DATE
PIRATHEPAN RAMACHANDRAN
Ontario Land Surveyor

ASSOCIATION OF ONTARIO LAND SURVEYORS
PLAN SUBMISSION FORM
1974/127

R. AVIS SURVEYING INC.
SUITE 203
235 YORKLAND BOULEVARD
TORONTO, ONTARIO
M2J 4Y8
TEL: (416) 490-8352 FAX: (416) 491-6205
www.ravisurveying.com

CHECKED BY: P.R., O.L.S.
CALCULATED BY: P.R./J.B.
DRAWN BY: J.B.

PROJECT No.: 3006-0
DRAWING No.: 3006-01-ITC.DWG



APPENDIX V – RELIANCE LETTER



RELIANCE LETTER

July 8, 2019

Otera Capital Inc., as Administrative Agent for the lenders
55 University Avenue, Suite 1701
Toronto, ON M5J 2H7

Cresford Developments
59 Hayden Street, Suite 200
Toronto, ON M4Y 0E7

Re: Third Party Reliance regarding:

- Phase One Environmental Site Assessment, 363 to 391 Yonge Street, Toronto, ON, 3 Gerrard Street, Toronto, ON with Project No. 151-63337-00 (the "**Project**") prepared by WSP Canada Inc. ("**WSP**"), dated February 11, 2016 and prepared for Cresford Developments ("**Client**");
- Phase Two Environmental Site Assessment, 363 to 391 Yonge Street, Toronto, ON with Project No. 171-12975-00 (the "**Project**") prepared by WSP Canada Inc. ("**WSP**"), dated March 2, 2018 and prepared for Cresford Developments ("**Client**");
- Geotechnical Investigation, 363 to 391 Yonge Street, Toronto, ON, 3 Gerrard Street, Toronto, ON with Project No. 171-12975-00 (the "**Project**") prepared by WSP Canada Inc. ("**WSP**"), dated October 2, 2018 and prepared for 9615334 Canada Inc. ("**Client**");
- Phase One Environmental Site Assessment Update, 363 to 391 Yonge Street, Toronto, ON, 3 Gerrard Street, Toronto, ON with Project No. 171-12975-00 (the "**Project**") prepared by WSP Canada Inc. ("**WSP**"), dated February 25, 2019 and prepared for Cresford Developments ("**Client**");
- Phase Two Environmental Site Assessment, 363 to 391 Yonge Street, Toronto, ON, 3 Gerrard Street, Toronto, ON with Project No. 171-12975-00 (the "**Project**") prepared by WSP Canada Inc. ("**WSP**"), dated February 26, 2019 and prepared for Cresford Developments ("**Client**");

to be provided to Otera Capital Inc. ("**Relying Party**")

Dear Sir/Madam:

WSP has conducted Geotechnical Investigation, Phase One Environmental Site Assessment and Phase Two Environmental Assessment (the "**Report**"). The assessments were carried out on behalf of the Client and were prepared for Client's sole use. Client has requested that WSP consent to the use of the Reports by the Relying Party. In consideration of the representations and promises made herein by Client and Relying Party, WSP consents to the use of the Reports by Relying Party for the sole purpose of financing (the "**Purpose**") provided that Relying Party agrees to the following terms and conditions:



1. The Reports may be relied upon by the Relying Party only to the extent that the original Client was entitled to rely on the Reports. Without limiting the terms and conditions set forth herein, Relying Party acknowledges and agrees to be subject to the limitations and conditions stated in the Report.
2. All information received from the Client and third parties in the preparation of the Reports has been assumed to be correct and WSP assumes no responsibility for the accuracy, completeness or workmanship of any such information.
3. The information and conclusions contained in the Reports apply as it existed at the time of its assessment. Should the site use or conditions change, the information and conclusions in the Reports may no longer apply. Furthermore, Relying Party acknowledges that the Reports are time dependent and that no such use or reliance upon said Report shall occur after six (6) months from the date of this Reliance Letter without WSP's prior written authorization.
4. The Reports relate solely to the specific Project for which WSP was retained and the stated objective for which the Reports were prepared and shall not be used or relied upon by the Relying Party for any variation or extension of this project, any other project or any other purpose.
5. Relying Party agrees that the Reports shall not be relied upon for a publicly available financial prospectus purpose.
6. The Reports are intended to be used in its entirety. No excerpts may be taken to be representative of the findings in the assessment.
7. The Reports may not be reproduced in whole or in part, except as required by the Relying Party's solicitors or advisors, without the prior written consent of WSP. In any event, the Reports shall be provided in its entirety, with a copy of this Reliance Letter attached.
8. Any unauthorized use or reliance, including without limitation any use contrary to the aforementioned articles 1 through 7 shall be at the Relying Party's own risk and the Relying Party and the Client expressly agree to jointly and severally defend, indemnify and hold harmless WSP from any claim, liability or cost, including legal fees and defense costs, arising or allegedly arising out of any such unauthorized use of or reliance on the Report by the Relying Party or any person that obtains the Report from or through the Relying Party or the Client.
9. This Reliance Letter is not assignable and does not confer any right or benefit upon any third party unless written agreement is made between WSP and the third party. WSP accepts no responsibility for any loss or damage suffered by a third party as a result of decisions made or actions based on the Reports.
10. It is understood and agreed by the Parties that WSP provides no warranty, express or implied, of any kind. Without limiting the generality of the foregoing, it is agreed and understood by the Parties that WSP makes no representation or warranty whatsoever as to the sufficiency of its scope of work for Relying Party's Purpose.



11. Notwithstanding anything to the contrary that may be contained in this Reliance Letter or arising out of the Report, the Relying Party hereby agrees that the maximum liability of WSP to all parties relying on the Report including the Client in the aggregate, for any and all claims arising out of or related to the Report, under any theory of law, including but not limited to claims for errors, omissions, negligence and/or negligent misrepresentation, shall be strictly limited to \$1,000,000.00.
12. To the fullest extent permitted by law, it is agreed that WSP shall bear no liability whatsoever for any special, incidental, exemplary, indirect or consequential damages arising out of the Report or this Reliance Letter, including but not limited to, loss of use, loss of profit, loss of business, loss of income, loss of opportunity or any other consequential damages, howsoever caused.
13. This Reliance Letter shall be governed by and construed under the laws of the Province of Ontario and federal laws applicable herein without regard to its conflicts of laws principles.

Please acknowledge the acceptance of these conditions by signing in the space provided below and returning this Reliance Letter to WSP. The use of or reliance on the Report by Relying Party shall constitute the agreement of the Relying Party and the Client to be bound to the foregoing conditions.

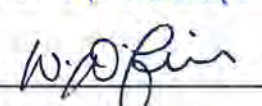
No further reliance is authorized by this Reliance Letter. This Reliance Letter does not grant the right to rely to other parties.

Yours truly,

 Otera Capital Inc.
 Name: Leonard Damiani & Paul Chin
 Title:



 Cresford Developments
 Name: Ryan Millar
 Title: VP Development



 WSP Canada Inc.
 Name: David Lewis, P. Eng.
 Title: Vice-President, Environment



APPENDIX W – FORM A – PROJECT MONITOR CERTIFICATE

(DRAFT)

FORM A – PROJECT MONITOR CERTIFICATE

TO: Otera Capital Inc., as Administrative Agent Attention: Mr Leonard Damiani	BORROWER: YSL Residences Inc., as Borrower
ADVANCE NO: 1	PROJECT: YSL Residences
CERTIFICATE DATE: October 2, 2019	COMPLETION DATE: April 2025

I/We refer to Section 9.1(1)(p) of **draft*** credit agreement made as of August 26, 2019 between YSL Residences Inc., as Borrower, 9615334 Canada Inc., on behalf of itself and in its capacity as general partner of YG Limited Partnership, as an Obligor, Cresford (Rosedale) Developments Inc. and Daniel Casey, as Guarantors, each of the Lenders from time to time parties thereto, as Lenders, and Otera Capital Inc., as Administrative Agent (as amended, restated, supplemented and otherwise modified from time to time, the “**Draft*Credit Agreement**”). Capitalized terms used and not defined herein have the meanings given to them in the Credit Agreement.

Based on my/our professional experience and qualifications and after making such reasonable enquiries as I/we have deemed necessary in the circumstances, I/we hereby certify to the Administrative Agent and the Lenders as follows:


1. I/we have periodically reviewed construction since the commencement of construction and last visited the Project on **September 4, 2019**
2. In my/our opinion, as of the date hereof, the figures set forth below accurately reflect the cost of work completed on the Project and the cost of the remaining work required to complete the Project in accordance with the Plans and Specifications. A report setting out in greater detail those elements comprising the figures set out below is attached hereto and forms part of this Certificate.
 - (a) Cost Incurred to Date: Cdn\$328,623,743
 - (b) Cost to Complete: Cdn\$652,025,088
 - (c) Estimated total Project Costs (a) + (b): Cdn\$980,648,831
 - (d) Original estimate of total Project Costs: Cdn\$ 980,648,831
 - (e) Amount of additional costs, if any (c) – (d): Cdn\$0

3. In my/our opinion, as of the date hereof, the remaining contingency reserve of Cdn\$39,148,052 contained in 2b above is adequate given the current state of work in place and contracts entered into to complete the Project.
4. In my/our opinion, as of the date hereof, the estimated date of Project Completion is **April 2025**. Reasons for delay, if applicable, are outlined in the attached schedule.

This certificate is given in connection with the above-referenced Borrowing under the Credit Agreement and you may rely upon it in making such Borrowing.

Dated at Toronto, Ontario, this 2nd day of October, 2019

Altus Group Limited

per: 

James Allen – Associate Director

per: 

Colin Doran – Executive Vice President

**We note that Altus Group Limited have edited the certificate as highlighted in yellow to reflect the draft credit agreement as received. We will amend upon receipt of the executed credit agreement.*



APPENDIX X – SCHEDULE H – BORROWER’S REQUEST FOR ADVANCE

(TO BE PROVIDED UNDER SEPARATE COVER)



APPENDIX Y – CONSULTANT CONFORMANCE LETTERS

(AS RECEIVED)



**APPENDIX Z – CONTRACTORS’ STATUTORY DECLARATIONS
& WSIB CERTIFICATES OF CLEARANCE**

(AS AVAILABLE)

Clearance Certificate / Certificat de décharge

Contractor Legal / Trade Name / Appellation commerciale ou raison sociale de l'entrepreneur	Contractor Address / Adresse de l'entrepreneur	Contractor Classification Unit and Description / Unité de classification de l'entrepreneur et description	Principal Legal / Trade Name / Appellation commerciale ou raison sociale de l'entrepreneur	Principal Address / Adresse de l'entrepreneur principal	Clearance certificate number / Numéro du certificat de décharge	Validity period (dd-mm-yyyy) / Période de validité (jj/mm/aaaa)
PRIESTLY DEMOLITION INC	3200 LLOYDTOWN- AURORA RD, KING, ON, L7B0G3, CA	4211-001: Wrecking and Structural Demolition 4211-002: Non- Structural Interior Demolition 4234-003: Asbestos Abatement 5919-002: Metal Waste Materials Recycling 4214-000: Excavating and Grading	YG Limited Partnership	59 Hayden Street, Toronto, ON, M4Y 0E7, CAN	E200000GAL9H	29-Aug-2019 to 19- Nov-2019

8

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, as amended

IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.

Claim of Maria Athanasoulis against
YG Limited Partnership and YSL Residences Inc.

SUBMISSIONS OF MARIA ATHANASOULIS
(Re: Trustee's Draft Notice of Disallowance)

GOODMANS LLP
Barristers and Solicitors
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Lawyers for the Claimant, Maria
Athanasoulis

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I. OVERVIEW

1. Maria Athanasoulis submitted a claim for \$19 million in bankruptcy proposal proceedings (the “**Proposal**”) commenced by YG Limited Partnership (“**YG LP**”) and YSL Residences Inc. (collectively, “**YSL**”). Her claim (the “**Claim**”) relates to a breach of an agreement Ms. Athanasoulis had with YSL by which YSL agreed to pay Ms. Athanasoulis 20% of the profits (the “**Profit Share**”) that it earned from an 85-storey condominium development project referred to as the “**YSL Project**” (the “**Agreement**”).
2. In a binding arbitration (the “**Arbitration**”) held before Arbitrator William Horton (the “**Arbitrator**”), Ms. Athanasoulis proved that:
 - (a) she had a binding agreement with YSL;
 - (b) YSL agreed to pay her 20% of its profits, calculated based on revenues less expenses;
 - (c) YSL was obliged to work to maximize the profits earned on the YSL Project; and
 - (d) YSL repudiated the Agreement by terminating her in December 2019.
3. The only issue between Ms. Athanasoulis and YSL now is what damages Ms. Athanasoulis suffered as a result of YSL’s repudiation. Ms. Athanasoulis’ entitlement to damages is to be determined by the Trustee, pursuant to the decisions of Justice Kimmel dated November 1, 2022 (the “**Kimmel Jurisdiction Decision**”) and February 10, 2023 (the “**Kimmel Process Decision**”).

4. Certain limited partners in YSL (the “LPs”) have raised separate objections to Ms. Athanasoulis’ claims and allegations about why they should recover ahead of Ms. Athanasoulis. But the LPs were not parties to the Agreement, or any agreement with Ms. Athanasoulis. Ms. Athanasoulis and the LPs assert separate claims against YSL. Ms. Athanasoulis respectfully submits that the LPs’ allegations have nothing to do with her entitlement to damages. Her Claim ought to be assessed by the Trustee in a two-step process:
 - (a) Ms. Athanasoulis’ entitlement must be determined and quantified, independently of the LPs; and,
 - (b) The LPs must then establish whether there is any basis for them to be paid ahead of her.
5. The Trustee has issued a Draft Notice of Disallowance setting out its preliminary determination of the value of the Claim (the “**Disallowance**”). It has allowed the majority of the wrongful dismissal portion of the Claim in the amount of \$880,000, but has determined (on a preliminary basis) that Ms. Athanasoulis suffered *no* damages when YSL terminated the Agreement.
6. Ms. Athanasoulis does not dispute the Trustee’s determination of her wrongful termination claim. She disputes the Trustee’s analysis of the Agreement for the reasons set out below.
7. ***Ms. Athanasoulis’ Claim should not be valued at zero – she suffered damages of \$25 million or, in the alternative \$7.8 million.*** The Proposal Trustee’s determination is based on a misapprehension of both the terms of the Agreement (as found by the Arbitrator) and

the applicable law. Because of these errors, the Proposal Trustee has not conducted any meaningful review of the facts that show Ms. Athanasoulis' entitlement. The Proposal Trustee's determination is, with respect, infected by two fundamental errors.

8. First, the Proposal Trustee assumes that Ms. Athanasoulis is only entitled to the *actual* profits earned by YSL in connection with the Proposal. But the Trustee is wrong about *how* damages are to be assessed. Damages for breach of contract must put the injured party in the position she would occupy if the other party had met its contractual obligations. YSL breached the Agreement by terminating Ms. Athanasoulis and by failing to maximize the value of the YSL Project. Ms. Athanasoulis is entitled to all amounts she would have earned but-for these breaches.
9. Ms. Athanasoulis' entitlement therefore crystallized in December 2019, when YSL repudiated the Agreement and Ms. Athanasoulis accepted that repudiation. Her damages are equal to the value of the Profit Share in December 2019, and Mr. Casey's catastrophic (but partially successful) campaign to enrich himself to the detriment of YSL's other stakeholders is not relevant to the present analysis.
10. Contemporaneous valuation evidence, which was reviewed and accepted by third parties, shows that the YSL Project was worth \$375 million at the time of termination and that YSL had incurred expenses of approximately \$241 million. But-for the breach, these profits would have been realized. The Profit Share was, therefore, worth approximately \$25 million.
11. Second, and in the alternative, even if Ms. Athanasoulis is only entitled to the Profit Share based on actual profits, her Claim should still be valued at approximately \$7.8 million,

based on the profits that YSL earned upon the sale of the YSL Project to Concord Development Properties (“**Concord**”) in the Proposal. In determining that YSL earned no profits, the Trustee has conflated *profits* with *cash on hand*. The Trustee assumed that because YSL did not have cash after the Proposal closed, it did not earn a profit. This assumption is not supported by any evidence, because the Trustee did not conduct the calculation contemplated by the Agreement. The Arbitrator held that profit is equal to revenue less expenses. The Trustee has purported to find that there is no profit without any analysis of *either* revenue or expenses. The material produced by YSL shows that YSL’s actual profits were close to \$35 million.

12. The Trustee, and the LPs, have advanced a variety of other reasons why Ms. Athanasoulis should not receive any payment, but these objectives are also based on a misapprehension of the facts or the law.
13. ***The Claim is a provable claim, not an equity claim.*** The LPs allege that Ms. Athanasoulis’ claim is an equity claim. The Proposal Trustee makes a similar argument that her claim is not “provable” under the *BIA* because it is an equity claim. This is a new allegation, raised for the first time after Ms. Athanasoulis succeeded at the first phase of the Arbitration.
14. These arguments ignore the plain language of the *BIA*, which specifically requires that any equity claim be “in respect of” an equity interest. All agree that Ms. Athanasoulis never held any equity interest in YSL.
15. YSL’s repudiation of the Agreement created a debt. That debt does not relate to an equity interest and it is not an equity claim.

16. *No basis for subordination to the LPs.* The Proposal Trustee concluded that Ms. Athanasoulis is not entitled to be paid anything unless and until the LPs are paid in full. The LPs have filed their own submissions, making the same essential point through different (but overlapping) legal theories.
17. Ms. Athanasoulis never agreed to subordinate her claim to the LPs' claims. No one suggests that she did. With respect, the arguments advanced by the Proposal Trustee and the LPs all suffer from the same frailty. Ms. Athanasoulis is entitled to damages for breach of her contract with YSL. The LPs have their own claims against YSL. But Ms. Athanasoulis and the LPs had no agreement with each other. In fact, they had no legal relationship at all. Ms. Athanasoulis' entitlement is independent from – and not affected by – the LPs' rights against YSL.
18. The LPs seek to overcome this deficiency by alleging that Ms. Athanasoulis is (or should be) liable to them for misrepresentations or breaches of fiduciary duty. But there were no misrepresentations, and no fiduciary duty was owed, let alone breached.
19. The crux of the LPs' complaint is that Ms. Athanasoulis relayed accurate information to them about how funds would be distributed from the YSL Project. She told them that all amounts owed to the LPs would be paid before funds were paid to the limited partnership that held Cresford's interest in the YSL Project. She *did not* tell the LPs that no one associated with Cresford would be paid before they were paid in full. She made no representations about her own agreement with YSL. Ms. Athanasoulis' *actual* statements are completely consistent with the Limited Partnership Agreement and Subscription

Agreements that the LPs signed, while the LPs' arguments are completely inconsistent with those documents.

20. **No admissions.** The Proposal Trustee and the LPs assert that Ms. Athanasoulis "admitted" during the Arbitration that she was only entitled to be paid after the LPs were paid. But this is not what she said, and it is not what the Arbitrator found. Ms. Athanasoulis never stated that payment to the LPs was a condition precedent of payment to her. Mr. Casey (who negotiated the Agreement on behalf of YSL) did not allege any such term in his testimony.
21. The Arbitrator found that profits were equal to revenue less expenses, based on YSL's pro forma. Payment to the LPs at the end of the YSL Project was contemplated by YSL's pro forma. But YSL did not complete the YSL Project, or pay the LPs (or Ms. Athanasoulis). Instead, it pursued the Proposal. As described above, Ms. Athanasoulis' damages are not based on what *actually* happened. They are based on what *would have* happened but-for YSL's breach of contract. If YSL had sought to maximize value (as it was obliged to do) instead of enrich Mr. Casey (as it did) then *both* the LPs and Ms. Athanasoulis would have received what they were entitled to.
22. While YSL still earned an actual profit in that its revenues exceeded its expenses, the reasons YSL failed to pay the LPs (and any claims the LPs could separately bring against YSL) do not change the way Ms. Athanasoulis' Profit Share is calculated.
23. For these reasons, and as further addressed below, Ms. Athanasoulis submits that her Claim should not be valued at nil and that she has an entitlement to payment of either 20% of the profits of YSL as projected in December 2019 or as actually realized through the sale of YSL to Concord.

II. BACKGROUND

A. The Parties

24. Ms. Athanasoulis was, until December 2019, the President and COO of a group of companies engaged in the development, construction, marketing and sale of condominiums in Toronto using the brand name Cresford.¹ Cresford was founded by Daniel Casey, and owned by companies and trusts that he controlled.²

25. Each of Cresford's development and construction projects was owned by a separate legal entity. That entity purchased the land where the relevant project was to be built, obtained the required permissions, marketed the project to proposed purchasers, hired contractors to build the project, and took all of the other steps to convert real estate into a major condominium development.³ Ms. Athanasoulis' role extended to overseeing each of Cresford's individual project companies as well.⁴

B. The YSL Project

26. The Claim concerns Yonge Street Living Residences (the previously-defined "**YSL Project**"), an 85-story condominium tower located at the corner of Yonge and Gerrard in Toronto. The YSL Project was owned by YSL.⁵

¹ Partial Award of the Arbitrator William G. Horton dated March 28, 2002 ("**Partial Award**"), Brief of Evidence accompanying the Submissions of Maria Athansoulis ("**Brief**"), Tab 2, paras. 21, 30.

² Partial Award, Brief, Tab 2, paras. 22, 23.

³ Partial Award, Brief, Tab 2, para. 23.

⁴ Partial Award, Brief, Tab 2, para. 32.

⁵ Partial Award, Brief, Tab 2, paras. 2, 24.

27. YSL was established in 2016, as a joint venture between Cresford and BcIMC. It was captured within the scope of the Agreement, since the Agreement covered all of Cresford's projects.⁶
28. The YSL Project was initially to be comprised of two towers: an apartment building to be owned by BcIMC and a condominium building to be built and sold by Cresford. YSL was, however, unable to get approval for its original plan and decided to pursue a single-tower condominium. BcIMC did not want to participate in this modified project, so the YSL Project proceeded instead as a Cresford project with outside investment from limited partners (as further described below).⁷
29. The YSL Project was Cresford's crown jewel. Other Cresford projects encountered significant financial difficulties beginning in 2019, but YSL did not. YSL was projected to be profitable at all material times.⁸ Unlike the other Cresford projects, it was properly budgeted with healthy contingencies. It had entered into fixed price construction contracts covering between 60% and 70% of its construction costs. It had "everything going for it".⁹
30. As described in more detail below, YSL had achieved significant progress on the YSL Project by December 2019. It had (among other things) obtained all of the approvals

⁶ Affidavit of Maria Athanasoulis dated May 5, 2023 ("**Athanasoulis Affidavit**"), Brief, Tab 1, para. 18.

⁷ Athanasoulis Affidavit, Brief, Tab 1, paras. 19-20.

⁸ For the most contemporaneous projections of profits, see the Pro Forma dated October 20, 2019 prepared by YSL (the "**October 2019 Pro Forma**"), Brief, Tab 14.

⁹ Transcription of the Arbitration before William G. Horton held February 22, 2022 ("**Arbitration Transcript - February 22**"), Brief, Tab 3, 178:20-179:5; Mr. Casey agreed and testified that the YSL Project "didn't have cost issues or other issues", "the new numbers that went into the business were strong and correct numbers", and "it gave us strength as a company, that if we needed to put money into other projects, it gave us the option that we could use our position in that company to either borrow against the equity in some manner, or sell, or do a joint venture on that project that would create cash for the other parts, and/or it created a much stronger company." Transcription of the Arbitration before William G. Horton held February 24, 2022 ("**Arbitration Transcript - February 24**"), Brief, Tab 5, 421:4-22.

required to build the YSL Project¹⁰ and pre-sold approximately \$650 million worth of condominium units at record-setting prices under Ms. Athanasoulis' leadership.¹¹

31. This progress yielded tangible financial gains. By December 2019, the YSL Project was worth approximately \$125 million more than YSL had invested into it.¹² YSL's internal projections, which had been vetted by leading external consultants, forecasted profits of close to \$200 million.¹³

C. Ms. Athanasoulis' Role and the Agreement

32. The terms of Ms. Athanasoulis' employment agreement, including the Agreement, have been settled in the Partial Award of William Horton (the "**Partial Award**"). Those terms are summarized below.

33. Ms. Athanasoulis began working at Cresford in 2004. Although she had little formal education, and no prior real estate development experience, she quickly demonstrated an extraordinary talent for marketing condominium projects. In 2005, she was promoted to Vice President of Sales and Marketing.¹⁴

34. In 2012, Ms. Athanasoulis was promoted again to President, Sales and Marketing. In that capacity, she reported directly to Mr. Casey. Over time, her role expanded to include

¹⁰ CBRE Appraisal Report as of the Effective Date November 1, 2018, p. 16 ("**November 2018 CBRE Report**"), Brief, Tab 8; Arbitration Transcript - February 22, Brief, Tab 3, 174:3-12.

¹¹ October 2019 Pro Forma, Brief, Tab 14; CBRE Appraisal Report as of the Effective Date July 30, 2019 ("**2019 CBRE Report**"), Brief, Tab 7; Arbitration Transcript - February 22, Brief, Tab 3, 122:9-11.

¹² 2019 CBRE Report, Brief, Tab 7; the Preliminary Report on YSL prepared by Altus Group Cost Consulting & Project Management dated October 2, 2019 ("**Altus Report**"), Brief, Tab 12, illustrates investment by YSL of approximately \$247 million. See the explanation at para. 78 below.

¹³ October 2019 Pro Forma, Brief, Tab 14, pg 1.

¹⁴ Partial Award, Brief, Tab 2, at para. 27.

virtually all aspects of Cresford's business except for land acquisition and project finance. In 2018, Ms. Athanasoulis was promoted again to President and COO.¹⁵

35. Ms. Athanasoulis never signed a written employment agreement. Her responsibilities and compensation were governed by an oral agreement negotiated with Mr. Casey on behalf of Cresford and each of its companies.¹⁶
36. Mr. Casey induced Ms. Athanasoulis to work for, and add substantial value to, YSL by agreeing to pay her 20% of YSL's profits on the YSL Project (the previously defined "**Profit Share**" and "**Agreement**") as part of her employment agreement. In the Partial Award, the Arbitrator held that the Agreement required that:
- (a) YSL, as the owner of the YSL Project, pay Ms. Athanasoulis the Profit Share;
 - (b) The Profit Share was initially 10% but was subsequent increased to 20%;
 - (c) There was no requirement that Ms. Athanasoulis remain employed to be entitled to the Profit Share;
 - (d) Profits were to be calculated, on a good faith basis, based on the *pro forma* budgets prepared by Cresford using revenues less expenses;
 - (e) Profits could not be artificially reduced by "bad faith" transactions;
 - (f) YSL had an obligation to try and maximize the value of the YSL Project; and,

¹⁵ Partial Award, Brief, Tab 2, at para. 30.

¹⁶ Partial Award, Brief, Tab 2, paras. 41-42, 139.

- (g) The Agreement was to be paid to Ms. Athanasoulis when Profits were earned, usually at the completion of a project.¹⁷
37. The Agreement was a benefit to Ms. Athanasoulis, but also to Cresford. Under Ms. Athanasoulis' leadership, Cresford met and surpassed its sales targets with ease on the YSL Project and other projects preceding it.¹⁸
38. Because of Ms. Athanasoulis' sales and marketing expertise, Cresford began to market projects itself, saving the substantial cost of a third party marketing company. This was a complex process that Ms. Athanasoulis led successfully on several projects, including the YSL Project. A third party marketing company would have charged Cresford 1.5% of its sales, or \$19 million based on YSL's projected sales numbers, to market *only* the YSL Project.¹⁹ Importantly, the marketing fees (unlike the amounts promised to Ms. Athanasoulis) were typically due when units were sold, regardless of the costs incurred on a project.²⁰
39. Ms. Athanasoulis' potential payment from the YSL Project was substantial, but not unreasonable. Even Mr. Casey admitted that Ms. Athanasoulis was "exceptionally good at" the sales and marketing aspects of Cresford's business.²¹
40. Ms. Athanasoulis was paid a base salary of only \$300,000 per annum, plus a payment equal to 0.15% of Cresford's sales on every project, to market *all* of Cresford's projects and

¹⁷ Partial Award, Brief, Tab 2, paras. 146, 151, 160 and 166.

¹⁸ Athanasoulis Affidavit, Brief, Tab 1, para. 7; Partial Award, Brief, Tab 2, at paras. 26, 36.

¹⁹ Partial Award, Brief, Tab 2, para. 27; Athanasoulis Affidavit, Brief, Tab 1, para. 7.

²⁰ Athanasoulis Affidavit, Brief, Tab 1, para. 7.

²¹ Daniel Casey Discovery Transcript, Brief, Tab, 649:24-50:7.

fulfill her other duties.²² She also had overall responsibility for (among other things) supervising construction of Cresford's projects and managing its critical relationships with trades. Under her leadership, Cresford stopped hiring outside construction management firms. This, too, saved substantial fees and allowed Cresford to earn those fees itself.²³

D. Ms. Athanasoulis Discusses the YSL Project with the LPs

41. The YSL Project was Cresford's largest project and required an equity investment of approximately \$75 million. To raise capital for the YSL Project and fund the buyout of BcIMC's interest, Mr. Casey decided to solicit outside investment from limited partners.²⁴
42. As set out above, Ms. Athanasoulis had supervised Cresford's sales and marketing efforts since approximately 2005. During that time, she cultivated close relationships with a number of investors who bought condominium units in Cresford projects, and the real estate agents that represented those investors.²⁵
43. Mr. Casey requested that Ms. Athanasoulis approach some of her past condominium investor and real estate agent contacts, including the LPs, to see whether any might be interested in investing in the YSL Project.²⁶
44. Ms. Athanasoulis proceeded to contact various individuals, including Paul Lam, Yuan (Michael) Chen and Lue (Eric) Li, and met with them to discuss the YSL Project.²⁷ Each

²² Athanasoulis Affidavit, Brief, Tab 1, para. 10.

²³ Athanasoulis Affidavit, Brief, Tab 1, para. 8.

²⁴ Athanasoulis Affidavit, Brief, Tab 1, para. 20.

²⁵ Athanasoulis Affidavit, Brief, Tab 1, para. 21.

²⁶ Athanasoulis Affidavit, Brief, Tab 1, para. 21.

²⁷ Athanasoulis Affidavit, Brief, Tab 1, para. 22.

of these individuals were sophisticated and experienced participants in the real estate industry.²⁸

45. In meetings and communications with the LPs, Ms. Athanasoulis would sometimes reference a slide presentation that had been prepared by Cresford (the “**Investor Presentation**”). The Investor Presentation included a slide that described, in simple terms, the distribution of profits at the conclusion of the YSL Project (the “**Waterfall**”):

Revenue proceeds (after payment of project expenses) will be distributed at the end of the project in the following priority:

- First, repayment of all external lenders;
- Second, return of invested capital to the investor;
- Third, distribution of the agreed upon return on investment to the investor; and
- Fourth, distribution to Cresford.²⁹

46. Also among the Investor Presentation was a high level pro forma of the YSL Project which listed revenue and cost categories such as “construction costs” and “design, marketing and administration”³⁰. The information provided to the LPs did not itemize any costs or other line items. The Investor Presentation touted Mr. Casey’s experience and leadership, and explained that Mr. Casey would personally guarantee the investment of each LP. It invited prospective investors to contact Mr. Casey personally and did not reference Ms. Athanasoulis at all.³¹

²⁸ Athanasoulis Affidavit, Brief, Tab 1, para. 25.

²⁹ Athanasoulis Affidavit, Brief, Tab 1, paras. 32, 38.

³⁰ Investor Presentation Slide-deck, LPs Joint Brief to the Proposal Trustee, Tab C, Affidavit of Lue (Eric) Li sworn December 20, 2022, Exhibit B.

³¹ Investor Presentation Slide-deck, LPs Joint Brief to the Proposal Trustee, Tab C, Affidavit of Lue (Eric) Li sworn December 20, 2022, Exhibit B.

47. Ms. Athanasoulis communicated the Waterfall to the LPs, and indicated that they would be investing in a class of units (“**Class “A” Units**”) that would receive distributions and a return ahead of another class of units (“**Class “B” Units**”) held by Cresford Yonge Limited Partnership (“**Cresford LP**”).³² Ms. Athanasoulis also indicated that Cresford was projecting that the LPs would receive its invested capital along with an investment return of 100% of their invested capital.³³
48. Mr. Casey and Cresford’s Vice President of Accounting, Howard Ng, had further discussions with the LPs about the YSL Project and the terms of their investment.³⁴ It was Mr. Casey and Mr. Ng who were primarily responsible for drafting the terms of the LPs’ investments, with the assistance of other senior Cresford staff. Ms. Athanasoulis had limited involvement in the preparation of the Limited Partnership Agreement (“**LP Agreement**”) or Subscription Agreement Form, Power of Attorney and Acknowledgement (“**Subscription**”) that were to govern the terms of the LPs’ investments.³⁵
49. To be clear, Ms. Athanasoulis never told anyone that no member of the “Cresford Group” would be paid until the LPs were paid in full. She never made any agreement with, or representation to, the LPs with respect to her own entitlement.

E. The LPs’ Investments in YSL

50. The LPs purchased Class “A” Units in YG LP. Cresford LP owned all of the Class “B” Units. Ms. Athanasoulis did not hold any interest in, or contract with, Cresford LP. She did

³² Athanasoulis Affidavit, Brief, Tab 1, paras. 39-40.

³³ Athanasoulis Affidavit, Brief, Tab 1, para. 34.

³⁴ Athanasoulis Affidavit, Brief, Tab 1, para. 31.

³⁵ Athanasoulis Affidavit, Brief, Tab 1, para. 31.

not otherwise hold any units in YG LP. She did not receive (and was not entitled to receive) any units, or other equity interest, in YSL.³⁶

51. In connection with their investments, the LPs executed the LP Agreement and the Subscription. Each LP acknowledged and agreed in the Subscription “that it has obtained independent legal accounting, tax and financial advice in connection with its investment in Units and has not relied on the advice of the General Partner or any of its affiliates.”³⁷ The LP Agreement contains an entire agreement clause such that it “supersede[s] any prior agreement or understanding among them with respect to such matters”.³⁸
52. Each LP also affirmed that it was familiar with YSL’s business (including the Investor Presentation), had assessed that business, was familiar with the associated risks, and had obtained all of the information that it required to make the investment and had received (or had an opportunity to receive) its own professional advice:

(e) the Subscriber is familiar with the proposed business of the Partnership (the "Partnership Business") and the risks associated with an investment in the Partnership. The Subscriber expressly acknowledges and agrees that it has received, reviewed and fully understands the financial information provided to it in connection with the Partnership, which is attached hereto as Schedule “A”;

(f) the Subscriber has had ample opportunity to make or has made an independent investigation of the Partnership Business and the risks associated therewith, and the Subscriber has such knowledge in financial and business affairs as to be capable of evaluating the merits and risks of its investment in the Partnership

³⁶ Athanasoulis Affidavit, Brief, Tab 1, paras. 16-17.

³⁷ YG Limited Partnership Subscription Form, Power of Attorney and Acknowledgement (“**Subscription Agreement**”), Brief, Tab 32, s. 3.1. Note that while each LP executed a Subscription, Ms. Athanasoulis has included only a representative version in the Brief.

³⁸ YG Limited Partnership Amended and Restated Limited Partnership Agreement dated August 4, 2017 (“**LP Agreement**”), Brief, Tab 31, s. 14.9.

and the Subscriber is able to bear the economic risk of loss of its entire investment;

(g) prior to its execution of this Agreement, (i) the Subscriber received all information it desired with respect to the Partnership Business and the Partnership and it has examined such information or caused such information to be examined by its representatives and lawyers, or has had ample time and opportunity to examine or cause its representatives and attorneys to examine such information if it so chose; (ii) the Subscriber and its representatives or lawyers are familiar with this Agreement and the Partnership's intentions to enter into and operate the Partnership Business; (iii) the Subscriber does not desire any further information or data with respect to the Partnership Business, the Partnership or the General Partner; and (iv) the Subscriber has obtained, or had the opportunity to obtain, legal advice independent of the legal counsel retained by the General Partner, and the Subscriber is not relying, and has not relied, upon the legal counsel retained by the General Partner in connection with the Subscriber's investment in the Partnership or the assumption or execution of the Limited Partnership Agreement or any other document, instrument or other writing;³⁹

53. Each LP was entitled to the greater of: an annual interest rate of 12.5% or double its original investment.⁴⁰ Cresford LP was entitled to receive all of the proceeds left after creditors and LPs had been paid in full.
54. Mr. Casey personally guaranteed YSL's obligations to the LPs. Ms. Athanasoulis was not a party to the LP Agreement, the Subscriptions or any other agreements with the LPs.
55. The General Partner was given broad and "exclusive" authority to act on behalf of the LPs.⁴¹ The LP Agreement allowed the General Partner to contract with related parties at

³⁹ Subscription Agreement, Brief, Tab 32, ss. 2.1(e)-(g).

⁴⁰ LP Agreement, Brief, Tab 31, s. 4.2.

⁴¹ LP Agreement, Brief, Tab 31, s. 3.2.

market rates⁴², and entities related to Cresford received millions of dollars in fees relating to the development, marketing and construction of the YSL Project.

- (a) Marketing fees totaling \$11.6 million;
- (b) Construction management fees totaling \$2.89 million;
- (c) Payments to various Cresford employees.⁴³

56. This was a selling feature: Cresford's in-house resources allowed it to ensure that its quality standards were met. This was part of the value proposition that Cresford offered. YSL emphasized Cresford's involvement in the Investor Presentation, which touted Cresford's integrated approach to development, including its "ability to control its own construction management" and its "winning sales formula."⁴⁴

57. In addition to these payments, which appear to relate to services rendered by Cresford, YSL made a number of intercompany advances to other Cresford entities. The purpose and legitimacy of these payments are uncertain. These payments are also shown on Cresford's general ledger and bank statements.⁴⁵

58. The LP Agreement required that revenue from the YSL Project would be paid in an order consistent with the Waterfall in the Slide Presentation, with payments of project expenses

⁴² LP Agreement, Brief, Tab 31, s. 3.6(b).

⁴³ Athanasoulis Affidavit, Brief, Tab 1, para. 45; YSL Cost Ledger, pp. 58, 85.

⁴⁴ Athanasoulis Affidavit, Brief, Tab 1, para. 43.

⁴⁵ Athanasoulis Affidavit, Brief, Tab 1, para. 46; These appear throughout the General Ledger as "Transfer to Cresford", "Transfer to Oakleaf Cnstltn", etc.

and external lenders ranking ahead of the LPs and with the LPs ranking ahead of Cresford LP.⁴⁶

59. The LP Agreement provided that the LPs were to be paid before any distribution was made to Cresford LP on account of its Class “B” Units, but it did not otherwise subordinate debts to the LPs.

F. YSL Repudiated the Agreement

60. In the fall and culminating in December of 2019 (the “**Repudiation Date**”), Mr. Casey caused YSL to repudiate the Agreement. As found by the Arbitrator, he took a series of actions that “separately and in combination, precluded Ms. Athanasoulis from performing most of the functions critical to her role at Cresford and had serious potential reputational consequences for Ms. Athanasoulis.”⁴⁷ This rendered Ms. Athanasoulis’ continued employment at Cresford “untenable”.⁴⁸ Ms. Athanasoulis was constructively terminated.
61. YSL’s constructive termination was, as a matter of law, repudiation of the employment agreement in its entirety, including the Agreement.⁴⁹ If any doubt remained about YSL’s repudiation of the Agreement, that doubt was resolved in February 2020 when YSL specifically denied in a pleading that it was bound by the Agreement.⁵⁰

⁴⁶ LP Agreement, Brief, Tab 31, s. 6.3.

⁴⁷ Partial Award, Brief, Tab 2, para. 183.

⁴⁸ Partial Award, Brief, Tab 2, para. 182.

⁴⁹ *Potter v. New Brunswick Legal Aid Services Commission*, [2015 SCC 10](#), [para. 139](#).

⁵⁰ Statement of Defence of Cresford (Rosedale) Developments Inc. et al. in Court File No. CV-20-00634836-0000 (“**Cresford Defence**”), paras. 51-54, Brief, Tab 29.

G. Ms. Athanasoulis' Lawsuit

62. In January 2020, Ms. Athanasoulis sued YSL, other Cresford entities, and Mr. Casey personally. She alleged that Mr. Casey forced her out of Cresford in December 2019 after she discovered financial irregularities and urged him to address them.⁵¹ She proved this allegation at the Arbitration.

63. Ms. Athanasoulis claimed for wrongful termination of her employment agreement and breach of the Agreement.⁵² That claim, as it related to YSL, sought payment of the same damages that are now at issue on the same basis. The LPs did not allege that Ms. Athanasoulis made any misrepresentation, or breached any duty to them, for more than 2.5 years after they became aware of her claim. These claims were made for the first time in a Notice of Motion dated May 18, 2022, after Ms. Athanasoulis won the first phase of the arbitration.⁵³

H. The Insolvency

(i) *YSL had options available to it*

64. Cresford's other major projects were the subject of insolvency proceedings in the spring of 2020. Unlike YSL, these projects all faced substantial cost overruns and cash shortfalls.⁵⁴

65. YSL did not face insolvency in the spring of 2020. It was properly capitalized, and had already locked in the majority of its construction costs through fixed price contracts. These

⁵¹ Statement of Claim of Maria Athanasoulis dated January 21, 2021 in Court File No. CV-20-00634836-0000 (“Athanasoulis Claim”) Brief, Tab 28, paras. 37-40.

⁵² Athanasoulis Claim, Brief, Tab 28, para. 1.

⁵³ Yonge LP Notice of Motion dated May 18, 2022 in Court File No. CV-20-00650224-00CL at paras. 39, 42-43.

⁵⁴ Athanasoulis Affidavit, Brief, Tab 1, para. 56.

contracts were in line with YSL's pro forma, which was carefully vetted by Altus on behalf of Otera in connection with its construction loan.

66. YSL, however, lost access to the construction loan because it borrowed funds in breach of its obligations under the Construction Loan.⁵⁵ Cresford had also breached its obligations to Otera under a separate loan facility advanced in respect of a different project, 33 Yorkville.⁵⁶
67. YSL therefore had to either secure alternative financing or sell the YSL Project. It had time, because the YSL Project remained on solid financial ground. And YSL was contractually obligated to maximize the profits earned on the YSL Project. The Arbitrator held that Agreement "necessarily implied" a "mutual commitment" to work to the objective of making a profit.⁵⁷
68. YSL may assert that it had no viable path to build the YSL Project, because of Cresford's issues on other projects. Cresford was found to have committed serious breaches of its obligations to other lenders including hiding cost overruns and keeping two sets of books.⁵⁸ In these circumstances, it might have proved difficult to secure construction funding for the YSL Project as long as Mr. Casey and Cresford remained in control.
69. But Cresford *could have* reaped substantial profits by selling the YSL Project. The YSL Project was appraised for \$375.5 million in July 2019.⁵⁹ This valuation was vetted and

⁵⁵ Athanasoulis Affidavit, Brief, Tab 1, para. 57; Arbitration Transcript – February 24, Brief, Tab 5, 541:13-543:2.

⁵⁶ Arbitration Transcript – February 24, Brief, Tab 5, 542:12-543:2

⁵⁷ Partial Award, Brief, Tab 2, para. 160.

⁵⁸ *BCIMC Construction Fund Corporation et al. v. The Clover on Yonge Inc.*, [2020 ONSC 1953](#), [paras. 30-35](#).

⁵⁹ 2019 CBRE Report, Brief, Tab 7, p. 2.

accepted by YSL's lender, and there is no allegation (let alone evidence) that the appraisal was flawed or that the value of the YSL Project decreased between July 2019 and December 2019. The appraisal is the best evidence of the value of the YSL Project in December 2019.

70. YSL had invested approximately \$241 million in the YSL Project by that time,⁶⁰ so a sale would have yielded a profit in excess of \$125 million. Ms. Athanasoulis' share of these profits would have been \$25 million.

(ii) Mr. Casey and Cresford increase Ms. Athanasoulis' damages

71. But instead of trying to maximize the value of the YSL's Project, Mr. Casey embarked on a wrongful (but partially successful) attempt to enrich himself. This was a breach of the Agreement that significantly destroyed the value of the YSL Project. This prejudiced all stakeholders, including Ms. Athanasoulis, the LPs and even (inadvertently) Mr. Casey himself.
72. Justice Dunphy found, in these Proposal proceedings, that efforts to sell or refinance the YSL Project in 2020 and 2021 were "indelibly tainted" by Mr. Casey's self-interest.⁶¹ YSL is bound by the findings of Justice Dunphy. The management of the YSL Project between December 2019 (when Ms. Athanasoulis was terminated) and July 2021 (when YSL's proposal under the *BIA* was accepted) had one goal: to enrich Mr. Casey and the entities he controlled.

⁶⁰ As described below, this number is calculated with reference to the Altus Report (defined below), by deducting the Appraisal Surplus and Advances from the \$329,373,743 costs to date noted in the Altus Report. Brief, Tab 12.

⁶¹ *YG Limited Partnership and YSL Residences (Re)*, [2021 ONSC 4178](#), [para. 75-76](#) ("Interim Reasons").

73. Justice Dunphy specifically found that in the year between Cresford terminating Ms. Athanasoulis and agreeing to sell the YSL Project, “good faith took a back seat to self-interest”.⁶² There was no effort to market the YSL Project to all potential purchasers. There was no marketing campaign at all. There was, instead, a laser focus on two potential purchasers (first Empire and then Concord) who were prepared to negotiate a transaction that would benefit Mr. Casey at the expense of other stakeholders.⁶³
74. Justice Dunphy found that Mr. Casey “squandered” YSL’s opportunity to maximize the value of the YSL Project:
- [76] Few things are more precious in the restructuring business than time. YG LP was able to “purchase” more than a year of time with the forbearance arrangements that it worked out. That precious time appears to have been devoted solely to finding transactions that offered the greatest level of benefits for the Cresford group of companies. There is no evidence that any canvassing of the market—however constrained the market of developers capable of undertaking the completion of an 85-story mixed use tower in downtown Toronto may be – took place that was not indelibly tainted by the imperative of finding value for the Cresford group of companies rather than for the partnership itself.⁶⁴
75. Mr. Casey’s efforts ultimately culminated in the Proposal and sale to Concord, the Proposal Sponsor. The Proposal was, itself, deeply flawed. By way of example, the appraisal proffered by Concord (and supported by YSL) contained a variety of unsupported assumptions that significantly reduced the value of the YSL Project and a smaller (and less valuable) residential component. One assumption was that Concord would build a smaller (and therefore less valuable) retail component of the YSL Project. Ms. Athanasoulis challenged this assumption, and Justice Dunphy found that for this reason (and others) the

⁶² Interim Reasons, [para. 74](#).

⁶³ Third Report of the Proposal Trustee, Brief, Tab 26, pp. 13-14.

⁶⁴ Interim Reasons, [para. 76](#).

appraisal proffered by Concord was unreliable.⁶⁵ As an aside, Ms. Athanasoulis notes that there is no evidence that Concord actually reduced the size of any part of the YSL Project.⁶⁶

76. Justice Dunphy *did not* find that the Proposal offered fair value of the YSL Project. The Proposal was approved because, by the time it came before the Court, creditors had not been paid for more than one year and Justice Dunphy found it would be unfair to force these creditors to wait through a prolonged sales process.⁶⁷

77. Despite these events and binding factual findings, the Disallowance asserts that Ms. Athanasoulis can only claim the *actual* profits earned as a result of the Proposal. This is, with respect, incorrect. The Proposal, and the process that led to it, was a further breach of the Agreement. It cannot, as a matter of logic and law, reduce Ms. Athanasoulis' damages.

(iii) The LPs delayed taking steps to protect the value of the YSL Project

78. As noted, the LPs and Ms. Athanasoulis each had separate, and very different, relationships with YSL. The LPs had rights that Ms. Athanasoulis did not have. They had the right to receive information, and the right to replace the General Partner of YSL in certain circumstances.⁶⁸ They also had a personal guarantee from Mr. Casey.

79. Ms. Athanasoulis, by contrast, had much more limited options. The Agreement was an oral agreement, and YSL denied that Ms. Athanasoulis had any rights at all. A full hearing, with

⁶⁵ Interim Reasons, [para. 26](#).

⁶⁶ Athanasoulis Affidavit, Brief, Tab 1, para. 63.

⁶⁷ *YG Limited Partnership and YSL Residences (Re)*, [2021 ONSC 5206](#), [paras. 28-29](#) (“Final Reasons”).

⁶⁸ LP Agreement, Brief, Tab 31, ss. 7.2(d), 9.1, 9.3, 11.2.

viva voce evidence, was required to establish that Ms. Athanasoulis even had a contract with YSL.⁶⁹

80. Ms. Athanasoulis urged the LPs to exercise their rights and protect the value of YSL. She told Mr. Lam repeatedly that the LPs should not rely on Mr. Casey to maximize the value of YSL, because Mr. Casey would prioritize his own profits over protecting other stakeholders.⁷⁰
81. Ms. Athanasoulis' fears were, unfortunately, well-founded. In the period between Ms. Athanasoulis' termination and the Proposal, Mr. Casey negotiated a series of transactions that had one thing in common: each benefitted Mr. Casey at the expense of other stakeholders. The Proposal itself was no different – it allowed Cresford LP to receive a payment of approximately \$6.6 million⁷¹ while forcing Ms. Athanasoulis and the LPs to fight over a limited pool of money set aside by Concord as the Proposal Sponsor.
82. Despite her warnings, and the mounting evidence that Mr. Casey was seeking to enrich himself, the LPs did not seek to appoint a new General Partner (and effectively end Mr. Casey's control over the YSL Project) until May 2021. By then, it was too late. The Proposal was approved because Justice Dunphy found that it would be unfair to force creditors who had (by that point) been unpaid for more than one year to wait through a sales process.

⁶⁹ Affidavit, Brief, Tab 1, para.70.

⁷⁰ Affidavit, Brief, Tab 1, paras. 72-73.

⁷¹ Reporting Letter from Dale & Lessman LLP to Cresford Holdings Limited dated June 10, 2022, Brief, Tab 15; see also Trustee Fourth Report, Brief, Tab 27, p. 11: “pursuant to the Equity Offer, Cresford-related entities have the prospect of recovering up to \$6.6 million from the Sponsor pursuant to the Equity Offer. This is calculated as follows: 12.5% (\$15 million (re Cresford's capital) + \$38.3 million (Related Party Claims)).”

I. The Agreement is Found to Exist

83. After Ms. Athanasoulis' claim was filed, counsel to Ms. Athanasoulis and the Trustee agreed that an arbitration would be the most efficient way to determine whether it should be accepted and if so, for what amount.
84. Ms. Athanasoulis and the Trustee executed a binding arbitration agreement with the Arbitrator on December 9, 2021. The arbitration agreement provided for a bifurcated process with an initial determination on liability and a subsequent determination on damages.⁷² The LPs did not, at this stage, raise any of the arguments that they now advance.
85. Pursuant to the arbitration agreement, Ms. Athanasoulis and the Trustee proceeded to a hearing of the first phase of the Arbitration on liability issues in February 2022. Pursuant to the Partial Award, the Arbitrator made the findings set out above.
86. While the second phase of the arbitration will not occur for reasons discussed in the following section, the Trustee and the Court have each acknowledged that the Partial Award is binding.⁷³

J. The Procedure to be Followed in Determining the Value of the Claim

87. Shortly after release of the Partial Award, the LPs and later Concord raised various objections to the arbitration procedure that had been agreed as the mechanism to determine

⁷² Terms of Appointment of William G. Horton as Arbitrator dated December 9, 2021, Brief, Tab 1B, p. 1.

⁷³ Process Decision of Justice Kimmel dated January 16, 2023, Court File No. BK-21-2734090-0031 ("**Kimmel Process Decision**"), para. 7(a); Trustee Notice of Motion dated December 30, 2022 in relation to the Process Motion, para. 17(b); *YG Limited Partnership (Re)*, [2022 ONSC 6138](#), ("**Kimmel Jurisdiction Decision**"), [paras. 82, 93](#).

the Claim. These objections culminated in a motion relating to continued payment of the Trustee's fees by Concord.

88. Justice Kimmel found in the Kimmel Jurisdiction Decision that the second phase of the arbitration that Ms. Athanasoulis and the Trustee agreed to could not proceed and ordered the Trustee to establish a new process for determination of Ms. Athanasoulis' Claim.⁷⁴
89. The parties were unable to agree to a process for the Trustee's determination of the Claim. Accordingly, the Trustee brought a motion for advice and direction with respect to its proposed process (the "**Damages Process Motion**").
90. By endorsement dated February 10, 2023, Justice Kimmel issued the Kimmel Process Decision on the process to be followed in order to determine the value of Ms. Athanasoulis' Claim. Pursuant to the Kimmel Process Decision, the following issues are to be determined at this stage:
- (a) whether the YSL Project did not generate any profits at, or at any time prior to, the date of the Proposal;
 - (b) whether the Claim is equity, not debt;
 - (c) if the Claim is to be subordinated to the LPs return of equity (that will inevitably be subject to a shortfall) because of representations to that effect made to the LPs by Ms. Athanasoulis; and/or

⁷⁴ *YG Limited Partnership (Re)*, [2022 ONSC 6138](#), ("**Kimmel Jurisdiction Decision**"), [para. 67](#).

- (d) whether the Agreement is not enforceable as against the LPs because it was entered into in breach of the Limited Partnership Agreement, breach of fiduciary duties owed to the LPs by the general partner and/or misrepresentations made to the LPs by Ms. Athanasoulis.⁷⁵

K. The Draft Notice of Disallowance

91. The Trustee delivered its Disallowance within its motion record on the Damages Process Motion. With respect to the Profit Share Claim, the Trustee intends to disallow it on the following grounds:

- (a) **Equity Not Debt:** The Trustee takes the position that “An entitlement to a share of the profits earned by YSL (i.e., the relevant owner) is not a “provable claim” pursuant to the BIA. It is not a debt obligation of YSL but rather, in substance, an equity entitlement.⁷⁶
- (b) **No Profits Earned by YSL:** The Trustee determined that based on Arbitrator Horton’s findings, “a profit must be earned by the owner of the YSL project for there to be any profit in which to share” and “as of the date of the proceedings, no profit had been earned by the YSL project and, therefore, there was no profit in which to share.”

The Trustee also determined that “the assumptions required to determine [the projected profitability of the YSL project as a contingent claim for a lost profit

⁷⁵ Kimmel Process Decision, para. 61(d).

⁷⁶ Trustee’s Draft Notice of Disallowance, p. 2.

share] over such a long time horizon are far too speculative and the alleged damages far too remote to be capable of being considered a provable claim or the subject of any meaningful and reasonable computation.”⁷⁷

- (c) **Profit Share Claim is Subordinated:** The Trustee takes the position that since the LPs will not be receiving a full return of their equity investment in the YSL project, Ms. Athanasoulis cannot be entitled to any payment on account of her Profit Share Claim when she has “admitted repeatedly” that her Profit Share would be calculated after a full return of equity to the LPs.⁷⁸

III. ISSUES

92. In this submission, Ms. Athanasoulis responds to the three grounds of disallowance articulated by the Trustee in disallowing the Claim:

- (a) **Equity Not Debt:** In brief, the Claim is a provable claim in relation to a breach of the Agreement. Ms. Athanasoulis cannot have an equity claim within the meaning of the BIA because she has never had any equity interest in YSL.
- (b) **No Profits Earned by YSL:** Ms. Athanasoulis has two submissions in response to this ground of disallowance:
- (i) It is irrelevant whether any profits were in fact earned by YSL, because Ms. Athanasoulis’ damages are calculated based on what would have occurred

⁷⁷ Trustee’s Draft Notice of Disallowance, p. 3.

⁷⁸ Trustee’s Draft Notice of Disallowance, pp. 5-6.

but-for YSL's breach of the Agreement and crystallized at the Repudiation Date in December 2019; and

(ii) Profits, as the term was defined under the Agreement, *were* earned by YSL because its expenses were less than the revenues earned from its sale to Concord;

(c) **The Claim is Subordinated:** There is no basis to subordinate the Claim to the equity interests of the LPs, and Ms. Athanasoulis' "admissions" do not have the effect the Trustee purports to attribute to them.

93. This submission also addresses the Joint Brief filed by the LPs on December 23, 2022 and provided to Ms. Athanasoulis on January 13, 2023, except to the extent the Joint Brief is duplicative of the Trustee's grounds for disallowance or addresses issues the Kimmel Process Decision has not ordered to be considered at this stage of the determination process.

94. Ms. Athanasoulis therefore addresses the LPs' submissions that the Claim is unenforceable against YSL (and addresses the LPs' subordination points in connection with her response to similar points made by the Trustee) and that the Claim should be disallowed because profits were not earned during Ms. Athanasoulis' notice period, but does not respond to the LPs' argument relating to the profits YSL would have generated in the but-for world.

IV. SUBMISSIONS

A. Ms. Athanasoulis is entitled to the Profit Share she would have received but-for YSL's breach

(i) *Damages principles*

95. Ms. Athanasoulis' primary position rests on the well-established principles that govern causation and damages. Damages for breach of contract should, so far as can be done by money, place Ms. Athanasoulis in the position she would occupy if the contract had been performed.⁷⁹
96. Ms. Athanasoulis is entitled to recover all of the losses caused by YSL's breach. These losses are identified using the "but-for" test.⁸⁰ A loss is caused by the breach, in the requisite sense, if it would not have occurred but-for the breach. Damages must be calculated by comparing Ms. Athanasoulis' actual position to the position she would occupy but-for the breach. Assessing the latter position requires an analysis of the "but-for" world that would have existed if there had been no breach of the Agreement.
97. Ms. Athanasoulis' actual position is easy to assess: she has not received any payment from YSL in respect of the Agreement. But-for the breach, however, Ms. Athanasoulis would have earned substantial amounts in respect of the Agreement. The but-for world is built on the assumption that both parties would comply with their contractual obligations, meaning

⁷⁹ *Wertheim v. Chicoutimi Pulp Co.* (1910), [1911] A.C. 301 (Quebec P.C.), as cited in Waddams, *The Law of Damages*, (loose-leaf updated November 2020) (Toronto: Canada Law Book) at para. 5.30.

⁸⁰ *Clements v. Clements*, [2012 SCC 32](#), at para. 8; see also *Bank of America Canada v. Mutual Trust Co.*, [2002 SCC 43](#) at [para. 25](#).

YSL would not have terminated Ms. Athanasoulis and it would have worked to maximize the value of the YSL Project.

98. Ms. Athanasoulis must show on a balance of probabilities that but-for the breach of the Agreement, she would have earned the amounts claimed.⁸¹ If she meets this burden, she is entitled to *all* of the profits she would have earned. No risk discount is necessary or appropriate. If causation cannot be determined because of the complexity of the analysis, then a “loss of chance” analysis is appropriate: Ms. Athanasoulis is entitled to all of the profits that would have been earned if the YSL Project had been successfully completed or sold, discounted by the chance that the YSL Project would have failed to generate a profit.

(ii) *YSL’s profits in the but-for world*

99. Quantification of Ms. Athanasoulis’ damages has been reserved to a subsequent hearing. The current state of the evidence is summarized below, to illustrate the correct damages analysis.
100. YSL’s breach of the Agreement has already been established. The Agreement was part of Ms. Athanasoulis’ employment agreement, and YSL repudiated that agreement by constructively dismissing her.
101. YSL was likely to realize profits in one of two primary ways. It could have completed the YSL Project, sold condominium units, and realized the profits projected on its *pro forma*; or it could have sold the YSL Project and immediately realized the profits it had already earned.

⁸¹ *Jarbeau v. McLean*, [2017 ONCA 115](#) at [para. 26](#).

102. YSL could have sold the YSL Project in or around December 2019. The value of the YSL Project significantly exceeded any investment by YSL therein. The increased value of the YSL Project was the result of many years of hard work by Ms. Athanasoulis and other employees working under her supervision. YSL had successfully completed (or partially completed) several important parts of the development process. Specifically, YSL had:
- (a) re-zoned the YSL Property to permit construction of the YSL Project;
 - (b) designed the YSL Project and redeveloped the property to permit construction;
 - (c) raised the equity required to build the YSL Project;
 - (d) arranged construction financing, which was ready to be advanced once the retail component of the YSL Project was subject to a firm purchase agreement;
 - (e) sold condominium units with a total value of approximately \$650 million;
 - (f) entered into fixed price contracts for approximately 70% of the total projected costs; and
 - (g) advanced the excavation and shoring work required for the YSL Project.
103. Each of these steps increased the value of the YSL Project and, by December 2019, that value significantly exceeded the amounts invested by YSL.
104. A fair, open and transparent marketing process would have yielded a very substantial profit. YSL had invested approximately \$241 million in the YSL Project and the YSL Project had an appraised value of \$375 million. Based on these figures, the Agreement had a value of more than \$25 million.

(iii) *The value of the Profit Share should be assessed at the Repudiation Date*

105. When Ms. Athanasoulis' claim is assessed through the appropriate analytical framework, it becomes clear that Ms. Athanasoulis' entitlement to damages does not turn on what profits were *actually* earned on the YSL Project. The Trustee's focus on the value of damages at the time of trial effectively – and improperly – limits Ms. Athanasoulis to actual profits earned by YSL.
106. But Ms. Athanasoulis' damages crystallized and ought to be assessed at the date of breach in December 2019.⁸² This is a matter of both law and logic: as a matter of law, damages are presumptively calculated on the date of the breach; as a matter of logic, it would be deeply unfair for Ms. Athanasoulis' entitlement to be affected by Mr. Casey's wrongdoing after it terminated her.
107. It is a well-established legal principle that damages are presumptively to be calculated at the date of breach.⁸³ Displacing this presumption is rare and premised on fairness to the innocent harmed party.⁸⁴ The rationale for this rule was articulated by Laskin J.A. in his concurring opinion in *Kinbauri*:

⁸² The Kimmel Process Decision is clear that “Under a reservation of rights, the valuation of the Future Oriented Damages included in the Profit Share Claim (beyond the ascribed “zero” valuation by the Proposal Trustee for reasons that do not involve an actual valuation) can be deferred, along with all evidence and submissions about the calculation of these Future Oriented Damages, until after the appeal of the Proposal Trustee's determination to disallow it.” See para. 44. These submissions address only the *relevance* of the alleged absence of actual profits to the quantification of Ms. Athanasoulis' Claim. They do not address, and Ms. Athanasoulis expressly reserves all her rights with respect to fully advancing evidence and argument at the appropriate time with respect to, the *quantification* of her damages entitlement on the basis of potential profits.

⁸³ *Kinbauri Gold Corp. v. Iamgold International African Mining Gold Corp.*, [2004] O.J. No. 4568 (Ont. C.A.), para. 125 (“*Kinbauri*”); see also *Kipfinch Developments Ltd. v. Westwood Mall (Mississauga) Limited*, 2010 ONCA 45, para. 15 (“*Kipfinch*”); *Baud Corp., N.V. v. Brook*, [1978] 6 W.W.R. 301 (SCC), p. 648.

⁸⁴ *642947 Ontario Ltd. v. Fleischer*, [2001] O.J. No. 4771 (ONCA), paras. 41-42 (“*Fleischer*”); *Rougemount Capital Inc. v. Computer Associates International Inc.*, 2016 ONCA 847, para. 50, citing *Dosanjh v. Liang*, 2015 BCCA 18, para. 55.

. . . [D]amages for breach of contract are generally assessed at the date of breach. An early crystallization of the plaintiff's damages promotes efficient behaviour: the litigants become as free as possible to conduct their affairs as they see fit. Early crystallization also avoids speculation: the plaintiff is precluded from speculating at the defendant's expense by reaping the benefits of an increase in the value of the goods in question without bearing any risk of loss.⁸⁵

108. *Kinbauri* involved the calculation of damages where the value of the shares the Plaintiff was entitled to had increased. The plaintiff was not entitled to share in that increased value after the date of breach. This case presents the flip side of the same coin. Ms. Athanasoulis' entitlement should not *decrease* because Mr. Casey destroyed the value of the YSL Project after terminating her.
109. The rule that damages should be quantified on the date of the breach has particular application in the real estate context, where values often change significantly between the time of the breach and the time of the damages assessment years later.
110. It also should have particular application in this case, where Ms. Athanasoulis' termination provided an opportunity for Mr. Casey to pursue transactions that benefited him personally to the detriment of YSL. Pursuing those transactions was a further breach of the Agreement.
111. If Ms. Athanasoulis had not been constructively terminated, there is no reason to believe that the YSL Project would have suffered the same fate as it ultimately did. YSL cannot credibly claim that it would be fair to use Mr. Casey's wrongdoing, and any resulting decrease in the value of the YSL Project, as a basis to eliminate or reduce damages in respect of Ms. Athanasoulis' contractual entitlement under the Agreement.

⁸⁵ *Kinbauri*, at [para. 125](#).

112. Thus, fairness here requires application of the presumptive rule. Ms. Athanasoulis should not be forced to shoulder the impact of Mr. Casey's self-serving conduct over which she had no control.

(iv) Damages are not too speculative or remote

113. Ms. Athanasoulis also disputes the Trustee's position that her damages are too speculative and remote to be capable of being considered a provable claim or the subject of any meaningful and reasonable computation.

114. With respect, the Trustee's position is misplaced. It ignores the well established legal principle that a party should not be denied damages just because those damages are difficult to calculate.⁸⁶ The Alberta Court of Appeal has held that it is only where there is an *absence* of proof regarding a claim that it should not be valued. As the Court cautioned, "One must take care not to overstate the rule. It does not eliminate contingent or future claims. It merely subjects them to a valuation process."⁸⁷

115. Damages can be calculated with reasonable certainty in this case and based on sufficient proof. The value of the YSL Project at the time of termination, together with the expenses incurred to build that value, can all be measured and will be measured at the appropriate time with reference to the YSL Project pro formas and other supporting documents.⁸⁸

⁸⁶ *General Mills Canada Ltd. v. Maple Leaf Mills Ltd.*, 52 C.P.R. (2d) 218 (Ont. H Ct J) at para. 4; *Gould Outdoor Advertising Co. v. Clark*, [1994] O.J. No. 3094 (Ont. Ct. J) at para. 26.

⁸⁷ *Abacus Cities Ltd. (Trustee of) v. AMIC Mortgage Investment Corp.*, [1992 ABCA 57](#), paras. 37-38.

⁸⁸ In their submissions, the LPs criticize Cresford's pro formas because, as part of the Proposal process, a pro forma was submitted by Concord that showed a low value for the YSL Project. As set out in the Athanasoulis Affidavit, the Concord pro forma, and the related appraisal, were not reliable documents. Justice Dunphy agreed they were unreliable in the First Dunphy Decision. However, Concord's apparent attempt to reduce the appraised value of the YSL Project to make the Proposal seem more appealing has nothing to do with the reliability of Cresford's own projections. Those

116. Ms. Athanasoulis understands the computation of damages is a matter to be deferred to a future quantification hearing, with additional evidence and submissions. At this stage, it is sufficient to say that damages *can* be calculated (based on either actual profit or but-for profit) and that the Claim is not, therefore, speculative or remote.
117. Even in cases where damages are difficult to calculate, damages must still be awarded. In such cases, damages assessed with a broad axe and a sound imagination.⁸⁹ In this case, there is no evidence that the calculation is more difficult than other complex, high-stakes litigation claims. Nothing in the BIA allows the Trustee to extinguish otherwise meritorious claims because they are alleged to be complicated. In this case, there has been no attempt to calculate either but-for profits or actual profits. There has only been an assessment of cash on hand.

B. Profits Were Earned by YSL Upon the Sale of the YSL Project to Concord

(i) The meaning of “profits”

118. The YSL Project’s profits are equal to project revenues less project expenses.⁹⁰ The Arbitrator expressly found as such “in the context of Cresford’s business”⁹¹. And it was this definition of profits that was contemplated by the Agreement:

When they agreed to the 20% PSA, Athanasoulis and Casey had a common understanding of what “profits” meant. Broadly speaking they understood that profits are revenues less expenses. It is reasonable to infer that they understood profits to be as calculated

projections were carefully vetted on behalf of YSL’s construction lender and there is no credible challenge to their reliability.

⁸⁹ *Colonial Fastener Co. Ltd. v. Lightning Fastener Co. Ltd.*, [1937] SCR 36, pg. 44; *Apotex Inc. v. Eli Lilly and Company*, 2018 FCA 217, para. 142; *Janssen Inc. v. Teva Canada Limited*, 2016 FC 593, at para. 69.

⁹⁰ Partial Award, Brief, Tab 2, para. 93.

⁹¹ Partial Award, Brief, Tab 2, para. 91.

within the pro forma process that they used generally for all projects within their business. As given in evidence by Papadakis, they agreed that profits would not be artificially reduced by “bad faith” transactions.⁹²

119. While the Arbitrator found that project profits are often earned at the completion of a project, he also held that profits can be earned earlier: “Profits can also be earned on projects prior to registration... For example, land may be sold after successful rezoning of the property or at a point where a partial development has occurred.”⁹³
120. That is what occurred when the YSL Project was sold to Concord in the context of this insolvency. YSL’s sale of the YSL Project generated revenues that significantly exceeded its expenses, which constitute earned profits according to the meaning of the Agreement. It was a term of the Agreement that “Profits were to be shared when earned[.]”⁹⁴
121. The Trustee’s Disallowance, and its conclusion that no profits were earned on the YSL Project, does not engage with this calculation at all. The Trustee appears to have not evaluated either the revenues or expenses in the YSL Project. The result, with respect, is that the Trustee has not calculated profits under the Agreement in accordance with the Arbitrator’s findings.

(ii) YSL’s revenues

122. According to the Proposal Trustee, the implied purchase price for the YSL Project under the Proposal totalled approximately \$291 million.⁹⁵

⁹² Partial Award, Brief, Tab 2, para. 146.

⁹³ Partial Award, Brief, Tab 2, para. 96.

⁹⁴ Partial Award, Brief, Tab 2, para. 151.

⁹⁵ Third Report of the Proposal Trustee dated June 18, 2021, Brief, Tab 26, p. 13; Finnegan Report, Brief, Tab 13, PDF p. 12.

123. In addition, YSL sold two properties that it owned adjacent to the YSL Property to Concord for \$7.6 million (the “**Adjacent Properties**”).⁹⁶ This purchase price significantly undervalued the Adjacent Properties – as part of the development process, YSL had agreed to transfer the Adjacent Properties to the City of Toronto for a value of \$18 million.⁹⁷ In any event, YSL received revenue of \$7.6 million in connection with their sale. This is revenue, within the meaning of the Agreement.
124. In addition to the amounts paid under the Proposal itself, a company related to Concord paid Cresford \$6.6 million.⁹⁸ This amount is part of the price that Concord paid to acquire the YSL Project and, as such, these amounts are revenue within the meaning of the Agreement.
125. This payment was made by a different Concord entity, to avoid the BIA restriction on paying any amount to equity claimants without paying all creditors in full. Justice Dunphy accepted that the payment did not represent a “diversion of value from creditors to equity holders” and that it was not “relevant to [the] assessment of Amended Proposal #3”.⁹⁹ But the question addressed by Justice Dunphy (whether the payments contravened the BIA) is separate from the question relevant to Ms. Athanasoulis’ claim (whether the amounts are revenue for YSL).

⁹⁶ Statement of Adjustments for 357 ½ Yonge Street and 357A Yonge Street as of December 18, 2020, Brief, Tab 18.

⁹⁷ See Altus Report, Brief, Tab 12, p. 58, showing the \$18 million worth of parkland dedication fee that would otherwise need to be paid in connection with the construction of the YSL Project.

⁹⁸ Reporting Letter from Dale & Lessman LLP to Cresford Holdings Limited dated June 10, 2022, Brief, Tab 15; see also Trustee 4th Report, Brief, Tab 27, p. 11.

⁹⁹ Final Reasons, [para. 13](#).

126. In light of the foregoing, Ms. Athanasoulis respectfully submits that YSL earned revenues of at least \$305.4 million.

(iii) YSL's expenses on the YSL Project were under \$250 million

127. YSL's expenses were significantly less than its revenues. As described below, there are significant reasons to doubt the reliability of YSL's internal reporting. By contrast, the independent cost consulting professionals of Altus Group Limited ("**Altus**"), retained by YSL's construction lender ("**Otera**"), prepared a report on the status of the YSL Project as at August 31, 2019 (the "**Altus Report**"). The Altus Report provides a useful starting point for the analysis of YSL's expenses as of that date.

(a) Expenses up to August 31, 2019

128. Altus conducted an analysis of "costs to date" incurred in respect of the YSL Project. The Altus Report concluded that the gross costs to date were \$329,373,744.¹⁰⁰ However, the Altus Report assumed that the first draw on the YSL construction loan would be advanced and that YSL Property had been acquired for the value used as the basis for Cresford to buy-out BcIMC's interest in 2017, as opposed to the actual land cost. The Altus Report also included certain costs not incurred.

129. **The Altus Report contemplates an advance of \$20,004,299 that was not made.** The "costs to date" column includes "current draw" of \$20,004,299¹⁰¹. This was to be the first advance made under the Construction Loan, but the proposed advance was never made. Thus, the net costs actually reflected in the Altus Report were \$309,369,535.

¹⁰⁰ Altus Report, Brief, Tab 12, PDF p. 69.

¹⁰¹ Altus Report, Brief, Tab 12, PDF p. 69.

130. **The Altus Report also uses a land value of \$207,673,906, even though YSL bought the YSL Property for \$157,500,000.** The Altus Report used a land value of \$207.6 million¹⁰², which is the valuation used by Cresford to purchase BcIMC's interest in YSL. That is the value that the lender agreed to use in the *pro forma* for the YSL construction loan. Profit, for the purposes of the Agreement must be calculated based on actual costs, being \$157,500.¹⁰³
131. **The Altus Report includes fees that were not owed because the Construction Loan was not advanced.** YSL agreed to pay fees totaling \$13,299,566 in connection with the Construction Loan¹⁰⁴. However, the Construction Loan was never advanced. YSL never owed (or paid) this fee. It is not an actual expense relevant to the calculation of Ms. Athanasoulis' profit entitlement.
132. **The Altus Report includes collateral that was never paid.** The Altus Report also counts, as an expense, collateral posted to secure letters of credit issued as part of the development process. The posted collateral totaled \$4,230,565¹⁰⁵, but there is no evidence that YSL forfeited the collateral. To the contrary, Concord would have had to replace the letters of credit in order to proceed with the YSL Project and so the collateral was almost certainly returned.

¹⁰² See for example, Altus Report, Brief, Tab 12, p. 5; Athanasoulis Affidavit, Brief, Tab 1, para. 19.

¹⁰³ Reporting Letter dated February 22, 2017, Brief, Tab 16; YSL Cost Ledger, Brief, Tab 21, p. 1.

¹⁰⁴ Altus Report, Brief, Tab 12, PDF p. 69.

¹⁰⁵ Altus Report, Brief, Tab 12, PDF p. 69.

Cost code	Altus Draw Report	Variance	Revised Budget	Cost to Date	Previous Period	Current Draw	Cost to Complete	Deferred Costs
NET PROJECT BUDGET	980,648,832	-	980,648,832	329,048,607	309,729,240	19,319,367	651,600,225	28,794,201
Holdback retained	-	-	-	(424,864)	(359,705)	(65,159)	424,864	-
Holdback released	-	-	-	-	-	-	-	-
NET PROJECT BUDGET - LESS HOLDBACKS	980,648,832	-	980,648,832	328,623,744	309,369,535	19,254,209	652,025,088	28,794,201
MEZZANINE INTEREST RESERVE								
088001 Interest on Mezzanine Loan	80,000,000	-	80,000,000	750,000	-	750,000	79,250,000	-
NET PROJECT BUDGET - KINGSETT	80,000,000	-	80,000,000	750,000	-	750,000	79,250,000	-
TOTAL PROJECT BUDGET	1,060,648,832	-	1,060,648,832	329,373,744	309,369,535	20,004,209	731,275,088	28,794,201
Source of Funding								
	Lender's Sources	Variance	Borrower's Sources	Cost to Date	Previously Funded	Current Funding	Remaining to Fund	
Land Advance	100,000,000	-	100,000,000	100,000,000	100,000,000	-	-	
Land Advance (Contra)	- 100,000,000	-	- 100,000,000	- 100,000,000	-	100,000,000	-	
Construction Loan	623,545,136	-	623,545,136	44,171,977	-	44,171,977	579,373,159	
Equity - Cash & Land	76,114,547	-	76,114,547	76,114,547	76,114,547	-	-	
Repatriation of Equity	- 1,114,547	-	- 1,114,547	- 1,114,547	-	1,114,547	-	
Retail Deposit	14,664,655	-	14,664,655	-	-	-	14,664,655	
Appraisal Surplus	37,500,000	-	37,500,000	37,500,000	37,500,000	-	-	
Mezzanine Mortgage	75,000,000	-	75,000,000	75,000,000	-	75,000,000	-	
Tarion & Excess Deposits	126,144,840	-	126,144,840	96,951,767	95,754,988	1,196,779	29,193,073	
Deferred Costs	28,794,201	-	28,794,201	-	-	-	28,794,201	28,794,201
MEZZANINE INTEREST RESERVE	80,000,000	-	80,000,000	750,000	-	750,000	79,250,000	-
	1,060,648,832	-	1,060,648,832	329,373,744	309,369,535	20,004,209	731,275,088	28,794,201
CHECK	-	-	-	0	0	0	0	-
Letter of Credit Loan	-	-	7,500,000	4,230,565	4,230,565	-	3,269,435	
Letter of Credit Refund	-	-	(7,500,000)	-	-	-	(7,500,000)	
	-	-	-	4,230,565	4,230,565	-	(4,230,565)	

133. After accounting for these adjustments, the actual costs incurred as of August 31, 2019 is \$241,665,418. This calculation is set out below:

Cost	Altus Report	Actual Cost	Difference
Land Cost	\$207,673,906	\$157,500,000	\$50,173,906
First draw construction costs	\$20,004,299	0	\$20,004,299.00
First draw fees	\$13,299,556	0	\$13,299,556.00
Letter of Credit Collateral	\$4,230,565	0	\$4,230,565.00
Total			\$87,708,326
Costs per report	\$329,373,744		
Adjustments	\$87,708,326		
Adjusted costs	\$241,665,418		

(b) Expenses after August 31, 2019

134. As noted above, the Construction Loan was never advanced and little construction work was completed between August 31, 2019 and the sale of the project. According to YSL's

general ledger, expenses in the period after August 31, 2019 totaled approximately **\$24,163,273.24**.¹⁰⁶

135. The expenses incurred after August 31, 2019 have not been vetted by any third party, and not all of them constitute valid project expenses or were never paid. By way of example, YSL's cost ledger shows that a variety of contractors were paid in September 2019. But the same creditors appeared in YSL's 2021 bankruptcy proposal because they had not in fact been paid.¹⁰⁷ Cresford's counsel was specifically asked to provide evidence to show that YSL had spent more than \$290 million on the YSL Project and was unable to do so.
136. In any event, even if these amounts were accepted in their entirety as additional YSL Project expenses, the total project costs are no more than **\$265,828,691**.

(iv) There were actual profits of at least \$39.5 million

137. Based on the foregoing, the available documents establish an actual profit of approximately \$39.5 million. Ms. Athanasoulis' share of this profit is \$7.9 million. This calculation is summarized below:

Actual Profits	
Revenue	\$ 305,400,000.00 ¹⁰⁸
Costs	\$265,828,691
Actual Profits	\$ 39,571,308.76
Profit share	\$ 7,914,261.75

¹⁰⁶ In order to reach this total, Ms. Athanasoulis has reviewed the General Ledger provided by YSL and filtered it to include only post-August 31, 2019 expenses. She then removed periodic line of credit renewals and reversals, which were net neutral and reflected security being posted rather than a cost, as well as inter-company transfers (shown as transfers to Cresford Rosedale or other Cresford entities). She did not remove any management or development fees paid to Cresford entities. See Brief, Tab 19 (filtered), as compared to Tab 20 (original provided by YSL).

¹⁰⁷ See for example the payment to Otis Canada Inc. shown on the Cost Ledger, Brief, Tab 21, p. 58 and compare to the listing of Otis Canada Inc. as a creditor in the Trustee Third Report, Brief, Tab 26, p. 120.

¹⁰⁸ This is the sum of the revenues earned by YSL: \$291M + \$7.8M + \$6.6M.

138. Ms. Athanasoulis specifically asked for the documents accounting for the gap between the revenues earned by YSL on the YSL Project and the costs reflected in the Altus Report with the adjustments noted above.¹⁰⁹ Cresford was unwilling or unable to provide a meaningful answer.¹¹⁰

(v) *Profits do not appear to have been available for distribution*

139. Even though YSL earned a profit as set out above, it did not have funds available for distribution after the Proposal was approved and completed. The LPs take the position that if Cresford siphoned funds from the YSL Project, then it should be Ms. Athanasoulis pursuing other entities for those amounts. It is unclear on what basis the LPs would have Ms. Athanasoulis pursue these other entities, rather than Cresford and/or YSL, the entities with whom she has a contractual relationship.¹¹¹ YSL breached its contract with Ms. Athanasoulis, she suffered damages and she is therefore a creditor.

140. Ms. Athanasoulis does not bear the burden of explaining what happened to the funds that YSL brought in. She only bears the burden of proving that revenue exceeded expenses, or in other words, that profits were earned. She has met that burden. Although Ms. Athanasoulis supports an investigation into what happened to the funds that YSL brought in, she is not obliged to conduct that investigation in order to prove her Claim.

¹⁰⁹ Email from Mark Dunn dated Feb 24 2024, Brief, Tab 33.

¹¹⁰ Email from Harry Fogul dated March 10, 2023, Brief, Tab 34.

¹¹¹ Ms. Athanasoulis also notes that the LPs have themselves done nothing to investigate where YSL's profits have been dissipated.

(vi) Cresford provided unreliable evidence of its expenses

141. YSL provided evidence to the Proposal Trustee purporting to show that it had incurred net costs totalling \$314.9 million.¹¹² This information is simply incorrect, since many of the costs were never incurred. YSL's inability to provide reliable information to support its claimed costs is further evidence that it has vastly overstated the costs that it incurred.
142. By way of example, YSL claims to have incurred land acquisition costs of \$195 million. It did not. It also claims to have incurred financing fees and loan interest on amounts that were never advanced. These amounts are summarized below. Adjusting for only these amounts, YSL's expenses (according to the information that it provided) total \$263.6 million.

	Claimed	Actual	Difference
Land costs	195,000,000.00	157,700,000.00	37,300,000.00
Financing fees	14,032,074.00	0.00	14,032,074.00
Adjusted costs	314,984,539.00	263,652,465.00	51,332,074.00

143. The other information provided by YSL also falls well short of establishing that YSL incurred anywhere near \$314 million. Its tax returns and financial statements, for example, were compiled by accountants working on a compilation engagement without providing any assurance that the results are accurate.

¹¹² YSL Cost Summary Provided to Proposal Trustee, Brief, Tab 25

C. The Claim is Not an Equity Claim

(i) *The Claim is in relation to a debt and is a “Provable Claim”*

144. The proper classification of Ms. Athanasoulis’ Claim should be a straightforward exercise. A “provable claim” is defined in section 121(1) of the BIA as “All debts and liabilities, present or future, to which the bankrupt is subject on the day on which the bankrupt becomes bankrupt . . . shall be deemed to be claims provable in proceedings under this Act.”¹¹³
145. The bar for establishing a provable claim is low and only requires that a claimant proves that there is an “air of reality” to their claim.¹¹⁴ There is certainly such an air of reality here – the issue of liability is not remote or speculative since the Arbitrator has determined that the Agreement existed; it was key element of Ms. Athanasoulis’ employment contract; and it was breached when Ms. Athanasoulis was constructively terminated. As described above in relation to the calculation of profits, the fact that a claim involves some complexity in quantification is not a bar to a provable claim.
146. Ms. Athanasoulis seeks to recover damages caused by the wrongful repudiation of the Agreement. The Agreement is a contract, and the breach of this contract created a legally recoverable debt. This debt is provable in this proceeding.

¹¹³ *Bankruptcy and Insolvency Act*, [R.S.C., 1985, c. B-3, s. 121\(1\)](#).

¹¹⁴ *Oil Lift Technology Inc. v. Deloitte & Touche Inc.*, [2012 ABQB 357, para. 18](#).

(ii) *The Claim is not an equity claim*

147. The Trustee and LPs assert that Ms. Athanasoulis' Claim should instead be viewed as an equity claim. This argument is contrary to the statutory definition provided by the *BIA*, which states that an "equity claim" is a claim "**in respect of an equity interest.**"¹¹⁵ An equity interest "**means ... a share in the corporation** – or warrant or option or another right to acquire a share."¹¹⁶ The use of the word "means" dictates that this definition is intended to be exhaustive, in accordance with well-accepted principles of statutory interpretation.¹¹⁷
148. Ms. Athanasoulis' Claim has no connection to any "equity interest." She never held any shares, warrants, or options in YSL or any other Cresford project.¹¹⁸ No one alleges that she did. More importantly, the Claim is not "in relation to" any such interest. This is a complete answer to the allegation that Ms. Athanasoulis has an "equity claim" that is not provable in this proceeding.
149. The Trustee and LPs do not reference the applicable definition of an "equity interest" in the Draft Notice of Disallowance or their submissions, nor do they make any attempt to reconcile this definition with their position. Rather, they seek to side-step the statutory definition by arguing, in essence, that any claim calculated with reference to profits should be deemed an equity claim.

¹¹⁵ *Bankruptcy and Insolvency Act*, [R.S.C., 1985, c. B-3, s. 2.](#)

¹¹⁶ *Bankruptcy and Insolvency Act*, [R.S.C., 1985, c. B-3, s. 2.](#)

¹¹⁷ *Entertainment Software Association v. Society of Composers, Authors and Music Publishers of Canada*, [2012 SCC 34 \(S.C.C.\)](#) at [para. 42](#); *Alexander College Corp. v. R.*, [2016 FCA 269](#) at [para 14](#).

¹¹⁸ Athanasoulis Affidavit, Brief, Tab 1, para. 15.

150. In support of this position, the Trustee and LPs rely on a number of cases. None of these cases are analogous to the present circumstances, and none suggest that the term “equity interest” should be stretched beyond its statutory definition. Each of the cases cited concerns the characterization of a claim either *advanced by* or *related to* an equity interest recognized by the *BIA*.¹¹⁹ While these cases suggest that the connection between an equity claim and an equity interest may be broad, they do not negate the requirement that such a connection must *exist*.
151. Existing jurisprudence further belies the suggestion that all claims calculated with reference to profits are inherently equity claims. Courts have been clear that wrongfully terminated employees may recover damages for incentive-based compensation in the bankruptcy context, including where such compensation is calculated with reference to sales or profitability.¹²⁰ This is true even where the employer’s subsequent bankruptcy results in no actual profits being realized, since damages crystallize on the date of the employee’s wrongful termination.¹²¹
152. The fact remains that Ms. Athanasoulis was not an investor in either YSL or the Cresford Group. She did not own shares, units or any other equity interest.¹²² She was an employee,

¹¹⁹ *Sino-Forest Corporation (Re)*, [2012 ONCA 816](#), concerned a claim for indemnity relating to a shareholder class action; *Bul River Mineral Corporation (Re)*, [2014 BCSC 1732](#) concerned a shareholder’s claim against the debtor that had been reduced to a court judgment before the bankruptcy filing; in *Return on Innovation v Gandi Innovations*, [2011 ONSC 5018](#) concerned a claim relating to the recovery of a \$50 million dollar equity investment through an arbitration; *US Steel Canada Inc (Re)*, [2016 ONSC 569](#), concerned a claim relating to the recovery of loans advanced by the parent company / sole shareholder of the debtor; *Tudor Sales Ltd (Re)*, [2017 BCSC 119](#) concerned a claim relating to advances made by a shareholder of the debtor and its sole officer and director; *YG Limited Partnership and YSL Residences (Re)*, [2021 ONSC 4178](#) concerned claims brought by parties related to Cresford that had an equity interest in the YSL Project.

¹²⁰ *Noble v. Principal Consultants Ltd. (Trustee of)*, 2000 ABCA 133 at [paras. 41-42](#).

¹²¹ *Noble v. Principal Consultants Ltd. (Trustee of)*, 2000 ABCA 133 at [para. 41-42](#).

¹²² Athanasoulis Affidavit, Brief, Tab 1, para. 15.

who was contractually entitled to the compensation she was promised in the Agreement. Mr. Casey's wrongful repudiation of this Agreement created a legal debt, which Ms. Athanasoulis is entitled to recover. Her claim seeks to do so and is accordingly provable in this proceeding.

153. As found by the Arbitrator, the compensation contemplated by the Agreement was intended to incentivize Ms. Athanasoulis' extraordinary contributions to the Cresford Group.¹²³ Like most other forms of recoverable incentive-based compensation, the parties chose to tie the quantification of this compensation to the company's performance. This does not transform the "true nature" of this compensation from a contractual obligation into an equity stake.

D. There is No Basis to Subordinate the Claim to the LPs

(i) Ms. Athanasoulis' purported "admissions"

154. The Trustee's third ground for disallowance of the Profit Share Claim is that Ms. Athanasoulis has "admitted" that her entitlement to profits would arise only after the LPs are repaid their original investment.
155. The LPs also rely on various other "admissions" by Ms. Athanasoulis and the Waterfall payment mechanism reflected in the Slide Presentation and October 20, 2019 YSL Project pro forma.¹²⁴
156. None of the supposed admissions referenced by the Trustee or the LPs have the legal effect apparently attributed to them by the Trustee or the LPs. Ms. Athanasoulis testified at the

¹²³ Partial Award, Brief, Tab 2, para. 144 and 160.

¹²⁴ LP's Joint Brief to the Proposal Trustee dated December 23, 2022 ("LPs Joint Brief"), paras. 44-46.

Arbitration about the terms of the Agreement and specifically about how she expected profits to be calculated.¹²⁵ She testified that profits were to be calculated as revenues less expenses, consistent with the YSL Project *pro formas*.¹²⁶ Within that equation, repayment of investors, including the LPs, was among the expenses or project costs that would be deducted before determination of the profits from which Ms. Athanasoulis was promised to be paid.¹²⁷

157. Ms. Athanasoulis “admitted” that this was the calculation mechanism for determination of her profits under the Agreement. But at no time did Ms. Athanasoulis ever agree or “admit” that her claim for damages for breach of the Agreement would be subordinated to recovery of the equity investment by the LPs. Nothing in her testimony changes the basic calculation at the heart of the Agreement. Her entitlement was based on *actual* revenue less *actual* expenses.
158. Ms. Athanasoulis never purported to characterize her *entitlement* in the Proposal proceedings.¹²⁸ Nor would she, since of course that was is a question of law and was not within either her or Cresford’s reasonable expectations at the time they entered into the Agreement.¹²⁹

¹²⁵ Arbitration Transcript - February 22, Brief, Tab 3, 153 :17-22; Arbitration Transcript -February 23, Brief, Tab 4, 233:22-25, 234:1-3, 276:3-14.

¹²⁶ Arbitration Transcript - February 22, Brief, Tab 3, 153 :17-22; Arbitration Transcript -February 23, Brief, Tab 4, 233:22-25, 234:1-3, 276:3-14; Athanasoulis Affidavit, Brief, Tab 1, para. 53.

¹²⁷ Arbitration Transcript - February 22, Brief, Tab 3, 153 :17-22; Arbitration Transcript -February 23, Brief, Tab 4, 233:22-25, 234:1-3, 276:3-14; Athanasoulis Affidavit, Brief, Tab 1, para. 53.

¹²⁸ Athanasoulis Affidavit, Brief, Tab 1, paras. 52, 54.

¹²⁹ Athanasoulis Affidavit, Brief, Tab 1, para. 87.

159. Similarly, the fact that the October 2019 Pro Forma shows repayment to the LPs is simply a projection. YSL *expected* that the LPs would be paid in full if any profits were earned. If YSL had honoured its contractual obligations then *both* Ms. Athanasoulis and the LPs would have been repaid in full. But this is not what happened.
160. Critically, Ms. Athanasoulis' damages are based on what would have happened but-for the breach. In this scenario, both Ms. Athanasoulis and the LPs would have recovered everything YSL owed them.
161. Thus, Ms. Athanasoulis' testimony is the smoking gun the Trustee or the LPs believe it to be. They miss the point entirely. The calculation mechanism for Ms. Athanasoulis' claim does not change the essential fact that Ms. Athanasoulis is a creditor of YSL and the LPs are not.
162. As set out above, Ms. Athanasoulis' right to damages crystallized long before the YSL Project was built, through no fault of her own. YSL repudiated the Agreement, not Ms. Athanasoulis. Ms. Athanasoulis accepted the repudiation, and sued for damages. Those damages are to be calculated as of the date of breach, as discussed above.
163. As a legal matter, Ms. Athanasoulis' status as a creditor and the LPs' status as equity-holders, combined with YSL's decision to file the Proposal, have resulted in a practical change to what would otherwise have occurred if the YSL Project had been completed. Ms. Athanasoulis opposed the Proposal. Ms. Athanasoulis was (and is) now entitled to payment of the value of the Profit Share in accordance with the ordinary rules that govern the calculation of damages.

164. Any effect that Ms. Athanasoulis' termination had on the LPs could not have been anticipated when the LPs invested in YSL. There was, at that stage, no reason to believe that YSL would breach the Agreement. Indeed, the essential purpose of the Agreement was to induce Ms. Athanasoulis to *stay* at YSL and complete the YSL Project.

(ii) The LP Agreement

165. The LPs suggest that the LP Agreement also supports subordination of Ms. Athanasoulis' Profit Share Claim to the LPs' entitlement to a return of their equity. They point out that the General Partner of Cresford LP cannot enter into any contract with a related party, other than on market terms; that the Waterfall distribution entitles the Class "A" Unitholders (the LPs) to a return of their capital contributions, then to a preferred return, and then the Class "B" Unitholder (Cresford LP) to its capital contributions and any residual profits; and that the LP Agreement does not allow the creation of any class of units in priority to the Class "A" Units.

166. But even the LPs do not go so far as to say that the LP Agreement subordinates Ms. Athanasoulis' Claim. It plainly does not.

167. The LPs' vague assertions that the LP Agreement "is consistent with" subordination of Ms. Athanasoulis' Claim is unsustainable for several reasons, including those already described with respect to the Waterfall being a calculation mechanism rather than an adjustment of legal priorities under the BIA.

168. There is no language in the LP Agreement that addresses the Claim or its treatment vis-à-vis the LPs' investments. The Claim did not even exist at the time the LP Agreement was

entered into, although the Agreement had been in place for several years. There is nothing in the LP Agreement that addresses legal claims against YSL, nor anything to subordinate any payments to Ms. Athanasoulis specifically or to related parties to YSL.

169. As a preliminary matter, the Agreement existed long before the LP Agreement. The LP Agreement could not, as a practical matter, prohibit an agreement entered into years earlier. The LPs invested in an existing entity, with existing commitments.
170. The provision of the LP Agreement that prohibits related party contracts specifically permits such contracts if they are entered into on market terms.¹³⁰ Indeed, YG LP regularly entered into contracts with related parties on market terms. The Agreement was also a contract on market terms for the benefit of YSL (and therefore YG LP).
171. Finally, the fact that the LP Agreement prohibits issuing new classes of units in priority to Class A Units is irrelevant. No units were issued to Ms. Athanasoulis. There is no “attempt to circumvent this provision” as alleged by the LPs.¹³¹ Ms. Athanasoulis entered into a contractual agreement with YSL. The LPs have not produced any evidence of “circumvention”, nor of why that would be legally relevant to their arguments on subordination in any event.
172. Ultimately, the subordination position taken by the Trustee and the LPS fails because Ms. Athanasoulis does not have – and never had – any *legal* relationship to the LPs. They are strangers to her claim. She is a stranger to their claims. Specifically, Ms. Athanasoulis

¹³⁰ LP Agreement, Brief, Tab 31, ss. 3.6(b).

¹³¹ LPs Joint Brief, para. 48.

never agreed that she would only be paid if and when the LPs were paid in full. She never entered into any subordination agreement – or any agreement – with the LPs.

173. Ms. Athanasoulis has the rights that she bargained for. The LPs have the rights they bargained for. Ms. Athanasoulis' claim does not depend on – and is not subordinated to – the LPs' claim.

E. The Claim is Not Unenforceable Against the LPs

(i) The enforceability of the Agreement is res judicata

174. The LPs contend that Ms. Athanasoulis' claim cannot be enforced against YG LP because the existence of the Agreement is a breach of fiduciary duties and of the LP Agreement.
175. As a preliminary matter, the LPs' claim is barred by the doctrine of *res judicata*.¹³² Ms. Athanasoulis agreed to arbitrate all liability issues with the Proposal Trustee. Although the LPs now dispute *how much* they knew about the arbitration, there is no dispute that they were aware of it. The LPs (who are strangers to the Agreement in any event) are not entitled to wait until after liability has been determined to raise new issues.
176. It is an established fact that YSL, and not Cresford LP as suggested by the LPs at paragraph 57 of their submissions – entered into the Agreement with Ms. Athanasoulis.¹³³ Mr. Casey was capable of binding, and did bind, YSL to that agreement.¹³⁴ It occurred long before the LPs were involved in the YSL Project.

¹³² *Fortinet Technologies (Canada) ULC v. Bell Canada*, [2018 BCCA 277](#) at [para.33](#); *Eskandari v. Rowshani-Zafranloo*, [2021 ONSC 4700](#) at [para. 38](#).

¹³³ Partial Award, Brief, Tab 2, paras. 149-151.

¹³⁴ Partial Award, Brief, Tab 2, paras. 134, 149, 169.

177. The only provision of the LP Agreement that the LPs have alleged was breached is section 3.6(b), which bars YG LP from entering into related party transactions other than on market terms. For the reasons already identified, the Agreement is on market terms and is not a breach of the LP Agreement. The LPs have not tendered any evidence to the contrary.
178. If the General Partner or YSL is alleged to have breached the LP Agreement or other duties by entering into the Agreement with Ms. Athanasoulis, then the LPs' recourse is against them alone. The LPs cannot nullify a contract between YSL and an innocent counterparty, which was entered into on market terms and not contrary to the best interests of YSL.¹³⁵
- (ii) ***Ms. Athanasoulis' "failure to disclose" was not a breach of fiduciary duty or misrepresentation***
179. Perhaps because of this, the LPs focus their allegations on breaches of fiduciary duty (though even these allegations are premised on there being underlying breaches of the LP Agreement, which there were not) and alleged misrepresentations by Ms. Athanasoulis.
180. The LPs allege Ms. Athanasoulis failed to disclose the existence of the Agreement when they entered into the LP Agreement. But at the time she was discussing their potential investment in YSL, and at the time the LP Agreement was entered into, *there was nothing to disclose*.¹³⁶
181. At the time the LPs invested in the YSL Project, Ms. Athanasoulis reasonably believed she would be paid her Profit Share Claim in the ordinary course once the YSL Project was

¹³⁵ *Brown v. Belleville (City)*, [2013 ONCA 148](#) at [para. 73](#); see *Urban Mechanical Contracting Ltd. v. Zurich Insurance Company Ltd.*, [2022 ONCA 589](#) at [para. 78](#).

¹³⁶ Athanasoulis Affidavit, Brief, Tab 1, para. 48.

completed. The Agreement should not have impacted the LPs, and accordingly she did not think it was relevant to disclose. The LPs never asked Ms. Athanasoulis, nor would she have had any reason to think they would be interested in, what commitments YSL had made that bore upon the treatment of remaining profits after LPs had been repaid their investment and return.¹³⁷

182. Even after Ms. Athanasoulis was terminated, there was little risk that Ms. Athanasoulis' claim would affect the LPs. YSL was on sound financial footing, with projected profits of close to \$200 million.¹³⁸ Ample funds *should have* been available to pay both Ms. Athanasoulis and the LPs.
183. But, as Justice Dunphy found, Mr. Casey worked tirelessly to benefit himself at the expense of other stakeholders – including *both* Ms. Athanasoulis and the LPs. Mr. Casey's efforts to maximize his own slice of the pie ultimately resulted in a much smaller pie. The YSL Project was appraised for \$375 million in July 2019, but sold for approximately \$290 million as part of the Proposal.¹³⁹
184. The Proposal also created a limited pool of funds – the \$30.9 million paid by Cresford – that would be paid to either Ms. Athanasoulis or the LPs. Payment of these funds is governed by the priority rules in the *BIA*.
185. Ms. Athanasoulis (or anyone in her position) could not possibly have anticipated that any of this would happen when the LPs invested in YSL. She cannot be liable to the LPs for

¹³⁷ Athanasoulis Affidavit, Brief, Tab 1, para. 48.

¹³⁸ October 2019 YSL Pro Forma, Brief, Tab 14, pg. 1.

¹³⁹ See CBRE Appraisal Report effective July 30, 2019, Brief, Tab 7, p. 2 and compare to Third Report of the Proposal Trustee dated June 18, 2021, Brief, Tab 26, p. 13; Finnegan Report, Brief,, Tab 13, PDF p. 12.

not telling them what *might* happen if she were to be terminated, Mr. Casey destroyed the value of the YSL Project and then made a bankruptcy proposal.

186. Ms. Athanasoulis reasonably believed that she would remain employed, that YSL would honour its obligations under the Agreement and that it would be managed competently, with a view to maximizing profits for all stakeholders. If this had happened, then there would have been no conflict – or potential for conflict – between Ms. Athanasoulis and the LPs. The YSL Project would have realized its profits by sale or development, the LPs would have recovered their investment and their return, and Ms. Athanasoulis would have been paid her Profit Share from the net proceeds.

(iii) Ms. Athanasoulis did not owe the LPs fiduciary duties

187. Regardless, Ms. Athanasoulis (and YSL) did not owe any fiduciary duties to the LPs prior to their investment, and at no point did Ms. Athanasoulis owe them duties in her personal capacity.

188. It is well known that there is no fiduciary duty generally applied to contractual negotiations:

[334] In any negotiations, each party is at the discretion and power of the other party as to the terms of any agreement and whether an agreement is ever achieved. To accept this claim would elevate any and all negotiations between parties, including commercial negotiations between sophisticated parties, to a fiduciary relationship.

[335] There is nothing unusual or exceptional in this case that would create a fiduciary relationship between two commercial parties negotiating a real estate development project or a need in law to expand fiduciary relationships to these situations.¹⁴⁰

¹⁴⁰ *Correct Building Corporation v Lehman*, [2022 ONSC 527](#) at [para. 195](#), [334-335](#).

189. There is also no basis to affix personal liability on Ms. Athanasoulis. To the extent that Ms. Athanasoulis was involved in facilitating the LPs' investment in YSL, she did so as a representative of YSL. Absent fraud, deceit, dishonesty or want of authority, which are not alleged here, a finding of personal liability against an officer can only be made if actions are alleged to be "themselves tortious" (in the sense that they are separate from the allegedly tortious conduct of the corporation) or exhibit a "separate identity of interest from that of the corporation."
190. The *Extreme Ventures* decision does not change this analysis. Rather, it simply confirms that if one meets this test and personal liability is appropriate, then there is no overly formalistic distinction between the personal duties owed to the general partner (of which one is an officer or director) and the limited partnership.¹⁴¹
191. The LPs do not allege that Ms. Athanasoulis' alleged misconduct was distinct from YSL's, and indeed, their affidavits make clear that Ms. Athanasoulis' was clearly understood to be making representations on behalf of YSL.¹⁴² There is also no allegation that Ms. Athanasoulis was acting outside of the best interests of YSL such that her conduct had a "separate identity of interest" from YSL.
192. This is not an appropriate case for an *ad hoc* fiduciary duty against Ms. Athanasoulis, as Ms. Athanasoulis had no "discretionary power" to affect the LPs' interests apart from her role as an officer of YSL.¹⁴³ If Ms. Athanasoulis owed the LPs a fiduciary duty then

¹⁴¹ *Extreme Venture Partners Fund I LP v Varma*, [2021 ONCA 853](#), [paras. 97-106](#).

¹⁴² For example, they note that Ms. Athanasoulis was a senior officer at *Cresford* and that they asked her questions about *Cresford's* recovery.

¹⁴³ *Extreme Venture Partners Fund I LP v Varma*, [2021 ONCA 853](#), [para. 102](#).

virtually every officer of every company would owe a fiduciary duty to virtually every investor. This is contrary to the basic principles of corporate law. The LPs invested in YSL without seeking details of any of its contractual arrangements. They did not seek details of YSL's employee compensation arrangements. They did not seek details about anyone else who might be entitled to payment by YSL.¹⁴⁴

193. The LPs had access to independent advisors, represented they were fully satisfied with the information provided and their level of understanding of the business of YSL, and represented that they did not rely on any advice by YSL.¹⁴⁵
194. Indeed, even if YSL or Ms. Athanasoulis owed fiduciary duties to the LPs, there is no evidence that the Agreement was outside of the best interests of YSL. To the contrary, the evidence shows that YSL had an interest in ensuring Ms. Athanasoulis' continued employment and critical contributions to the success of the YSL Project. That interest was secured by the General Partner when it entered into the Agreement. That would have, in the ordinary course, been in the best interests of the LPs as well.
195. The fact that, through a complex set of circumstances, the Agreement is now contrary to the interests of the LPs in the BIA was not foreseeable to anyone at the time it was entered into.
196. Finally, the *Tridelta* case cited by the LPs is distinguishable. In that case, the limited partnership agreement clearly precluded entering into *any* transactions with related parties

¹⁴⁴ Athanasoulis Affidavit, Brief, Tab 1, para. 35.

¹⁴⁵ Subscription Agreement, Brief, Tab 32, s 3.1 on PDF p. 4.

without written approval of the limited partners.¹⁴⁶ This is a relatively common term that the LPs could have bargained for in this case. They did not. Instead, they now seek to effectively conjure a prohibition on related party transactions from representations that were not made and duties that did not exist.

197. The LP Agreement contains no such restriction. Further, in *Tridelta*, the offending agreement was entered into after the limited partners had become partners. Ms. Athanasoulis' Agreement (albeit an earlier iteration in which her Profit Share was 10% rather than 20%) predated the LP Agreement.

F. Ms. Athanasoulis is Not Disentitled to her Profit Share Claim if the Profits are Earned After her Notice Period

198. The LPs argue that Ms. Athanasoulis is not entitled to any payment on account of her Claim because her entitlement expired in December 2021 at the expiry of her two-year notice period. Setting aside that the appropriate notice period has never actually been determined, this is not a ground for disallowing the Claim for at least three reasons.
199. First, the relevant date for quantification of Ms. Athanasoulis' Claim was December 2019, and the quantity and basis on which hypothetical profits would have been earned when quantified at that date is a matter to be determined in a further damages quantification hearing. Profits are not only payable when the YSL Project was completed, as the LPs suggest. They would also have been payable in the case of a sale. Therefore, the Trustee is not yet in a position to determine what the value of Ms. Athanasoulis' damages would have

¹⁴⁶ *Tridelta Financial Partners Inc v Zephr Alb Ser-A 4.875% Jan 25*, [2020 ONSC 5211](#), para. 8.

been as of December 2019 and whether this would have been premised on a sale prior to December 2021 or something else.

200. Second, as described above, profits were in fact earned through the sale of the YSL Project to Concord by December 2021.
201. Third, and most fundamentally, the Arbitrator expressly held that Ms. Athanasoulis' entitlement to the Profit Share Claim was not contingent on her continued employment at YSL. This is reflective of both the magnitude of her contributions, and the uniquely project-based nature of the condominium development industry.¹⁴⁷ The Arbitrator recognized the very issue seized upon by the LPs – that profits might take many years to be earned and thus Ms. Athanasoulis would be delayed in her ability to be paid on account of the Agreement, including to a time where she was no longer employed by Cresford – and found that this could not be used by Cresford as a way to avoid paying the Profit Share Claim:

It is not in dispute that, in the ordinary course, it would take several years (possibly 5 to 7 years) to complete the types of projects Cresford was undertaking. That was the case with respect to the YSL Project. The 20% PSA necessarily implied a mutual commitment on both sides to work to the objective of making a profit over that period of time. It would defeat the fundamental purpose of the agreement if Cresford could increase its profit share by 20% and decrease Athanasoulis' share to zero, possibly after several years of crucial contributions by her in the form of advance sales etc, simply by terminating her employment on notice.¹⁴⁸

202. The Supreme Court's finding in *Matthews v. Ocean Nutrition Canada Ltd.* does not impact this determination by the Arbitrator. In fact, the *Matthews* case arose in precisely the opposite scenario, where an employee benefit was contingent on "active employment". The

¹⁴⁷ Partial Award, Brief, Tab 2, para. 161.

¹⁴⁸ Partial Award, Brief, Tab 2, para. 160.

decision simply confirms that where a bonus is an element of employee compensation, then the mere fact that a bonus would have been payable during a notice period rather than when an employee was “actively employed” cannot disentitle an employee to that benefit when they are terminated (absent clear contractual waiver). This is because the contract effectively “remains alive” for the duration of the notice period for the purposes of assessing the employee’s damages.¹⁴⁹

203. In this case, the issue is not whether Ms. Athanasoulis’ would have been considered sufficiently “actively employed” during her notice period so as to be entitled to an employment benefit. The Profit Share was determined by the Arbitrator to be completely divorced from her continued employment at Cresford and YSL. The Supreme Court did not purport to say that *no* employee incentive agreement can *ever* be negotiated to survive termination of employment, including expiry of the notice period. And indeed, in recommending a two-part test that considers whether the terms of the relevant contract changes a common law right, it could indeed be read as endorsing YSL’s ability to enter into the Agreement with Ms. Athanasoulis in a way that had no restriction to continued employment or any particular time period.

V. CONCLUSION

204. For the reasons set out above, Ms. Athanasoulis submits that the Profit Share Claim should be allowed by the Trustee, with its value to be fully determined in a further quantification hearing.

¹⁴⁹ *Mathews v. Ocean Nutrition Canada Ltd.*, [2020 SCC 26](#), para. 54.

May 5, 2023

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**IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3,
AS AMENDED**

**AND IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL
OF YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.**

Consolidated Court File No. 31-2734090

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**SUBMISSIONS OF MARIA ATHANASOULIS
(Re: Trustee's Draft Notice of Disallowance)**

845

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9

GUARANTEE

TO: • (the "Limited Partner")

WHEREAS the Limited Partner has agreed to subscribe for Class A Preferred Units (the "Units") of YG Limited Partnership (the "Partnership") for a subscription price of \$ _____ (the "Subscription Price") pursuant to a subscription agreement dated as of the _____ day of July, 2017, between the Limited Partner and the Partnership (as it may be amended from time to time, the "Subscription Agreement"), pursuant to which, among other things, the Limited Partner agreed to be bound by the amended and restated limited partnership agreement dated as of the _____ day of July, 2017, respecting the Partnership (as it may be amended from time to time, the "Partnership Agreement");

AND WHEREAS as a condition of the Limited Partner agreeing to subscribe for the Units for the aforesaid subscription price, the Limited Partner requires this Guarantee;

NOW THEREFORE, IN CONSIDERATION of the Limited Partner subscribing for the Units and paying the Subscription Price pursuant to the Subscription Agreement, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned (the "Guarantors") hereby irrevocably and unconditionally, as principal debtors and not as sureties, jointly and severally covenant to pay to the Limited Partner an amount equal to the amount of the Subscription Price plus an amount equal to the greater of:

- (a) an amount equal to the Subscription Price; and
- (b) a compounded and cumulative preferred annual return of fourteen and eighty-six one-hundredths percent (14.86%) calculated from the date of the payment of the Subscription Price,

(the "Guaranteed Amount") on the earlier of the following dates:

- (i) the date of the sixth anniversary of the payment of the Subscription Price by the Limited Partner to the Partnership; and
- (ii) the date that is 30 days after the date on which the last condominium unit or other portion of the Property (as defined in the Partnership Agreement) is sold and transferred to a bona fide arm's length purchaser, so that there are no remaining units or other portions of the Property remaining owned by the Partnership,

(the "Payment Date") and agree to indemnify the Limited Partner against any and all losses, damages, costs, charges and expenses which the Limited Partner may at any time or from time to time suffer, incur or become liable for by reason of or, in connection with or resulting from or occasioned by any breach by the Partnership or the General Partner (as defined in the Partnership Agreement) of any of the provisions contained in section 6.3 of the Partnership Agreement or by reason of the Limited Partner not receiving the amounts it is entitled to be paid under section 6.3 of the Partnership Agreement by the Payment Date.

1. The Guarantors agree that:

- (a) the Limited Partner may, at any time and from time to time without notice to or any consent or concurrence by the Guarantors, grant time, renewals, extensions, indulgences, releases and discharges to, take additional security from and give up the same in any or all of the security that it is receiving from the Partnership, abstain from taking any enforcement proceedings that it may be entitled to and otherwise deal with the Partnership and others as the Limited Partner may see fit, including entering into any renewal agreements, extension agreements, amending agreements or dealing with the Units in any other manner and may apply all monies at any time received from the Partnership or others upon such part of the obligation of the Partnership as the Limited Partner deems best and change any such application in whole or in part without in any way limiting or lessening the liability of the Guarantors to the Limited Partner;

- (b) the Limited Partner shall not be bound to exhaust its recourse against the Partnership or others before requiring or being entitled to payment from the Guarantors;
- (c) no change or extension of time or other indulgence or release of the Partnership or anyone claiming through the Partnership, either before or after demand or claim against the Guarantors or any arrangement or other dealing by the Limited Partner with the Partnership or any other person, either before or after demand or claim against the Guarantors, or the bankruptcy or insolvency of the Partnership, or the release, exchange, acceptance or failure to perfect by the Limited Partner of any security, either before or after demand or claim against the Guarantors, shall in any way release, waive, vary, affect or prejudice the rights of the Limited Partner against the Guarantors, notwithstanding that the Limited Partner may not give notice thereof to the Guarantors, and the Guarantors hereby waive, to the maximum extent permitted by law, any requirement of notice, demand or prior action against the Partnership or any other security and hereby renounce all benefits of discussion and division;
- (d) the Guarantors shall have no right to be subrogated to the rights of the Limited Partner until all liabilities and obligations of the Partnership, and of the Guarantors under this Guarantee, to the Limited Partner have been satisfied in full;
- (e) the covenants of the Guarantors shall continue for the full term of the Partnership Agreement unless a release in writing has been authorized by the Limited Partner and shall be binding upon the heirs, executors, administrators, successors and permitted assigns of the Guarantors;
- (f) the Guarantors shall make payment to the Limited Partner forthwith after demand for payment is made in writing, which demand may be made only after a default under the Partnership Agreement has occurred in paying any amounts to which the Limited Partner is entitled;
- (g) it is the intention of the parties that if for any reason the Partnership or General Partner has no legal existence and is or becomes under no legal obligation to pay any moneys owing in respect of the Units to the Limited Partner, or if any such amounts become irrecoverable from the Partnership by operation of law or for any reason whatsoever, this covenant and the covenants, agreements and obligations of the Guarantors contained herein shall nevertheless be binding upon the Guarantors as principal debtors until such time as the Guaranteed Amount owing to the Limited Partner has been paid in full;
- (h) this covenant shall be in addition to and not in substitution for any other guarantees or other securities which the Limited Partner may now or hereafter hold in respect of the Units and the Limited Partner shall be under no obligation to marshal in favour of the Guarantors any other covenants or other securities or any moneys or other assets which the Limited Partner may be entitled to receive or may have a claim upon; and no loss of or in respect of or unenforceability of any other covenants or other securities which the Limited Partner may now or hereafter hold in respect of the Units whether occasioned by the fault of the Limited Partner or otherwise shall in any way limit or lessen the Guarantors' liability;
- (i) the Limited Partner shall not be obliged to make any demand upon, or take any proceedings, or action against the Partnership, the General Partner or any other person before pursuing its rights against the Guarantors pursuant hereto. In the event the Limited Partner in its absolute discretion makes demand upon the Guarantors, the Guarantors shall be held and be bound to the Limited Partner directly as principal debtors in respect of the payment of the amounts hereby guaranteed. Demand for payment shall be deemed to have been effectively made upon the Guarantors if and when an envelope containing such demand addressed to the Guarantors at 170 Merton Street, Toronto, Ontario, M4S 1A1 is delivered by courier; and
- (j) this Guarantee will remain in full force and effect until repayment in full of the Guaranteed Amount.

2. This Guarantee shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
3. Upon satisfaction in full of the obligations owing to the Limited Partner pursuant to section 6.3 of the Partnership Agreement, the Guarantors shall be released from this Guarantee.
4. A telefaxed or electronically transmitted copy of a signed counterpart of this Guarantee may be relied upon to the same extent as the original executed version.

The Guarantors have executed this Guarantee as of the _____ day of July, 2017.

DANIEL C. CASEY

2502295 ONTARIO INC.

Per: _____
Daniel C. Casey

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YSL
YONGE STREET LIVING RESIDENCES

Cresford

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Overview of Cresford

Cresford Developments (Cresford) is a group of private companies and partnerships wholly owned by Daniel C. Casey and his family trust.

In business for over 40 years, under the leadership of Mr. Casey and his talented Executive Management Team, Cresford has completed over 60 residential developments and over 20,000 residences.

With a proven track record, Cresford relies on its profound understanding of the Toronto real estate market and in-depth knowledge to transform each location through thoughtful and correct decisions on architecture, product and quality. The ability to execute a winning sales formula and the capability to control its own construction management have solidified the company's success. Cresford's proven commitment to deliver on its promise to the consumer has helped define Cresford as a mid market luxury brand in the Downtown Toronto condominium market.

Cresford has a long-standing and solid relationship with all levels of government in Canada including municipal, provincial and federal. It is proud to have met the exacting governance standards and rigorous due diligence requirements of various public institutions and to have been selected by them to partner on real estate transactions that strengthen Toronto communities. Most recent partners include The Children's Aid Society, YMCA, Canada Post Corporation, British Columbia Investment Management Corporation and Ryerson University.

Mr. Casey's vast business experience extends beyond his primary focus on residential development. He is also a founding shareholder and board member of Onex Corporation, one of the largest publicly traded private equity investment firms in Canada.

Cresford's successful history has led to alliances with top professionals, consultants and business owners to create the very best residential communities.

For the past 40 years, our mission is to be Canada's number one choice for modern, luxury condominium living. We strive to bring the latest, most innovative condominium lifestyles that appeal to today's smart, savvy, sophisticated purchasers. We associate with world-leading fashion and luxury brands as well as renowned architects and design firms to create the ultimate signature expression of elegant condominium living. We are driven by our commitment to create products that are truly special that meet our consumers demands. Cresford has a reputation of building timeless, high quality, design focused landmark developments.

The Cresford Difference

- ✓ Timeless architecture
- ✓ Exceptional locations
- ✓ Marketing experience that connects the purchaser with the location and product
- ✓ Strong branding
- ✓ Well-established company with a proven track record



Timeline 2009 – Current

Cresford commands a high price per square foot in comparison to its competitors and the premium is reflected in its product.

In the last 8 years, Cresford has cultivated a combined portfolio of over 6,000 residential units, 187,000 sf of retail space, 220,000 sf of office, totaling over \$3 billion dollars of value.



YSL Investment Opportunity

With Cresford's strength in the market place for over 40 years and a well-established business model, we want to provide investors with the opportunity to experience the Cresford difference and create a long term relationship with an exclusive few to share in our continued successes.

Exceptional Location

- ✓ High profile position at the corner of Yonge and Gerrard
- ✓ One block from the Toronto Eaton Centre, which attracts the most visitors of any of Toronto's tourist attractions. It is North America's busiest mall
- ✓ Steps from Yonge & Dundas, ranked as Toronto's Busiest Intersection with 129,704 in weekly traffic volume (Source: City of Toronto Transportation Services, 2015)
- ✓ The Property is also in close proximity to the University of Toronto, Ryerson University, Mount Sinai Hospital, Toronto General Hospital, SickKids Hospital, Dundas Square and Toronto Eaton Centre

Highly Accessible

- ✓ The College and Dundas subway stations are just steps from the Property, providing direct access to the Yonge-University subway line and connections to the Bloor-Danforth subway line.
- ✓ Union Station, Toronto's main transit hub is only three stops south of Dundas subway station and offers commuter services throughout the GTA and the surrounding areas via Toronto Transit Commission (TTC), GO Transit bus and train routes, Greyhound buses, and the VIA Rail system.

Overview of Investment

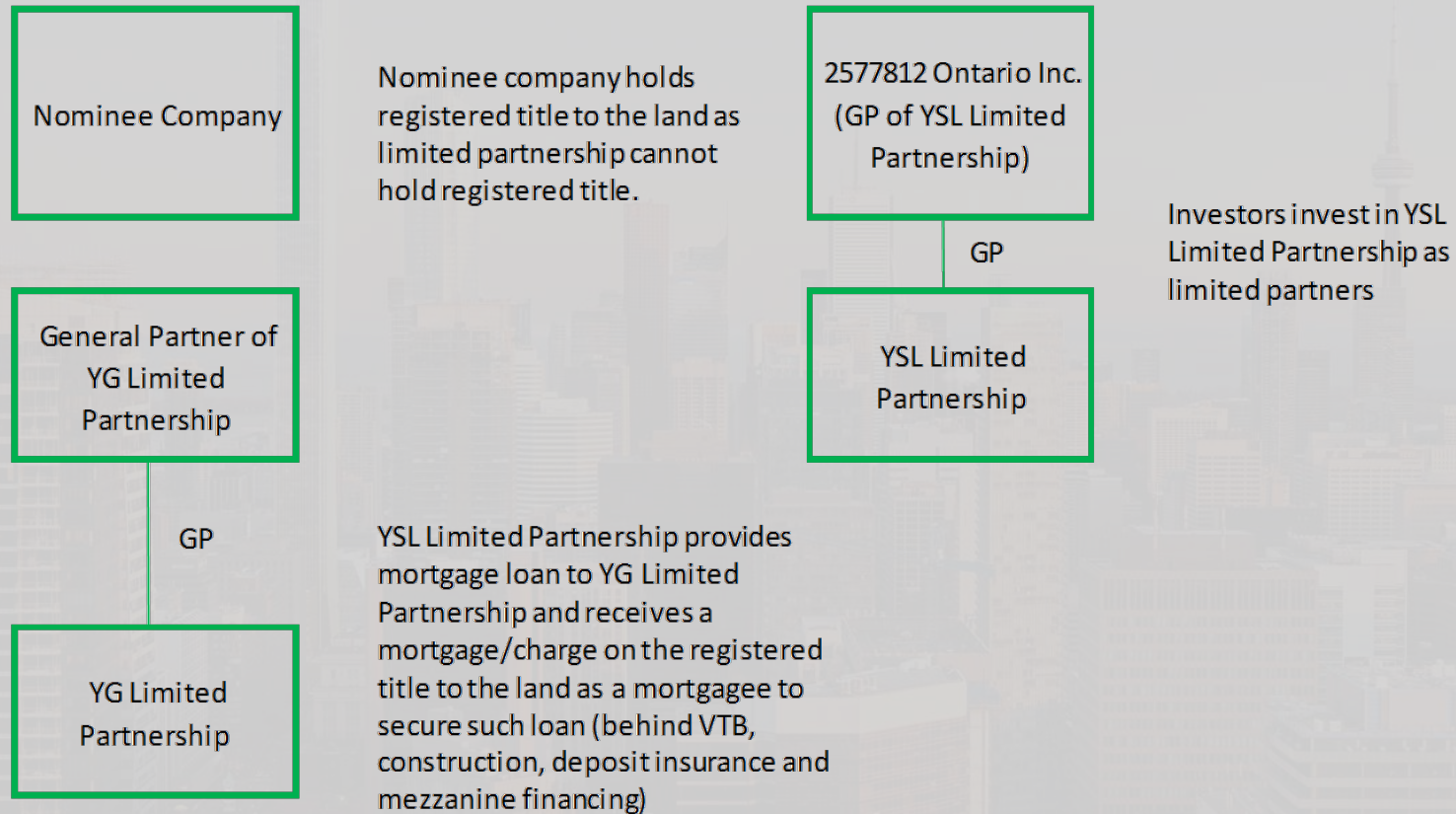
- Investors invest in the partnership units as limited partners of YSL LP.
- YSL LP provides a mortgage to YG LP (the mortgage will be ranked junior to construction lenders, mezzanine lenders and deposit insurers).
- Upon the completion of the project, the investor will receive its invested capital along with an investment return of 100% of the invested capital.

Overview of Security

The limited partners of YSL LP have the following securities for their investments in the limited partnership units of YSL LP:

- A standard charge is registered on title of the land indicating that YSL LP is a mortgagee of the land.
- The nominee company, the registered owner of the land provides a corporate guarantee to YSL LP.

Overview of Investment Structure



Distribution of Invested Capital and Return

Revenue proceeds (after payment of project expenses) will be distributed at the end of the project in the following priority:

- First, repayment of all external lenders;
- Second, return of invested capital to the investor;
- Third, distribute the agreed upon return on investment to the investor; and
- Fourth, distribution to Cresford.

YSL Pro Forma Income Statement

YSL pro forma income statement	
Total building area	1,046,241 s.f
Total saleable area - Residential	756,453 s.f
Total saleable area - Office	105,817 s.f
Total saleable area - Retail	92,493 s.f
Project revenue	\$
Residential	820,756,750
Office	38,080,834
Retail	123,010,746
Parking and lockers and other	35,550,000
Recoveries (Tarion/development charges)	23,572,845
Total project revenue	1,040,971,173
Project costs	
Land purchase	168,000,000
Land transfer tax	5,082,400
Development levies and permits	72,396,998
Construction costs	309,871,381
Design, marketing and administration	126,368,532
Tarion fees	1,571,545
Total project costs	683,290,855
Net project income before financing	357,680,318
Financing costs	225,052,212
Net project income	132,628,106

Contact

Daniel C. Casey

416.971.7757

dan@cresford.com

Forward-looking Statements

This presentation may contain forward-looking statements and information relating to expected future events and financial and operating results and projections, including statements regarding growth and investment opportunities and targeted returns, that involve risks and uncertainties. Such forward-looking information is typically indicated by the use of words such as “will”, “may”, “expects” or “intends”. The forward-looking statements and information contained in this presentation include statements regarding expected or targeted investment returns and performance. These statements are based on management’s current expectations, intentions and assumptions which management believes to be reasonable having regard to its understanding of prevailing market conditions and the current terms on which investment opportunities may be available.

Projected returns are based in part on projected cash flows for incomplete projects. Numerous factors, many of which are not in Cresford’s control, and including known and unknown risks, general and local market conditions and general economic conditions (such as prevailing interest rates and rates of inflation) may cause actual investment performance to differ from current projections. Accordingly, although we believe that our anticipated future results, performance or achievements expressed or implied by the forward-looking statements and information are based upon reasonable assumptions and expectations, the reader should not place undue reliance on forward-looking statements and information. If known or unknown risks materialize, or if any of the assumptions underlying the forward-looking statements prove incorrect, actual results may differ materially from management expectations as projected in such forward-looking statements.

Cresford and its affiliates disclaim any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, unless required by applicable law.

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**Third Report to Court of
KSV Restructuring Inc. as Proposal
Trustee of YG Limited Partnership and
YSL Residences Inc.**

June 18, 2021

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COURT FILE NO.: 31-2734090

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**THIRD REPORT TO COURT OF
KSV RESTRUCTURING INC. AS PROPOSAL TRUSTEE**

JUNE 18, 2021

1.0 Introduction

1. This report (“Report”) is filed by KSV Restructuring Inc. (“KSV”) in its capacity as proposal trustee (the “Proposal Trustee”) in connection with Notices of Intention to Make a Proposal (“NOIs”) filed on April 30, 2021 (the “Filing Date”) by YG Limited Partnership (the “Partnership”) and YSL Residences Inc. (“Residences”, and together with the Partnership, the “Companies”), pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”).
2. On May 14, 2021, the Ontario Superior Court of Justice (Commercial List) (the “Court”) issued an order (the “Consolidation Order”) procedurally and substantively consolidating the NOI proceedings of the Partnership and Residences (the “NOI Proceedings”) for the purpose of simplifying the administration of the NOI Proceedings, including the filing of a joint proposal and convening a single meeting of creditors. A copy of the Consolidation Order is attached as Appendix “A”.
3. The principal purpose of these proceedings is to create a stabilized environment to allow the Companies to present a proposal that provides creditors with a recovery greater than they would receive in a bankruptcy or alternative insolvency process.
4. On May 27, 2021, the Companies filed a proposal with the Official Receiver in accordance with Section 62(1) of the BIA (the “Proposal”). A Certificate of Filing a Proposal (the “Certificate”) was issued by the Office of the Superintendent of Bankruptcy (Canada) (“OSB”) on May 28, 2021. On June 3, 2021, the Companies filed an amended proposal to include Conditional Claims (as defined below) and make other clarifications to the Proposal (the “First Amended Proposal”). On June 15, 2021, the Companies filed another amendment (the “Second Amendment”) to the First Amended Proposal, which narrowed the scope of the releases (the “Amended Proposal”). Copies of the Amended Proposal and the Certificate are attached as Appendices “B” and “C”, respectively.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Companies;
 - b) summarize the results of the meeting of creditors held on June 15, 2021 to consider and vote on the Amended Proposal (the “Meeting”);
 - c) provide the statutory disclosure required under Sections 58(d) and 59(1) of the BIA; and
 - d) provide the Proposal Trustee’s recommendation to the Court with respect to:
 - i. the approval of the Amended Proposal; and
 - ii. sealing the confidential appendices to this Report on the terms set out below.

1.2 Currency

1. All currency references in this Report are to Canadian dollars.

1.3 Definitions

1. Capitalized terms not defined in the Report have the meanings provided to them in the Amended Proposal.

1.4 Restrictions

1. In preparing this Report, the Proposal Trustee has relied upon unaudited financial information prepared by the Companies’ representatives, the Companies’ books and records and discussions with representatives of the Companies and Concord Properties Developments Corp., the sponsor of the Amended Proposal (the “Sponsor”), and Concord Adex Inc. (“Concord”), an entity related to the Sponsor.
2. The Proposal Trustee has been provided with two appraisals by CBRE Limited (“CBRE”) - one with an effective date of July 30, 2019 issued to Cresford Developments and one with an effective date of March 16, 2021 (the “2021 CBRE Appraisal”) issued to Concord (collectively, the “CBRE Appraisals”). The Proposal Trustee has assumed that the CBRE Appraisals accurately reflect the YSL Project (as defined in Section 2.1 below).
3. The Proposal Trustee has not performed an audit or other verification of the financial and other information provided to it. An examination of the Companies’ financial forecasts as outlined in the Chartered Professional Accountants of Canada Handbook has not been performed. Future oriented financial information relied upon in this Report is based on the Companies’ and Concord’s assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Proposal Trustee expresses no opinion or other form of assurance with respect to the accuracy of any financial information or the Appraisals presented in this Report or relied upon by the Proposal Trustee in its preparation of this Report.

4. Any sale, restructuring and/or realization process for the YSL Project (as defined in Section 2.1 below) could be affected by the Covid-19 pandemic and the effect of the pandemic on any such process cannot be predicted or projected at this time.

2.0 Background

2.1 Overview

1. The Partnership was formed on February 3, 2016 under *The Partnership Act*, C.C.S.M. c. P30 (Manitoba). 9615334 Canada Inc. (the “GP”) is the Partnership’s general partner. The GP has not filed an NOI. Residences was incorporated on January 28, 2016 under the *Business Corporations Act* (Ontario).
2. The Companies are part of the Cresford Group of Companies (“Cresford”), a real estate developer and builder. A corporate organization chart for Cresford is attached as Appendix “D”.
3. Residences is the registered owner of the real properties municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario (the “Real Property”), acting as a bare trustee and nominee of, for and on behalf of the Partnership.
4. The Partnership is the beneficial owner of the Real Property and was formed for the purpose of developing the Real Property into a mixed-use office, retail and residential condominium development comprised of approximately 1,100 residential units, 190,000 square feet of commercial/retail/institutional space and 242 parking spaces known as Yonge Street Living Residences (the “YSL Project”). As of the Filing Date, approximately 800 residential condominium units had been pre-sold, with such contracts executed by Residences and each respective purchaser (each, a “Condo Purchase Agreement”).
5. On May 11, 2021, the Companies disclaimed 56 Condo Purchase Agreements. The Companies advised that the purchase agreements disclaimed were under market and, therefore, the disclaimers improved the value of the YSL Project and enhanced the prospects of a viable proposal being made by the Companies. The Proposal Trustee consented to the disclaimers. No objections to the disclaimers were received.
6. Construction of the YSL Project has been suspended for more than a year and it is presently part way through the excavation and shoring stage, with no ongoing work being completed on the site at this time, other than ongoing dewatering and monitoring work required by the City of Toronto.
7. Pursuant to an agreement dated April 30, 2021 between the Companies, certain Cresford entities and the Sponsor (the “Sponsor Agreement”), the Sponsor agreed to sponsor the Amended Proposal by way of, *inter alia*, agreeing to fund the distributions contemplated by the Amended Proposal. In consideration for the payments contemplated under the Amended Proposal, if the Amended Proposal is implemented, the Sponsor or another Concord-affiliate will become the owner of the Real Property and developer of the YSL Project, with a view to resuming construction work expeditiously. A copy of the Sponsor Agreement is attached as Appendix “E”.
8. The Companies’ mortgagees consented to the Sponsor Agreement.

2.2 Applications by the Limited Partners

1. Certain of the Partnership's limited partners (the "LPs") have commenced separate applications (collectively, the "LP Applications") seeking Orders declaring that, among other things: a) the GP is terminated as general partner of the Partnership; b) any agreements entered into by the GP with the Sponsor are null and void; and c) the GP breached its duty of good faith to the LPs. Additionally, certain of the LPs are seeking the appointment of an equitable receiver.
2. Timbercreek Mortgage Servicing Inc. ("Timbercreek") is the Companies' senior mortgagee. The Proposal Trustee is advised that the Companies defaulted on their obligations to Timbercreek in early 2020. Pursuant to an agreement dated March 26, 2020 among Timbercreek, the Companies and two Cresford entities (the "Forbearance Agreement"), Timbercreek agreed to, among other things, forbear from enforcing its security against the Real Property. Timbercreek subsequently brought a motion to appoint a receiver on November 13, 2020. Pursuant to amendments to the Forbearance Agreement, the receivership application was adjourned several times and remains pending. If the NOI proceedings are discontinued, or if the Amended Proposal is not accepted by the creditors or approved by the Court, Timbercreek has scheduled an application for the appointment of a receiver on July 12, 2021. Timbercreek has advised that if the Amended Proposal is not approved on the return of this motion, it may seek the immediate appointment of a receiver.
3. On June 1, 2021, the Court heard motions by the LPs to, among other things, lift the stay of proceedings pursuant to Section 69(1) of the BIA and to authorize the LPs to bring the LP Applications. Pursuant to an endorsement made on the same day (the "June 1st Endorsement"), the Court, among other things, set a litigation timetable in respect of a hearing on June 23, 2021 where certain of the LPs' arguments could be made at the same time as Court approval of the Amended Proposal, should the Amended Proposal be accepted by the Affected Creditors voting at the Meeting. As set out below, the statutory majority of creditors voted to accept the Amended Proposal and therefore the hearing on June 23, 2021 will consider the LP Applications and the Companies' motion for Court approval of the Amended Proposal. A copy of the June 1st Endorsement is provided as Appendix "F".
4. Court materials filed in these proceedings, including the Proposal Trustee's First Report to Court dated May 6, 2021 (the "First Report") and its Second Report to Court dated May 14, 2021, are available on the Proposal Trustee's website at <https://www.ksvadvisory.com/insolvency-cases/case/yg-limited-partnership>.
5. Additional information about these proceedings, including additional background on the Companies, the LP Applications, and the Companies' current financial position is included in the Proposal Trustee's Report to Creditors dated June 4, 2021 (the "Report to Creditors"). A copy of the Report to Creditors is provided in Appendix "G", without attachments, and can also be found on the Proposal Trustee's website.

3.0 Creditors

1. On June 4, 2021, the Proposal Trustee mailed to each creditor and posted on its website a creditors' package, including a Proof of Claim form, voting letter and the Report to Creditors.

2. A summary of the Companies' liabilities based on its books and records is presented below. The table includes all claims as of the date the Proposal was filed, with interest projected on secured creditor claims to June 30, 2021, which is the approximate implementation date if the Amended Proposal is approved by the Court.

(\$000s)	
Creditors	Amounts
Secured Creditors/Mortgagees	
Timbercreek	106,799
Westmount	112,446
2576725 Ontario	30,865
City of Toronto – property taxes	729
Total Secured Creditors	250,839
Other Creditors and Related Party Creditors	
Construction Lien Claimants	11,865
Third party unsecured creditors	13,043
Related Party Creditors	38,274
Other Creditors and Related Party Creditors	63,182
Total	314,021

3. A list of known creditors based on the Statement of Affairs dated May 27, 2021 sworn by Daniel C. Casey, an officer of the Companies, is attached as Appendix "H".
4. A summary of the claims filed by the Companies' creditors as of the date of the Meeting is provided below¹.

Creditor	Amount (\$000)	
Affected Claims		
Third party general unsecured claims	1	24,284
Convenience Creditor Claims	2	107
Conditional Claims	3	2,072
Contingent claims	4	22,709
Related Party Claims	5	38,284
Total Affected Claims		87,456

Notes

1. Represents unsecured claims filed by third party creditors, not including Convenience Creditor Claims, Conditional Claims, and Claims determined by the Proposal Trustee as contingent pursuant to Section 135 (1.1) of the BIA.
2. Represents unsecured claims filed by third party creditors that are either: i) in an amount less than or equal to \$15,000; or ii) in an amount greater than \$15,000 if the relevant Creditor submitted a valid Convenience Creditor Election Form prior to 5:00pm on June 14, 2021.
3. Discussed further in Section 4.3 below
4. Discussed further in Section 4.4 below
5. Discussed further in Section 4.5 below

¹ Represents amounts reflected in filed proofs of claim, where applicable. The claims remain subject to review and determination by the Proposal Trustee.

5. Since the Meeting, two additional claims have been filed in the amounts of \$4.9 million and \$17,000. While the claims were not included in the voting results, the creditor which filed the larger claim (\$4.9 million) submitted a voting letter in favour of acceptance of the Amended Proposal.

4.0 The Amended Proposal

1. The terms of the Amended Proposal were set out in Section 4 of the Report to Creditors and are summarized below.

4.1 Purpose and Effect

1. The overall purpose of the Amended Proposal is to:
 - a) provide for payment in full of the Secured Claims; and
 - b) make a distribution of up to 58% of the amounts owing to each Affected Creditor.
2. In consideration for, among other things, the Sponsor's sponsorship of the Amended Proposal, including the satisfaction of all Secured Claims, Preferred Claims and the establishment of the Proposal Fund in the maximum amount of \$37.7 million (discussed further below in Section 4.2), on the Proposal Implementation Date, title to the Real Property, subject only to the Permitted Encumbrances, as well as the Companies' interests and obligations under the Assumed Contracts and Condo Purchase Agreements, shall be acquired by the Sponsor, or its nominee.

4.2 Dividend Amount

1. If the total Proven Claims are less than \$65 million (the "Maximum Proposal Claims Amount"), Affected Creditors are to receive a distribution of 58% of the face value of their Affected Creditor Claims (the "Affected Creditor Share"). If the total Proven Claims exceed \$65 million, Affected Creditors are to receive an amount equal to the face value of such Affected Creditor Claim multiplied by the formula $0.58 \times (X/Y)$ where "X" equals the Maximum Proposal Claims Amount and "Y" equals the aggregate total amount of Proven Claims (the "Affected Creditor Pro Rata Share").
2. In Section 4.8 of the Report to Creditors, the Proposal Trustee advised that estimated Affected Creditor Claims based on the list of known creditors at the date the Amended Proposal was filed totalled \$63.2 million. The Proposal Trustee noted that *"the estimated Affected Creditor Claims do not include a provision for Conditional Claims, litigation claims or other unknown claims. Amounts filed in the claims process may be materially different from the amounts as recorded in the Companies' books and records and could exceed \$65 million. Accordingly, the dividend to Affected Creditors may be less than 58% of the face value of the Affected Creditor Claims."*
3. As described in Section 3 above, as at the date of this Report, the Proposal Trustee received 59 claims totalling \$92.4 million, which include Conditional Claims, contingent claims, and other claims where the amounts were unknown as at the date the Amended Proposal was filed. Certain of these claims, if accepted as Proven Claims, could result in the total Affected Creditor Claims exceeding \$65 million, therefore resulting in the Affected Creditors receiving the Affected Creditor Pro Rata Share.
4. If the disputed claims are not resolved consensually, they may need to be adjudicated.

4.3 Conditional Claims

1. Conditional Claims include, but are not limited to, any Claim of an Affected Creditor that is not a Proven Claim as at the Filing Date because one or more conditions precedent to establish such Affected Creditor's entitlement to payment by the Companies had not been completed in accordance with any applicable contractual terms as at the Filing Date, and such Affected Creditor has indicated in its proof of claim that the Claim should be treated as a Conditional Claim.
2. Pursuant to the Amended Proposal, the Conditional Creditors have until 5:00 pm (Toronto Time) on September 13, 2021 (the "Conditional Claim Completion Deadline") to complete or otherwise satisfy all outstanding pre-conditions to payment in accordance with the terms of the applicable agreement between such Affected Creditor and the Companies (the "Conditional Claim Conditions") and provide proof of such completion to the Proposal Trustee.
3. As of the date of this Report, the Proposal Trustee has received 11 claims in the aggregate amount of \$2.1 million which meet the criteria definition of Conditional Claims, all of which relate to claims of real estate brokers in respect of commissions on condominium sales where one or more conditions precedent remain outstanding (such as proof of financing or payment of deposits). If brokers with Conditional Claims satisfy the Conditional Claim Conditions, the quantum of the total Affected Creditor Claims will increase.

4.4 Contingent Claims

1. Contingent Claims totalling \$22.7 million were filed by former Cresford employees. The employees have advanced claims alleging that the Companies are a common employer in respect of, *inter alia*, wrongful dismissal, unpaid bonuses, commissions and profit sharing.
2. The largest employee claim was filed by Maria Athanasoulis, the former President and Chief Operating Officer of Cresford. Ms. Athanasoulis's claim is in the amount of \$19 million and is related to a Statement of Claim she filed on January 21, 2020 against the Companies, other Cresford affiliates and Mr. Casey (the "Athanasoulis Claim"). The Athanasoulis Claim is in respect of, among other things, allegations of:
 - a) wrongful dismissal; and
 - b) damages for breach of an oral agreement that the owner of each Cresford project, including the YSL Project, would pay Ms. Athanasoulis 20% of the profits earned on each project (the "Profit Sharing Agreement").
3. The support provided in the Athanasoulis Claim includes, among other things, an unsigned employment agreement dated November 1, 2014 as between Cresford and Ms. Athanasoulis (the "Unsigned Employment Agreement"). A copy of the Athanasoulis Claim is attached as Appendix "I".

4. The Proposal Trustee is aware that Ms. Athanasoulis filed similar claims in the insolvency proceedings of other Cresford affiliates, including in the proceedings commenced by The Clover on Yonge Inc. and the Clover on Yonge Limited Partnership pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "Clover CCAA Proceedings"). Mr. Justice Hainey issued an endorsement dated January 8, 2021 in the Clover CCAA Proceedings (the "Justice Hainey Endorsement") pursuant to which he stated that Ms. Athanasoulis's claim is "too speculative and remote" and therefore was not admitted for voting purposes. An unofficial transcript of the Justice Hainey Endorsement is attached as Appendix "J".
5. The Proposal Trustee reviewed the Athanasoulis Claim and determined it to be a Contingent Claim for an unliquidated amount that was too speculative to be admitted (or otherwise should be valued at nil) for voting purposes for the following reasons:
 - a) the existence and terms of the oral Profit Sharing Agreement and wrongful dismissal have not been proven and are the subject matter of ongoing litigation;
 - b) the efficacy of the Unsigned Employment Agreement is uncertain; and
 - c) the treatment of the similar claim filed by Ms. Athanasoulis in the Clover CCAA Proceedings.
6. Email correspondence between Davies Ward Phillips & Vineberg LLP ("Davies"), the Proposal Trustee's counsel, and Goodmans LLP ("Goodmans"), Ms. Athanasoulis's counsel, concerning the Proposal Trustee's intended treatment of her claim for voting purposes at the Meeting is provided as Appendix "K".
7. Five additional claims totaling \$3.7 million which were filed by various former employees of Cresford, each of which is represented by Naymark Law ("Naymark"), were also treated as Contingent Claims in unliquidated amounts although there was some basis for valuing two of these Contingent Claims for voting purposes. The Proposal Trustee's intended treatment of each of these claims for voting purposes at the Meeting was set out in email correspondence between Davies and Naymark, a copy of which is attached as Appendix "L".

4.5 Related Party Claims

1. Cresford (Rosedale) Developments Inc. ("Cresford Rosedale"), East Downtown Redevelopment Partnership ("EDRP") and Oakleaf Consulting Ltd. ("Oakleaf" and together with Cresford Rosedale and EDRP, the "Related Party Creditors") are entities within the Cresford Group that are related to the Companies. In aggregate, the Companies' books and records reflect that the Related Party Creditors are presently owed approximately \$38.3 million in respect of amounts that they have advanced to the Companies or expenses that they funded on the Companies' behalf (the "Related Party Claims").
2. The Related Party Claims represent a significant portion of the total pool of potential Affected Creditor Claims.
3. The LPs and Goodmans, on behalf of Ms. Athanasoulis, have raised concerns regarding the Related Party Claims, including that the amounts owing to the Related Party Creditors should be treated as equity and not debt.

4. As the quantum and classification of the Related Party Claims could affect the distribution to Affected Creditors, the Proposal Trustee has performed extensive diligence on the Related Party Claims.
5. To date, the Proposal Trustee's diligence has included:
 - a) reviewing financial and other documents provided by the Companies in respect of the Related Party Claims, including but not limited to, accounting records, bank statements, relevant agreements and contracts, tax returns, financial statements and loan documents;
 - b) discussing the Related Party Claims with the Companies' management;
 - c) reviewing materials filed in connection with these proceedings and the LP Applications; and
 - d) discussing the Related Party Claims with certain of the LPs and other stakeholders.
6. As at the date of the Report, the Proposal Trustee has not completed its review of the Related Party Claims and accordingly, has not yet determined their treatment under the Amended Proposal.
7. Related Parties are only entitled to vote against a proposal. For the purposes of voting on the Amended Proposal, the Proposal Trustee advised the Related Party Creditors that it was not able to determine by the Meeting if the Related Party Claims are provable. Accordingly, the Proposal Trustee marked the claims disputed and permitted the Related Party Creditors to vote on that basis. The Related Party Creditors did not vote at the Meeting.

4.6 Second Amendment

1. As discussed above, the First Amended Proposal was amended on June 15, 2021, following discussions between the Companies, the Sponsor, certain of the Companies' creditors and the LPs. The purpose of the Second Amendment is to narrow the release provisions contemplated in Section 7.01 of the First Amended Proposal.
2. On June 15, 2021, the Amended Proposal was filed with the Official Receiver and posted on the Proposal Trustee's website. It was also tabled at the Meeting.

4.7 The Meeting

1. The Meeting was convened virtually by Zoom on June 15, 2021 and was chaired by the Proposal Trustee.

4.8 Voting Treatment

1. The Proposal Trustee received a total of 57 claims prior to the Meeting. As discussed above, in accordance with section 108 of the BIA, the Proposal Trustee objected to certain claims for voting purposes, either partially or in full.
2. Of the 57 claims received, the Proposal Trustee allowed 37 claims to vote at the full value as filed (the "Eligible Voting Claims"), 10 claims were allowed to vote at a reduced value (the "Partially Disputed Voting Claims") and 10 claims were fully disallowed for voting purposes and valued at nil ("Fully Disputed Voting Claims"). The voting treatment of these claims is summarized in the table below:

Voting Treatment of Claims	#	\$ (Allowed)	\$ (Disallowed)
Eligible Voting Claims	37	13,287,381	-
Partially Disputed Voting Claims	10	5,313,758	7,097,757
Fully Disputed Voting Claims	10	-	61,735,343
Total claims received	57 ²	18,601,139	68,833,100

3. The Partially Disputed Voting Claims primarily include claims filed by brokers in respect of commissions, a portion of which were filed as Conditional Claims. As described in Section 4.3 above, a portion of these claims is only payable on the fulfillment of the Conditional Claim Conditions. Therefore, these claims were only valued for voting purposes at the amount that was payable as per the Companies' accounts payable listing at the date of the Meeting, with the residual amount marked as disputed. Also included in the Partially Disputed Voting Claims are two claims of former employees represented by Naymark.
4. The Fully Disputed Voting Claims include the Related Party Claims (\$38.3 million), the Athanasoulis Claim (\$19 million), three claims of former employees represented by Naymark (\$1.9 million) and three claims from creditors that are not reflected in the Companies' books and records (\$2.5 million).

4.9 Voting Result

1. The following table summarizes the results of the voting at the Meeting:

Voting Summary	Claims Allowed for Voting		Objected Claims ³		Total	
	#	\$	#	\$	#	\$
Accept	46	18,533,339	3	3,295,725	49	21,829,064
Reject	-	-	1	19,000,000	1	19,000,000
Total	46	18,533,339	4	22,295,725	50	40,829,064
% Accept	100%	100%			98%	53%

2. As presented in the table above, the Amended Proposal was unanimously accepted by the Creditors with claims allowed for voting purposes at the Meeting.

² Of the 57 votes noted in the table over, 10 were marked as fully disputed, seven of which did not vote and three of which voted.

³ The Objected Claims do not include the Partially Disputed Voting Claims, as they are included in the Claims Allowed for Voting at the amount determined for that purpose by the Proposal Trustee.

3. Ms. Athanasoulis voted to reject the Amended Proposal.
4. As indicated by the totals presented in the table above, if Ms. Athanasoulis' claim is accepted for voting purposes, the Amended Proposal would fail. As the other Objected Claims all voted in favour of the Amended Proposal, their treatment would not change the outcome of the Amended Proposal.
5. Copies of the voting register and the minutes of the Meeting are attached as Appendices "M" and "N", respectively.

4.10 Participation of the Sponsor

1. As set out in Section 4.9 of the Report to Creditors, Concord advised the Proposal Trustee that certain of the Companies' creditors, which as of the date of the Report to Creditors were owed approximately \$16 million in respect of unsecured or lien claims, had conditionally agreed to assign their claims to the Sponsor or an affiliate of the Sponsor (the "Claim Assignment Agreement"). The Claim Assignment Agreement is subject to Court approval of the Amended Proposal and provides for a payment by the Sponsor to these creditors following Court approval of the Amended Proposal in exchange for the respective creditors:
 - a) assigning their Claim to the Sponsor or a Sponsor affiliate; and
 - b) agreeing to:
 - i. file their Claim as an Affected Claim under the Amended Proposal;
 - ii. vote to approve the Amended Proposal; and
 - iii. name a representative of the Sponsor as their proxy.
2. The Related Party Claims are not subject to the Claim Assignment Agreement.
3. The Sponsor has advised the Proposal Trustee that as of the date of this Meeting, it had executed Claim Assignment Agreements with 39 creditors representing filed claims allowed for voting purposes of \$15.8 million. A schedule listing the creditors and their respective claims is provided as Appendix "O". The Sponsor advised the Proposal Trustee that, as of the Meeting, it had entered into agreements with six other creditors; however, those creditors did not submit votes and therefore the Sponsor considers those agreements to be terminated. Additionally, the Sponsor entered into agreements similar to the Claim Assignment Agreements with the five creditors represented by Naymark that filed claims totalling \$3.7 million⁴. The claims of two of those creditors were accepted for voting purposes at \$413,000.
4. As a result of the Claim Assignment Agreement, the Sponsor is bearing the risk that the total Proven Claims exceed the Maximum Proposal Claims Amount (\$65 million) and therefore that the distributions under the Amended Proposal are less than 58% of Proven Claims.

⁴ These claims remain subject to determination by the Proposal Trustee. It is the Proposal Trustee's understanding that the amount payable by the Sponsor is based on the Proven Claim as determined by the Proposal Trustee.

5. Allegations have been made by various parties in these proceedings that to induce creditors to vote to accept the Amended Proposal, Concord negotiated side deals with creditors in addition to the Assignment Agreements. The Proposal Trustee has asked the Sponsor to confirm whether this is the case. The Proposal Trustee has been advised by the Sponsor that no such side deals were entered into.

5.0 Realization in a Bankruptcy/Receivership

5.1 FM Report and Valuation

1. In the First Report, the Proposal Trustee advised the Court that it engaged Finnegan-Marshall Inc. (“FM”), a prominent real estate and development cost consulting firm based in Toronto, to, among other things, prepare a report that opines on:
 - a) the sales price for the YSL Project on an as-is basis after assessing the YSL Project budget, project revenue and resultant profitability⁵;
 - b) the sales price for the YSL Project if the purchaser disclaimed all existing Condominium Purchase Agreements and re-marketed all the units under the assumption that the purchaser could obtain a higher price per square foot for the units based on market rates; and
 - c) the CBRE Appraisals, in order to explain the differences between the two appraisals and provide an opinion on the appraised values contained therein.
2. FM was retained to, among other things, prepare a report so that the Proposal Trustee could provide a recommendation to the Companies’ creditors with respect to the Amended Proposal.
3. The Proposal Trustee asked FM to consider the purchase price that a purchaser would pay for the Real Property in a sale process if:
 - a) all existing Condo Purchase Agreements were assumed by the purchaser (excluding the 56 Condo Purchase Agreements that were disclaimed) (the “As-Is Scenario”); or
 - b) all existing Condominium Purchase Agreement were disclaimed and all of the units marketed for sale, on the assumption that the purchaser can obtain a higher price per square foot by re-selling the condominium units based on current market prices (the “Re-Sell Scenario”).
4. FM issued a report dated May 26, 2021 to the Proposal Trustee (the “FM Report”) which provides detailed projections of the revenues and the costs associated with the YSL Project as well as the two scenarios referenced above. The Proposal Trustee prepared a waterfall analysis (“Waterfall Analysis”) that, among other things, summarizes the estimated distributions to the Companies’ creditors based on various scenarios, including the Amended Proposal, As-Is Scenario, Re-Sell Scenario and the 2021 CBRE Appraisal. The FM Report, 2021 CBRE Appraisal and Waterfall Analysis

⁵ The FM Report estimates the value that a purchaser would be prepared to pay for the land, as well as the implied value of the land in the Amended Proposal.

are provided in Confidential Appendices “1”, “2” and “3”, respectively. The reasons for including these as confidential appendices are provided in Section 5.2 below.

5. As detailed in Section 6.1 of the Report to Creditors:
 - a) the implied value of the Amended Proposal is \$291 million, including the condo purchaser deposits that have been spent by the Companies, as the Sponsor will not get the benefit of these deposits upon acquisition;
 - b) the FM Report concludes that the recoveries to creditors in the As-Is and Re-Sell Scenarios would be materially inferior to the Amended Proposal, and it is possible that under these scenarios, secured creditors would not be paid in full; and
 - c) the FM Report indicates that in a sale of the YSL Project under the As-Is and Re-Sell Scenarios, there would be no value for the LPs, even if the Related Party Claims were excluded.

5.2 Sealing

1. The Proposal Trustee recommends that the FM Report, 2021 CBRE Appraisal and Waterfall Analysis be filed with the Court on a confidential basis and remain sealed pending further order of the Court. These documents contain sensitive financial information that could negatively impact realization on the YSL Project should the Amended Proposal not be implemented and a sale process be undertaken.
2. Certain of the stakeholder parties in these proceedings, including the Sponsor, Goodmans and the LPs, requested that the Proposal Trustee provide a copy of the FM Report. The Proposal Trustee has done so based on the confidentiality undertakings provided by these parties.
3. The Proposal Trustee does not believe that any stakeholder will be prejudiced if the information is sealed. Upon request and subject to the execution of a confidentiality undertaking, the Proposal Trustee is prepared to make available the FM Report, 2021 CBRE Appraisal and the Waterfall Analysis to the Companies’ creditors who request this information.

5.3 Prospective Transactions

1. Pursuant to a Cross-Examination Brief dated June 11, 2021 filed by the LPs (the “Cross Examination Brief”), the Proposal Trustee was advised of three prospective transactions that the Companies had been considering in 2020 related to the YSL Project. A copy of the Cross Examination Brief is attached as Appendix “P”.
2. The three prospective transactions are:
 - a) a letter of intent dated May 15, 2020 from PJD Properties Inc., an affiliate of GFL Environmental Inc. (the “GFL LOI”);
 - b) an agreement of purchase and sale dated July 14, 2020 between Empire (Water Wave) Inc. and the Companies (the “Empire APS”); and

- c) a financing term sheet dated November 12, 2020 submitted by Concord Properties Developments Corp. (the same entity as the Sponsor) (the “Concord Term Sheet”).
3. The GFL LOI, Empire APS and Concord Term Sheet are each included in the Cross Examination Brief.
4. The Proposal Trustee understands that each of the above transactions was subject to various conditions. Based on discussions with the Companies’ counsel and management, the Proposal Trustee understands that:
 - a) the GFL LOI did not proceed past the preliminary diligence stage;
 - b) the LPs were not prepared to consent to the Empire APS and, for at least that reason, Empire’s conditions were not met. Additionally, the Empire APS was also subject to a broad conditionality provision, including the “economic and financial feasibility of the Property”; and
 - c) the Concord Term Sheet was subject to financing conditions and did not proceed as Otera Capital Inc., the Sponsor’s construction loan lender, did not agree to the financing terms.
5. On June 12, 2021, the Proposal Trustee provided FM with the Cross Examination Brief and asked whether: a) FM was provided with these documents prior to issuance of the FM Report; and b) if not, if FM could review these documents and advise on whether the information contained therein would change the conclusions in the FM Report.
6. FM advised that it was not previously aware of the three offers but that the offers did not change its analysis or conclusions. A copy of the FM Correspondence is provided in Appendix “Q”.

6.0 Retail Square Footage

1. Counsel to Ms. Athanasoulis provided information to the Proposal Trustee regarding a reduction of approximately 13,000 square feet in the retail square footage utilized by CBRE in the 2021 CBRE Appraisal compared to the appraisal it completed in 2019.
2. The Proposal Trustee contacted CBRE to discuss the difference and was advised by CBRE that it relied on drawings provided by Concord, to whom the appraisal was being issued. Concord has advised the Proposal Trustee that the difference is in respect of gross leasable area, which was the measurement used in the 2019 appraisal, compared to net leasable area, which was the measurement in the 2021 CBRE Appraisal, with the estimated rents per square foot considered on those different bases.
3. The Proposal Trustee has requested that Concord approach CBRE to explain this difference and to indicate whether any revisions to the valuation are appropriate. The Proposal Trustee intends to file a supplement to this Report to address this issue based on the response from CBRE, if necessary.

4. The Proposal Trustee asked FM to estimate the incremental value of the retail space if the retail space was understated, as suggested by Ms. Athanasoulis. Based on the rents per square foot included in the 2021 CBRE Appraisal, FM estimated that the values associated with this space if included as leasable area would be \$13 million, less \$1.5 million of costs to complete it, resulting in a net increase of approximately \$11.5 million. Even with this additional value, the recovery under the Amended Proposal provides a superior result for unsecured creditors when compared to a sale of the YSL Project.

7.0 Conclusion and Recommendation

1. In the Report to Creditors, the Proposal Trustee advised that the First Amended Proposal provides creditors with a better outcome than a bankruptcy and therefore recommended that the creditors vote in favour of the First Amended Proposal. Specifically, Section 6 of the Report to Creditors provides that the value of the YSL Project under the First Amended Proposal exceeds the value of the YSL Project under the As-Is and Re-Sell Scenarios, which, in the Proposal Trustee's opinion are the two most likely options for the YSL Project if the First Amended Proposal is not approved. The Proposal Trustee noted that the First Amended Proposal provides Affected Creditors with an opportunity for a recovery of up to 58¢ on the dollar value of their claims, which amount may be nil if the YSL Project is marketed for sale.
2. The Proposal Trustee's recommendations in respect of the First Amended Proposal continue to apply to the Amended Proposal.
3. The retail space issue raised by Ms. Athanasoulis does not affect the Proposal Trustee's recommendation.
4. The Proposal Trustee recommends that the Court issue an order approving the Amended Proposal for the following reasons:
 - a) it was unanimously accepted by creditors entitled to vote at the Meeting; and
 - b) acceptance and implementation of the Amended Proposal is likely to result in a significantly superior result for creditors than a bankruptcy of the Companies.
5. Based on the foregoing, the Proposal Trustee respectfully recommends that the Court make an order approving the Amended Proposal.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YG LIMITED PARTNERSHIP AND
YSL RESIDENCES INC.,
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
COMMERCIAL LIST

THE HONOURABLE MADAM)	FRDAY, THE 14TH
)	
JUSTICE GILMORE)	DAY OF MAY, 2021

IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY*
ACT, R.S.C. 1985, c. B-3, AS AMENDED

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP, A
LIMITED PARTNERSHIP ESTABLISHED UNDER THE
LAWS OF MANITOBA CARRYING ON BUSINESS IN THE
CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

AND

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF YSL RESIDENCES INC., A
CORPORATION FORMED UNDER THE LAWS OF
ONTARIO CARRYING ON BUSINESS IN THE CITY OF
TORONTO, IN THE PROVINCE OF ONTARIO

ORDER
(Consolidation)

THIS MOTION made by YSL Residences Inc. ("**YSL Inc.**"), and YG Limited Partnership ("**YG LP**", and together with YSL Inc., "**YSL**") pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended (the "**BIA**"), was heard in writing in accordance with the endorsement of Justice Gilmore dated May 7, 2021 and Rule 37.12.1(1) of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

ON READING the Second Report of KSV Restructuring Inc. (the "**Proposal Trustee**") in its capacity as proposal trustee of YSL dated May 14, 2021 and the written submissions of counsel for YSL, no one else appearing although duly served as appears from the affidavit of Daphne Porter dated May 14, 2021;

NOTICE AND SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record be and is hereby abridged so that the Motion is properly returnable today, and that further service thereof be and it is hereby dispenses with further service thereof.

CONSOLIDATION OF ESTATES

2. **THIS COURT ORDERS** that with respect to:

- (a) The matter of the notice of intention to make a proposal of YG LP, Estate number 31-459200, and
- (b) The matter of the notice of intention to make a proposal of YSL Inc., Estate number 31-2734090, (collectively, the "**Proposal Proceedings**"),

the Proposal Proceedings shall be procedurally and substantively consolidated and the Proposal Trustee shall be directed to administer the Proposal Proceedings on a consolidated basis for all purposes in carrying out its administrative duties and other responsibilities as trustee under the *BIA*.

3. **THIS COURT ORDERS** that the single court file number 31-2734090 (the "Consolidated Court File") and the following title of proceeding shall be assigned to the Proposal Proceedings:

"
**IN THE MATTER OF THE NOTICES OF
INTENTION TO MAKE A PROPOSAL OF YG
LIMITED PARTNERSHIP AND YSL
RESIDENCES INC.**

"

4. **THIS COURT ORDERS** that a copy of this Order shall be filed by YSL in the court file for each of the Proposal Proceedings, but that any other document required to be filed in any of the Proposal Proceedings shall hereafter only be required to be filed in Court file number 31-2734090.

5. **THIS COURT ORDERS** that the substantive consolidation of the Proposal Proceedings shall not: (i) affect the separate legal status and corporate structures of YG LP or YSL Residences Inc.; (ii) cause YG LP or YSL Inc. to be liable for any claim for which it is not

otherwise liable; and (iii) affect the Proposal Trustee's right to disallow any claim, in whole or in part, including on the basis that such claim is a duplicative claim.

GENERAL

6. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada against all persons, firms, corporations, partnerships, governmental, municipal and regulatory authorities against whom it may be enforceable.



IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP,
A LIMITED PARTNERSHIP ESTABLISHED UNDER THE LAWS OF MANITOBA CARRYING ON BUSINESS IN
THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO
AND

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF YSL RESIDENCES INC., A
CORPORATION FORMED UNDER THE LAWS OF ONTARIO CARRYING ON BUSINESS IN THE CITY OF
TORONTO, IN THE PROVINCE OF ONTARIO

Estate/Court File Nos.: 31-459200, 31-2734090

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
COMMERCIAL LIST

Proceedings commenced in Toronto

ORDER
(Consolidation)

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Lawyers for the Applicants

Appendix “B”

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE PROPOSAL OF YG LIMITED PARTNERSHIP
AND YSL RESIDENCES INC. PURSUANT TO THE
*BANKRUPTCY AND INSOLVENCY ACT***

AMENDED PROPOSAL #2

WHEREAS, pursuant to Notices of Intention to Make a Proposal dated April 30, 2021, YSL Residences Inc. and YG Limited Partnership (collectively, "YSL" or the "**Company**") initiated proceedings under the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, B-3 as amended (the "**BIA**"), pursuant to Section 50(1) thereof;

AND WHEREAS a creditor proposal was filed in accordance with section 50(2) of the BIA on May 27, 2021 (the "**Original Proposal**");

AND WHEREAS an amendment to the Original Proposal was filed in accordance with section 50(2) of the BIA on June 3, 2021 (the "**First Amended Proposal**");

AND WHEREAS the Company and the Proposal Sponsor wish to amend the First Amended Proposal on the terms and conditions set out herein;

NOW THEREFORE the Company hereby submits the following second amended proposal under the BIA to its creditors (as amended, the "**Proposal**").

**ARTICLE I
DEFINITIONS**

1.01 Definitions

In this Proposal:

"**Administrative Fees and Expenses**" means the fees, expenses and disbursements incurred by or on behalf of the Proposal Trustee, the solicitors for the Proposal Trustee, the solicitors of the Company both before and after the Filing Date;

"**Affected Creditor Claim**" means a Proven Claim, other than an Unaffected Claim;

"**Affected Creditor Share**" means, subject to section 2.02(a)(i), the amount that is equal to 58% of the face value of an Affected Creditor Claim, subject to the Maximum Proposal Claims Amount which, if exceeded shall result in Affected Creditors receiving the Affected Creditor Pro Rata Share;

"Affected Creditor Pro Rata Share" means, in respect of an Affected Creditor Claim, (i) the face value of the Affected Creditor Claim, multiplied by (ii) the formula: $0.58 \times (X/Y)$ where "X" = the Maximum Proposal Claims Amount and "Y" = the aggregate total amount of Proven Claims;

"Affected Creditors" means all Persons having Affected Creditor Claims, but only with respect to and to the extent of such Affected Creditor Claims;

"Affected Creditors Class" means the class consisting of the Affected Creditors established under and for the purposes of this Proposal, including voting in respect thereof;

"Amended Proposal" has the meaning ascribed to it in the recitals;

"Approval Order" means an order of the Court, among other things, approving the Proposal;

"Assumed Contracts" means, subject to section 8.02(e), those written contracts entered into by or on behalf of the Company in respect of the Project to be identified by the Proposal Sponsor prior to the Creditors' Meeting, which are to be assumed by the Proposal Sponsor upon Implementation with the consent of the applicable counterparty or otherwise pursuant to an order issued in pursuant to section 84.1 of the BIA;

"BIA" has the meaning ascribed to it in the recitals;

"Business Day" means a day, other than a Saturday or Sunday, on which banks are generally open for business in Toronto, Ontario;

"Claim" means any right or claim of any Person against the Company in connection with any indebtedness, liability, or obligation of any kind whatsoever in existence on the Filing Date (or which has arisen after the Filing Date as a result of the disclaimer or repudiation by the Company on or after the Filing Date of any lease or executory contract), and any interest accrued thereon to and including the Filing Date and costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against the Company with respect to any matter, cause or chose in action, but subject to any counterclaim, set-off or right of compensation in favour of the Company which may exist, whether existing at present or commenced in the future, which indebtedness, liability or obligation (A) is based in whole or in part on facts that existed prior to the Filing Date, (B) relates to a period of time prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA;

"Company" has the meaning ascribed to it in the recitals;

"Conditional Claim" means any Claim of an Affected Creditor that is not a Proven Claim as at the Filing Date because one or more conditions precedent to establish such Affected Creditor's entitlement to payment by the Company had not been completed in accordance with any applicable contractual terms as at the Filing Date, and such Affected Creditor has indicated in its proof of claim that the Claim should be treated as a Conditional Claim;

"Conditional Claim Completion Deadline" means 5:00pm (Toronto time) on September 13, 2021;

"Conditional Claim Condition" has the meaning ascribed to it in Section 2.03(a);

"Conditions Precedent" shall have the meaning given to such term in section 8.02 hereof;

"Condo Purchase Agreement" means an agreement of purchase and sale in respect of a residential condominium unit in the Project between the Company and a Condo Purchaser;

"Condo Purchaser" means a purchaser of a residential condominium unit in the Project pursuant to a Condo Purchase Agreement;

"Condo Purchaser Claim" means any Claim of a Condo Purchaser in respect of its Condo Purchase Agreement;

"Construction Lien Claim" means any Proven Claim in respect of amounts secured by a perfected lien registered against title to the Property and are valid in accordance with the *Construction Act* (Ontario);

"Convenience Creditor" means an Affected Creditor with a Convenience Creditor Claim;

"Convenience Creditor Claim" means (a) any Proven Claims of an Affected Creditor in an amount less than or equal to \$15,000, and (b) any Proven Claim of an Affected Creditor in an amount greater than \$15,000 if the relevant Creditor has made a valid election for the purposes of this Proposal in accordance with this Proposal prior to the Convenience Creditor Election Deadline;

"Convenience Creditor Consideration" has the meaning ascribed to it in Section 3.04;

"Convenience Creditor Election Deadline" means 5:00 p.m. (Toronto time) on June 14, 2021;

"Convenience Creditor Election Form" means the form, substantially in the form attached hereto as Schedule "B", pursuant to which an Affected Creditor that is not a Convenience Creditor may elect to be treated as a Convenience Creditor, in accordance with Section 3.04 herein;

"Court" means the Ontario Superior Court of Justice (Commercial List);

"Court Approval Date" means the date upon which the Court makes the Approval Order;

"Creditors' Meeting" means the meeting of the Affected Creditors called for the purpose of considering and voting upon the Proposal;

"Creditors' Meeting Date" means such date and time for the Creditors' Meeting as may be called by the Proposal Trustee, but in any event shall be no later than twenty-one (21) days following the filing of this Proposal with the Official Receiver;

"Crown" means Her Majesty in Right of Canada or of any Province of Canada and their agents;

"Crown Claims" means the Claims of the Crown set out in Section 60(1.1) of the BIA outstanding as at the Filing Date against the Company, if any, payment of which will be made in priority to the payment of the Preferred Claims and to distributions in respect of the Ordinary Claims, and specifically excludes any other claims of the Crown;

"Disputed Claim" means any Claim which has not been finally resolved as a Proven Claim in accordance with the BIA as at the Proposal Implementation Date;

"Distributions" means a distribution of funds made by the Proposal Trustee from the Proposal Fund to Affected Creditors in respect of Affected Creditor Claims, in accordance with Article V;

"Effective Time" means 12:00 p.m. (Toronto time) on the Proposal Implementation Date;

"Equity Claim" has the meaning ascribed to it in Section 2 of the BIA;

"Existing Equity" means the limited partnership units of YG LP;

"Existing Equityholders" means the holders of the Existing Equity immediately prior to the Effective Time;

"Filing Date" means April 30, 2021, being the date upon which Notices of Intention to Make a Proposal were filed by the Company with the Official Receiver in accordance with the BIA;

"First Amended Proposal" has the meaning ascribed to it in the recitals;

"Governmental Authority" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (ii) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

"Implementation" means the completion and implementation of the transactions contemplated by this Proposal;

"Implementation Certificate" has the meaning ascribed to it in Section 8.02(j);

"Maximum Proposal Claims Amount" means \$65,000,000;

"Maximum Proposal Fund Amount" means the amount necessary to pay each Affected Creditor its Affected Creditor Pro Rata Share;

"**Official Receiver**" shall have the meaning ascribed thereto in the BIA;

"**Original Proposal**" has the meaning ascribed to it in the recitals;

"**Outside Date**" means July 31, 2021;

"**Permitted Encumbrances**" means those encumbrances on the Property listed in Schedule "A" hereto;

"**Person**" means any individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority and a natural person in such person's capacity as trustee, executor, administrator or other legal representative;

"**Preferred Claim**" means a Claim enumerated in Section 136(1) of the BIA outstanding as at the Filing Date against the Company, if any, the payment of which will be made in priority to distributions in respect of Affected Creditor Claims;

"**Project**" means the mixed-used office, retail and residential condominium development to be constructed on the Property currently consisting of approximately 1,100 residential condominium units and 170 parking units and known as Yonge Street Living Residences;

"**Property**" means the real property owned by the Company and municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario, and legally described by PIN numbers 21101-0042 (LT) to 21101-0049 (LT), inclusive;

"**Proposal**" means this Amended Proposal of the Company, and any amendments, modifications and/or supplements hereto made in accordance with the terms hereof;

"**Proposal Fund**" means the fund established by the Proposal Sponsor pursuant to and as described in Section 5.01;

"**Proposal Fund Amount**" means the amount necessary to pay each Affected Creditor its Affected Creditor Share;

"**Proposal Implementation Date**" means the date on which Implementation occurs, which shall occur following the satisfaction of the Conditions Precedent, and no later than the Outside Date;

"**Proposal Sponsor**" means Concord Properties Development Corp.;

"**Proposal Sponsor Agreement**" means that agreement entered into among the Proposal Sponsor and the Company as of April 30, 2021, as amended from time to time;

"**Proposal Trustee**" means KSV Restructuring Inc. in its capacity as trustee in respect of this Proposal, or its duly appointed successor;

"**Proposal Trustee's Website**" means the following website: www.ksvadvisory.com/insolvency-cases/case/yg-limited-partnership;

"Proven Claim" means in respect of an Affected Creditor, the amount of a Claim as finally determined in accordance with the provisions of the BIA, provided that the Proven Claim of an Affected Creditor with a Claim in excess of \$15,000 that has elected to be a Convenience Creditor by submitting a Convenience Creditor Election Form shall be valued for voting purposes as \$15,000;

"Released Claims" means, collectively, the matters that are subject to release and discharge pursuant to Section 7.01;

"Released Parties" means, collectively, (i) the Company, (ii) each affiliate or subsidiary of the Company; (iii) the Proposal Sponsor, (iv) the Proposal Trustee, and (v) subject to section 7.01, each of the foregoing Persons' respective former and current officers, directors, principals, members, affiliates, limited partners, general partners, managed accounts or funds, fund advisors, employees, financial and other advisors, legal counsel, and agents, each in their capacity as such;

"Required Majority" means an affirmative vote of a majority in number and two-thirds in value of all Proven Claims in the Affected Creditors Class entitled to vote, who are present and voting at the Creditors' Meeting (whether online, in-person, by proxy or by voting letter) in accordance with the voting procedures established by this Proposal and the BIA;

"Secured Claims" means:

- (a) The Claim of Timbercreek which is secured by, among other things a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (b) The Claim of 2576725 Ontario Inc. which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (c) All Construction Lien Claims but only to the extent of such Construction Lien Claims;

"Secured Creditor" means a Person holding a Secured Claim, with respect to, and to the extent of such Secured Claim;

"Superintendent's Levy" means the levy payable to the Superintendent of Bankruptcy pursuant to sections 60(4) and 147 of the BIA;

"Timbercreek" means, collectively, Timbercreek Mortgage Servicing Inc. and 2292912 Ontario Inc.;

"Unaffected Claim" means:

- (a) the Administrative Fees and Expenses;
- (b) the Claims of Timbercreek;

- (c) the Claim of Westmount Guarantee Services Inc. which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (d) the Claim of 2576725 Ontario Inc., which is secured by, among other things, an equitable mortgage encumbering the Property;
- (e) any Claim of the City of Toronto;
- (f) all Condo Purchaser Claims;
- (g) all Construction Lien Claims, but only to the extent such Claims are valid in accordance with the *Construction Act* (Ontario) and have been perfected by the Proposal Implementation Date; and
- (h) such other Claims as the Company and Proposal Sponsor may agree with the consent of the Proposal Trustee;

"**Unaffected Creditor**" means a creditor holding an Unaffected Claim, with respect to and to the extent of such Unaffected Claim;

"**Undeliverable Distributions**" has the meaning ascribed to it in Section 5.04; and

"YSL" has the meaning ascribed to it in the recitals.

1.02 Intent of Proposal

This Proposal is intended to provide all Affected Creditors a greater recovery than they would otherwise receive if the Company were to become bankrupt under the BIA. More specifically, the Proposal will provide for a payment in full of Secured Claims and will provide a significant recovery in respect of Affected Creditor Claims. While the exact recovery cannot be determined until all Claims have been determined, the Company expects Affected Creditors to receive a significant, albeit not a full recovery, on their Claims and, in any event, a greater recovery than would occur if the Company were to become a bankrupt under the BIA.

In consideration for, among other things, its sponsorship of this Proposal, including the satisfaction of all Secured Claims, Preferred Claims and the establishment of the Proposal Fund, on the Proposal Implementation Date, title to the Property, subject only to the Permitted Encumbrances, as well as the Company's interests and obligations under the Assumed Contracts and Condo Purchase Agreements shall be acquired by the Proposal Sponsor, or its nominee in accordance with the terms hereof.

1.03 Date for Any Action

In the event that any date on which any action is required to be taken under this Proposal by any of the parties is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.04 Time

All times expressed in this Proposal are local time in Toronto, Ontario, Canada unless otherwise stipulated. Time is of the essence in this Proposal.

1.05 Statutory References

Except as otherwise provided herein, any reference in this Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.06 Successors and Assigns

The Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors, and assigns of any Person named or referred to in the Proposal.

1.07 Currency

Unless otherwise stated herein, all references to currency and to "\$" in the Proposal are to lawful money of Canada.

1.08 Articles of Reference

The terms "hereof", "hereunder", "herein" and similar expressions refer to the Proposal and not to any particular article, section, subsection, clause or paragraph of the Proposal and include any agreements supplemental hereto. In the Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of the Proposal.

1.09 Interpretation Not Affected by Headings

The division of the Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of a table of contents and headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.10 Numbers

In this Proposal, where the context requires, a word importing the singular number will include the plural and *vice versa* and a word or words importing gender will include all genders.

ARTICLE II
CLASSIFICATION AND TREATMENT OF AFFECTED PARTIES

2.01 Classes of Creditors

For the purposes of voting on the Proposal, there will only be one class of creditors, being the Affected Creditors Class. For the purposes of voting on the Proposal, each Convenience Creditor shall be deemed to be in and shall be deemed to vote in and as part of, the Affected Creditors Class.

2.02 Treatment of Affected Creditors

- (a) As soon practicable after the Proposal Implementation Date, and after taking an adequate reserve in respect of any Disputed Claims and Conditional Claims:
 - (i) all Affected Creditor Claims (other than Convenience Creditors and Affected Creditors holding Conditional Claims where one or more Conditional Claim Conditions have not been completed) shall receive, in respect of such Affected Creditor Claim, its Affected Creditor Share, net of the Superintendent's Levy, made by the Proposal Trustee from the Proposal Fund from time to time in accordance with Article V hereof; provided, however if the aggregate Affected Creditor Share amount payable to all Affected Creditors exceeds the Maximum Proposal Claims Amount, then Affected Creditors with Proven Claims shall receive, in respect of such Proven Claim, its Affected Creditor Pro Rata Share; and
 - (ii) all Convenience Creditors shall receive in respect of such Convenience Creditor Claims, the Convenience Creditor Consideration, net of the Superintendent's Levy;
- (b) Subject to Section 2.03, on the Proposal Implementation Date, each Affected Creditor Claim shall, and shall be deemed to have been irrevocably and finally extinguished, discharged and released, and each Affected Creditor shall have no further right, title or interest in or to its Affected Creditor Claim.

2.03 Conditional Claims Protocol

If an Affected Creditor submits a proof of claim to the Proposal Trustee indicating that its Claim against the Company is a Conditional Claim due to the fact that one or more pre-conditions to such Affected Creditor's right to payment by the Company had not been satisfied as at the Filing Date due to the acts or omissions of such Affected Creditor, then:

- (a) such Affected Creditor shall have until the Conditional Claim Completion Deadline to complete or otherwise satisfy all outstanding pre-conditions to payment in accordance with the terms of the applicable agreement between such Affected Creditor and the Company (all such conditions, "**Conditional Claim Conditions**"), and provide notice of such completion to the Proposal Trustee along with reasonable proof thereof;

- (b) if such Affected Creditor provides the Proposal Trustee with proof of the completion of all applicable Conditional Claim Conditions prior to the Conditional Claim Completion Deadline, then, subject to the Proposal Trustee's confirmation of same, such Affected Creditor's Conditional Claim shall be deemed to be a Proven Claim, and such Affected Creditor shall be entitled to a distribution in accordance with Section 2.02(a)(i), and, effective immediately upon issuance of such distribution to the Affected Creditor by the Proposal Trustee, the releases set out in Section 7.01 shall become effective; and
- (c) if such Affected Creditor has not satisfied one or more Conditional Claim Conditions by the Conditional Claim Completion Deadline, then, effective immediately upon the Conditional Claim Completion Deadline, such Affected Creditor's Conditional Claim shall be irrevocably and finally extinguished and such Affected Creditor shall have no further right, title or interest in and to its Conditional Claim and the releases set out in Section 7.01 shall become effective in respect of such Conditional Claim.

2.04 Existing Equityholders and Holders of Equity Claims

Holders of Equity Claims shall not be entitled to vote in respect of their Equity Claims at the Creditors Meeting and shall not receive any distribution under this Proposal on account of their Equity Claims. Subject to Section 7.01, all Equity Claims shall be fully, finally and irrevocably and forever compromised, released, discharged, cancelled, extinguished and barred for no consideration on the Proposal Implementation Date in accordance with Section 6.01(h).

2.05 Application of Proposal Distributions

All amounts paid or payable hereunder on account of the Affected Creditor Claims (including, for greater certainty, any securities received hereunder) shall be applied as follows: (i) first, in respect of the principal amount of the Affected Creditor Claim, and (ii) second, in respect of the accrued but unpaid interest on the Affected Creditor Claim.

2.06 Full Satisfaction of All Affected Creditor Claims

All Affected Creditors shall accept the consideration set out in Section 2.02 hereof in full and complete satisfaction of their Affected Creditor Claims, and all liens, certificates of pending litigation, executions, or other similar charges or actions or proceedings in respect of such Affected Creditor Claims will have no effect in law or in equity against the Property, or other assets and undertaking of the Company. Upon the Implementation of the Proposal, any and all such registered liens, certificates of pending litigation, executions or other similar charges or actions brought, made or claimed by Affected Creditors will be and will be deemed to have been discharged, dismissed or vacated without cost to the Company and the Company will be released from any and all Affected Creditor Claims of Affected Creditors, subject only to the right of Affected Creditors to receive Distributions as and when made pursuant to this Proposal.

2.07 Undeliverable Distributions

Undeliverable Distributions shall be dealt with and treated in the manner provided for in the BIA and the directives promulgated pursuant thereto.

ARTICLE III
MEETING OF AFFECTED CREDITORS

3.01 Meeting of Affected Creditors

On the Creditors' Meeting Date, the Company shall hold the Creditors' Meeting in order for the Affected Creditors to consider and vote upon the Proposal.

3.02 Time and Means of Creditors' Meeting

The Creditors' Meeting shall take place at 2:00 p.m. (Toronto time) on June 15, 2021. Due to COVID-19, the Creditors' Meeting shall be held online and may be accessed at the following website:

<https://zoom.us/j/93541423177?pwd=eU1oQkh5a3o5QWtWbzhhM0IzaDYyUT09>

Meeting ID: 935 4142 3177

Passcode: 912017

3.03 Quorum and Conduct of Creditors' Meeting

A quorum shall be constituted for the Creditors' Meeting or any adjournment thereof if there is one Affected Creditor, entitled to vote, present in person (virtually) or by proxy, or if one Affected Creditor, entitled to vote, has submitted a voting letter in accordance with the provisions of the BIA and this Proposal. If the requisite quorum is not present at the Creditors' Meeting or if the Creditors' Meeting has to be postponed for any reason, then the Creditors' Meeting shall be adjourned by the Proposal Trustee to such date, time and place or online meeting platform as determined by the Proposal Trustee. For greater certainty, the Creditors' Meeting may be adjourned one or more times.

3.04 Voting at the Meeting

Each Affected Creditor will be required to submit a proof of claim to the Proposal Trustee. Each Affected Creditor shall be entitled to a single vote valued in the full amount of its Proven Claim. In order to vote at the Creditors' Meeting, the proof of claim must be submitted to the Proposal Trustee no later than 5:00 p.m. (Toronto time) on the day that is one (1) Business Day prior to the commencement of the Creditors' Meeting. Any Person asserting a Construction Lien Claim that has not been perfected in accordance with the *Construction Act* (Ontario) is required to file a proof of claim in accordance with this paragraph.

The only Persons entitled to attend and speak at the Creditors' Meeting are representatives of the Company and its legal counsel and advisors, the Proposal Sponsor and its legal counsel and advisors, the Proposal Trustee and its legal counsel and advisors, and all other Persons entitled to vote at the Creditors' Meeting and their respective legal counsel and advisors. Any other Person may be admitted to the Creditors' Meeting on invitation of the Proposal Trustee.

The provisions of section 135 of the BIA will apply to all proofs of claim submitted by Affected Creditors, including in respect of Disputed Claims. In the event that a duly submitted proof of claim has been disallowed or revised for voting purposes by the Proposal Trustee, and such disallowance has been disputed by the applicable Affected Creditor in accordance with Section 135(4) of the BIA, or in the case of any Claim that is a Conditional Claim as at the time of the Creditors' Meeting, then the dollar value for voting purposes at the Creditors' Meeting shall be the dollar amount of such disputed claim or Conditional Claim, as the case may be, set out in the proof of claim submitted by such Affected Creditor, without prejudice to the determination of the dollar value of such Affected Creditor's disputed claim or Conditional Claim for distribution purposes.

Notwithstanding the foregoing, each Convenience Creditor with a Proven Claim of \$15,000 or less is irrevocably deemed to have voted the full amount of its Proven Claims in favour of the approval of the Proposal without requirement for such Convenience Creditor to file a proxy to vote in favour of the Proposal, in consideration for the Proposal providing for the full payment of their Proven Claim. An Affected Creditor with a Proven Claim in excess of \$15,000 that wishes to be treated as a Convenience Creditor under the Proposal must deliver a duly completed and executed Convenience Creditor Election Form to the Proposal Trustee by no later than the Convenience Creditor Election Deadline, and upon doing so such Affected Creditor: (i) is irrevocably deemed to have voted the full amount of its Proven Claim in favour of the Proposal as a member of the Affected Creditors Class; and (ii) shall be treated as a Convenience Creditor for all purposes and shall receive the lesser of (x) \$15,000, and (y) the amount of its Proven Claim (either (x) or (y), being the applicable “**Convenience Creditor Consideration**”).

Except as expressly provided herein, the Proposal Trustee's determination of claims pursuant to this Proposal and the BIA shall only apply for the purposes of this Proposal, and such determination shall be without prejudice to a Creditor's right to submit a revised proof of claim in subsequent proceedings in respect of the Company should this Proposal not be implemented.

3.05 Approval by Affected Creditors

In order to be approved, this Proposal must receive the affirmative votes of the Required Majority.

3.06 Modification to Proposal

Subject to the consent of the Proposal Trustee and the Proposal Sponsor, the Company reserves the right at any time prior to the Creditors' Meeting to file any modification of, amendment or supplement to the Proposal by way of supplementary proposal. Any such amended or supplementary proposal shall forthwith be posted on the Proposal Trustee's Website and filed with the Official Receiver as soon as practicable, in which case any such amended or supplementary proposal or proposals shall, for all purposes, be and be deemed to be a part of and incorporated in to this Proposal. At the Creditors' Meeting, the Company and/or the Proposal Trustee shall provide

all Affected Creditors in attendance with details of any modifications or amendments prior to the vote being taken to approve the Proposal. Subject to the provisions of the BIA, after the Creditors' Meeting (and both prior to and subsequent to the Approval Order) and subject to the consent of the Proposal Trustee and the Proposal Sponsor, the Company may at any time and from time to time vary, amend, modify or supplement the Proposal.

ARTICLE IV
PREFERRED CLAIMS AND MANDATORY PAYMENTS

4.01 Crown Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Crown Claims, if any, will be paid by the Proposal Trustee, in full with related interest and penalties as prescribed by the applicable laws, regulations and decrees.

4.02 Preferred Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Preferred Claims, if any, will be paid in full by the Proposal Trustee.

ARTICLE V
ESTABLISHMENT OF PROPOSAL FUND AND DISTRIBUTIONS

5.01 Establishment of Proposal Fund

On the Plan Implementation Date, in accordance with the sequence set out in section 6.01 hereof, the Proposal Sponsor shall transfer to the Proposal Trustee, in trust, the Proposal Fund Amount, provided that such amount shall not exceed the Maximum Proposal Fund Amount, which funds shall be held in a specific trust account by the Proposal Trustee and used for the specific purposes set out in this Proposal, plus a reasonable reserve on account of Administrative Fees and Expenses, and, subject to section 5.03, a reserve in respect of Disputed Claims and Conditional Claims (if any). All such cash transferred to the Proposal Trustee shall be held in trust by the Proposal Trustee in the Proposal Fund for the benefit of such Persons who are entitled to receive Distributions (including all Affected Creditors to the extent of their Proven Claims) pursuant to this Proposal. Any excess funds remaining in the Proposal Fund following the distribution of all amounts contemplated by the Proposal to those parties entitled to such disbursements shall be remitted directly to the Proposal Sponsor, or as it may direct.

5.02 Distributions

As soon as possible after the Proposal Implementation Date and the payments contemplated by Sections 4.01 and 4.02, the Proposal Trustee shall make a Distribution to Affected Creditors with Proven Claims as follows:

- (a) If the aggregate amount necessary to satisfy the Affected Creditor Share payable to all Affected Creditors with Proven Claims does not exceed the Maximum Proposal

Fund Amount, the Proposal Trustee shall make a Distribution to each Affected Creditor with a Proven Claim in the amount of its Affected Creditor Share, net of the Superintendent's Levy; or

- (b) If the aggregate amount necessary to satisfy the Affected Creditor Share payable to all Affected Creditors with Proven claims exceeds the Maximum Proposal Fund Amount, then, after reserving an amount necessary in respect of unresolved Disputed Claims in accordance with Section 5.03, the Proposal Trustee shall make a Distribution of all funds available for distribution in the Proposal Fund to each Affected Creditor with a Proven Claim in the amount of its Affected Creditor Pro Rata Share, net of the Superintendent's Levy. The Proposal Trustee may make more than one distribution to Affected Creditors of the Affected Creditor Pro Rata Share amount as Disputed Claims are resolved.

5.03 Reserves for Unresolved Claims

Prior to making any Distribution to Affected Creditors pursuant to Section 5.02, the Proposal Trustee shall set aside in the Proposal Fund sufficient funds to pay all Affected Creditors with Disputed Claims or Conditional Claims the amounts such Affected Creditors would be entitled to receive in respect of that particular Distribution pursuant to this Proposal, in each case as if their Disputed Claim or Conditional Claim, as the case may be, had been a Proven Claim at the time of such Distribution. Upon the resolution of each Disputed Claim in accordance with the BIA, or upon final resolution of any Conditional Claim, any funds which have been reserved by the Proposal Trustee to deal with such Disputed Claim or such Conditional Claim, as applicable, but which are not required to be paid to the Affected Creditor shall remain in the Proposal Fund and become available for further Distributions to Affected Creditors in respect of their Proven Claims.

5.04 Method of Distributions

Unless otherwise agreed to by the Proposal Trustee and an Affected Creditor, all Distributions made by the Proposal Trustee pursuant to this Proposal shall be made by cheque mailed to the address shown on the proof of claim filed by such Affected Creditor or, where an Affected Creditor has provided the Trustee with written notice of a change of address, to such address set out in that notice. If any delivery or distribution to be made pursuant to Article IV hereof in respect of an Affected Creditor Claim is returned as undeliverable, or in the case of a distribution made by cheque, the cheque remains uncashed (each an "**Undeliverable Distribution**"), no other crediting or delivery will be required unless and until the Proposal Trustee is notified of the Affected Creditor's then current address. The Proposal Trustee's obligations to the Affected Creditor relating to any Undeliverable Distribution will expire six months following the date of delivery or mailing of the cheque or other distribution, after which date the Proposal Trustee's obligations under this Proposal in respect of such Undeliverable Distribution will be forever discharged and extinguished, and the amount that the Affected Creditor was entitled to be paid under the Proposal shall be distributed to the Proposal Sponsor.

5.05 Residue After All Distributions Made

Residual funds, if any, in the Proposal Fund which are not required for Distribution under this Proposal shall be returned to the Proposal Sponsor, or as it may direct, by the Proposal Trustee immediately prior to the filing of the certificate by the Proposal Trustee referenced in section 13.02 hereof.

**ARTICLE VI
IMPLEMENTATION**

6.01 Proposal Implementation Date Transactions

Commencing at the Effective Time, the following events or transactions will occur, or be deemed to have occurred and be taken and effected, in the following order in five minute increments (unless otherwise indicated) and at the times and in the order set out in this Section 6.01 (or in such other manner or order or at such other time or times as the Company and the Proposal Sponsor may agree, each acting reasonably), without any further act or formality required on the part of any Person, except as may be expressly provided herein:

- (a) Either the Proposal Sponsor will, at its election, but subject to obtaining the consent of the applicable Secured Creditor, assume the Secured Claims, or on behalf of the Company, the Proposal Sponsor will make payment in full to Secured Creditors in respect of their Secured Claims;
- (b) the releases in respect of Secured Claims referenced in section 7.01 shall become effective, and any registrations on title to the Property in respect of such Secured Claims shall be discharged from title to the Property;
- (c) the Proposal Sponsor shall provide the Proposal Fund Amount to the Proposal Trustee in accordance with section 5.01 in full and final settlement of all Affected Creditor Claims;
- (d) the Proposal Sponsor shall provide the Proposal Trustee with an amount necessary to satisfy the Administrative Fees and Expenses, including a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated to be incurred in connection with the administration of Distributions, resolution of any Disputed Claims, and the Proposal Trustee's discharge;
- (e) title to the Property shall be registered in the name of the Proposal Sponsor, or its nominee, together with any charges applicable to security held by the lenders to the Proposal Sponsor in respect of the purchase of the Property and construction of the Project;
- (f) the assumption of the Assumed Contracts by the Proposal Sponsor, or its nominee, shall become effective;

- (g) all Affected Creditor Claims (including without limitation all Convenience Creditor Claims) shall, and shall be deemed to be, irrevocably and finally extinguished and the Affected Creditors shall have no further right, title or interest in and to their respective Affected Creditor Claims, except with respect to their right to receive a Distribution, if applicable, and in such case, only to the extent of such Distribution;
- (h) subject to Section 7.01, all Equity Claims shall, and shall be deemed to be, irrevocably and finally extinguished and all Existing Equityholders shall have no further right, title or interest in and to their respective Equity Claims; and
- (i) the releases in respect of Affected Creditor Claims (other than Conditional Claims with Conditional Claim Conditions not satisfied as at the Effective Time) referred to in Section 7.01 shall become effective.

ARTICLE VII

RELEASES

7.01 Release of Released Parties

At the applicable time pursuant to Section 6.01(b), in the case of Secured Claims, and Section 6.01(i), in respect of Affected Creditor Claims, each of the Released Parties shall be released and discharged from all present and future actions, causes of action, damages, judgments, executions, obligations, liabilities and Claims of any kind or nature whatsoever arising on or prior to the Proposal Implementation Date in connection with this Proposal and the Project, and any proceedings commenced with respect to or in connection with this Proposal, the Project, the transactions contemplated hereunder, and any other actions or matters related directly or indirectly to the foregoing, provided that nothing in this paragraph shall release or discharge (i) any of the Released Parties from or in respect of their respective obligations under this Proposal or any order issue by the Court in connection with this Proposal or any document ancillary to any of the foregoing, (ii) any Released Party from liabilities or claims which cannot be released pursuant to s. 50(14) of the BIA, as determined by the final, non-appealable judgment of the Court, or (iii) any Released Party from any Secured Claim of Timbercreek. The foregoing release shall not be construed to prohibit a party in interest from seeking to enforce the terms of this Proposal, including with respect to Distributions, or any contract or agreement entered into pursuant to, in connection with or contemplated by this Proposal. Notwithstanding the foregoing, the directors and officers of the Company, its affiliates, the former directors and officers, and general partner of the Company shall not be released in respect of any (x) Equity Claim as defined in section 2 of the BIA or any analogous claim in respect of a partnership interest or (y) any claim by a former employee of the Company or its affiliates relating to unpaid wages or other employment remuneration.

7.02 Injunctions

All Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Proposal Implementation Date, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other

proceedings of any nature or kind whatsoever of any Person against the Released Parties, as applicable; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, guarantee, decree or order against the Released Parties; (iii) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (iv) taking any actions to interfere with the implementation or consummation of this Proposal or the transactions contemplated hereunder; provided, however, that the foregoing shall not apply to the enforcement of any obligations under this Proposal or any document, instrument or agreement executed to implement this Proposal.

ARTICLE VIII

CONDITIONS PRECEDENT

8.01 Confirmation of Proposal

Provided that the Proposal is approved by the Required Majority, the Proposal Trustee shall apply for the Approval Order at a Court hearing scheduled for June 23, 2021 at 10:00am.

8.02 Conditions Precedent

This Proposal will take effect on the Proposal Implementation Date. The Implementation of this Proposal on the Proposal Implementation Date is subject to the satisfaction of the following conditions precedent (collectively, the "**Conditions Precedent**"):

- (a) the Proposal is approved by the Required Majority;
- (b) the Approval Order, in form and substance satisfactory to the Proposal Sponsor, has been issued, has not been stayed and no appeal therefrom is outstanding;
- (c) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Authority, no application shall have been made to any Governmental Authority, and no action or investigation shall have been announced, threatened or commenced by any Governmental Authority, in consequence or in connection with the Proposal or the Project that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or inhibit), the Proposal or any part thereof or the Project or any part thereof or requires or purports to require a variation of the Proposal or the Project;
- (d) registrations in respect of all encumbrances, including without limitation any registrations in respect of Construction Lien Claims, but excluding the Permitted Encumbrances, shall have been deleted from title to the Property, provided that, should the Implementation of the Proposal not occur following the deletion of an Affected Creditor's encumbrance pursuant to this provision, such Affected Creditor shall have the right to renew such registration;
- (e) the Proposal Sponsor, or its nominee, shall have entered into assignment and assumption agreements in respect of all Assumed Contracts, or an assignment order pursuant to section 84.1 of the BIA shall have been issued, in each case in form and

substance satisfactory to the Proposal Sponsor, provided that it shall be a condition of the assumption of each Assumed Contract that the written agreements set out in the list of Assumed Contracts provided by the Proposal Sponsor (as amended from time to time) represent the totality of the contractual arrangements between the Company and each applicable counterparty, and no verbal or extra-contractual arrangements will be recognized by the Proposal Sponsor;

- (f) sufficient financing for the acquisition of the Property by the Proposal Sponsor, or its nominee, shall have been provided by Otera Capital Inc., on terms satisfactory to the Proposal Sponsor, and all material conditions precedent to such financing shall be capable of completion by the Proposal Sponsor prior to the Proposal Implementation Date;
- (g) the Proposal Implementation Date shall occur on June 30, 2021, or such other date prior to the Outside Date as may be agreed by the Proposal Sponsor;
- (h) any required resolutions authorizing the Company to file this Proposal and any amendments thereto will have been approved by the board of directors of the Company;
- (i) the Proposal Sponsor Agreement shall not have been terminated by the Proposal Sponsor; and
- (j) the Company shall have delivered a certificate to the Proposal Trustee that the conditions precedent to the Implementation of the Proposal have been satisfied or waived (the "**Implementation Certificate**").

Upon written confirmation of receipt from the Proposal Trustee of the Implementation Certificate, the Implementation of the Proposal shall have been deemed to have occurred and all actions deemed to occur upon Implementation of the Proposal shall occur without the delivery or execution of any further documentation, agreement or instrument.

ARTICLE IX

EFFECT OF PROPOSAL

9.01 Binding Effect of Proposal

After the issuance of the Approval Order by the Court, subject to satisfaction of the Conditions Precedent, the Proposal shall be implemented by the Company and shall be fully effective and binding on the Company and all Persons affected by the Proposal. Without limitation, the treatment of Affected Creditor Claims under the Proposal shall be final and binding on the Company, the Affected Creditors, and all Persons affected by the Proposal and their respective heirs, executors, administrators, legal representatives, successors, and assigns. For greater certainty, this Proposal shall have no effect upon Unaffected Creditors.

9.02 Amendments to Agreements and Paramountcy of Proposal

Notwithstanding the terms and conditions of all agreements or other arrangements with Affected Creditors entered into before the Filing Date, for so long as an event of default under this Proposal has not occurred, all such agreements or other arrangements will be deemed to be amended to the extent necessary to give effect to all the terms and conditions of this Proposal. In the event of any conflict or inconsistency between the terms of such agreements or arrangements and the terms of this Proposal, the terms of this Proposal will govern and be paramount.

9.03 Deemed Consents and Authorizations of Affected Creditors

At the Effective Time each Affected Creditor shall be deemed to have:

- (a) executed and delivered to the Company all consents, releases, assignments, and waivers, statutory or otherwise, required to implement and carry out this Proposal in its entirety;
- (b) waived any default by the Company in any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company that has occurred on or prior to the Proposal Implementation Date; and
- (c) agreed, in the event that there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company as at the date and time of Court approval of the Proposal (other than those entered into by the Company on, or with effect from, such date and time) and the provisions of this Proposal, that the provisions of this Proposal shall take precedence and priority and the provisions of such agreement or other arrangement shall be amended accordingly.

ARTICLE X ADMINISTRATIVE FEES AND EXPENSES

10.01 Administrative Fees and Expenses

Administrative Fees and Expenses will be paid in cash by the Company on the Proposal Implementation Date together with a reserve in respect of the discharge of the Proposal Trustee.

ARTICLE XI INDEMNIFICATION

11.01 Indemnification of Proposal Trustee

The Proposal Trustee shall be indemnified in full by the Company for all personal liability arising from fulfilling any duties or exercising any powers or duties conferred upon it by this Proposal or under the BIA, except for any willful misconduct or gross negligence.

ARTICLE XII
POST FILING GOODS AND SERVICES

12.01 Payment of Payroll Deductions and Post Filing Claims

The following shall continue to be paid in the ordinary course by the Company prior to and after the Court Approval Date and shall not constitute Distributions or payments under this Proposal:

- (a) all Persons, who may advance monies, or provide goods or services to the Company after the Filing Date shall be paid by the Company in the ordinary course of business;
- (b) current source deductions and other amounts payable pursuant to Section 60(1.2) of the BIA, if applicable, shall be paid to Her Majesty in Right of Canada in full by the Company as and when due; and
- (c) current goods and services tax (GST), and all amounts owing on account of provincial sales taxes, if applicable, shall be paid in full by the Company as and when due.

ARTICLE XIII
TRUSTEE, CERTIFICATE OF COMPLETION, AND DISCHARGE OF TRUSTEE

13.01 Proposal Trustee

KSV Restructuring Inc. shall be the Proposal Trustee pursuant to this Proposal and upon the making of the Distributions and the payment of any other amounts provided for in this Proposal, the Proposal Trustee will be entitled to be discharged from its obligations under the terms of this Proposal. The Proposal Trustee is acting in its capacity as Proposal Trustee under this Proposal, and not in its personal capacity and shall not incur any liabilities or obligations in connection with this Proposal or in respect of the business, liabilities or obligations of the Company, whether existing as at the Filing Date or incurred subsequent thereto.

The Proposal Trustee shall not incur, and is hereby released from, any liability as a result of carrying out any provisions of this Proposal and any actions related or incidental thereto, save and except for any gross negligence or willful misconduct on its part (as determined by a final, non-appealable judgment of the Court).

13.02 Certificate of Completion and Discharge of Proposal Trustee

Upon the Proposal Trustee receiving confirmation in writing from the Company that the transactions contemplated in Section 6.01 have been completed in the order and manner contemplated therein, and all Distributions to Affected Creditors have been administered in accordance with Article IV, the terms of the Proposal shall be deemed to be fully performed and the Proposal Trustee shall provide a certificate to the Company, the Proposal Sponsor and to the Official Receiver pursuant to Section 65.3 of the BIA and the Proposal Trustee shall be entitled to be discharged.

ARTICLE XIV
GENERAL

14.01 Valuation

For purposes of voting and Distributions, all Claims shall be valued as at the Filing Date.

14.02 Preferences, Transfers at Undervalue

In conformity with Section 101.1 of the BIA, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal. As a result, all of the rights, remedies, recourses and Claims described therein:

- (a) all such rights, remedies and recourses and any Claims based thereon shall be completely unavailable to the Proposal Trustee or any Affected Creditors against the Company, the Property, or any other Person whatsoever; and
- (b) the Proposal Trustee and all of the Affected Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any Claims based thereon against the Company, the Property any other Person.


14.03 Governing Law

The Proposal shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. Any disputes as to the interpretation or application of the Proposal and all proceedings taken in connection with the Proposal shall be subject to the exclusive jurisdiction of the Court.

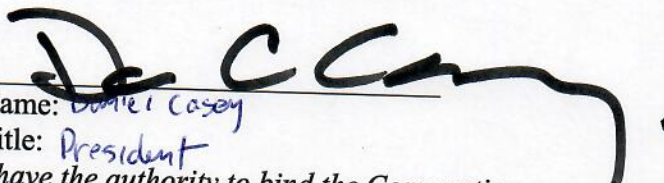
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Dated at Toronto, this 15th day of June, 2021.

YSL RESIDENCES INC.

Per: 
Name: Daniel Casey
Title: President
I have the authority to bind the Corporation.

**YG LIMITED PARTNERSHIP, by its
general partner 9615334 CANADA INC.**

Per: 
Name: Daniel Casey
Title: President
I have the authority to bind the Corporation.

SCHEDULE A

PERMITTED ENCUMBRANCES

<u>Instrument Number</u>	<u>Description</u>
EP138153	- Canopy Agreement with the City of Toronto
EP146970	- Encroachment Agreement with the City of Toronto
CT114131	- Encroachment Agreement with the City of Toronto
CT169812	- Canopy Agreement with the City of Toronto
CA11215	- Development Agreement with the City of Toronto
CA231470	- Encroachment Agreement with the City of Toronto
AT5142530	- Heritage Easement Agreement with the City of Toronto
AT5154721	- Heritage By-Law
AT5154722	- Heritage By-Law
AT5157423	- Heritage By-Law
AT5157424	- Heritage By-Law
AT5246455	- Section 37 Agreement
AT5473163	- Application to Register a Court Order (Equitable Mortgage)

SCHEDULE B

CONVENIENCE CREDITOR ELECTION FORM

TO: KSV RESTRUCTURING INC., in its capacity as Proposal Trustee of YG Limited Partnership and YSL Residences Inc. (collectively, "YSL")

In connection with the Amended Proposal of YSL pursuant to the *Bankruptcy and Insolvency Act* (Canada) dated June 3, 2021 (as amended, restated, modified and/or supplemented from time to time, the "**Proposal**"), the undersigned hereby irrevocably elects to be treated for all purposes under the Proposal as a Convenience Creditor and thereby to receive the lesser of (i) \$15,000, and (ii) the amount of its Proven Claim in full and final satisfaction of the Proven Claim(s) of the undersigned, and hereby acknowledges that the undersigned shall be deemed to vote the full amount of its Proven Claim(s) in favour of the Proposal at the Creditors' Meeting.

For the purposes of this election, capitalized terms not defined herein shall have the meanings ascribed thereto in the Proposal.

DATED at _____ this ____ day of _____, 2021.

AFFECTED CREDITOR'S SIGNATURE:

(Print Legal Name of Affected Creditor)

(Print Legal Name of Assignee, if applicable)

(Signature of the Affected Creditor/Assignee or an Authorized Signing Officer of the Affected Creditor/Assignee)

(Print Name and Title of Authorized Signing Officer of the Affected Creditor/Assignee, if applicable)

(Mailing Address of the Affected Creditor/Assignee)

(Telephone Number and E-mail of the Affected Creditor/Assignee or Authorized Signing Officer of the Affected Creditor/Assignee)

Appendix “C”



Industry Canada

Industrie Canada

Office of the Superintendent
of Bankruptcy CanadaBureau du surintendant
des faillites CanadaDistrict of ONTARIO
Division No. 09 - Toronto
Court No. 31-2734090
Estate No. 31-2734090In the Matter of the Proposal of:
YSL Residences Inc.
YG Limited Partnership
DEBTORSKSV RESTRUCTURING INC.
Licensed Insolvency Trustee

Security: \$*,***

Date of Proposal: May 27, 2021
Meeting of Creditors: June 15, 2021, 14:00
Meeting to be held by Zoom
Meeting ID: 935 4142 3177
Passcode: 912017, ONTARIO

Chair: Trustee

CERTIFICATE OF FILING OF A PROPOSAL - Section 62

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify, that:

- a proposal in respect of the aforementioned debtor was filed under section 62 of the Bankruptcy and Insolvency Act.

The aforementioned trustee is required:

- to provide to me, without delay, security in the aforementioned amount; and
- to send to all creditors, at least ten days prior to the meeting, a notice of a meeting of creditors, which will be held at the aforementioned time and place.

Date: June 3, 2021

E-File / Dépôt électronique

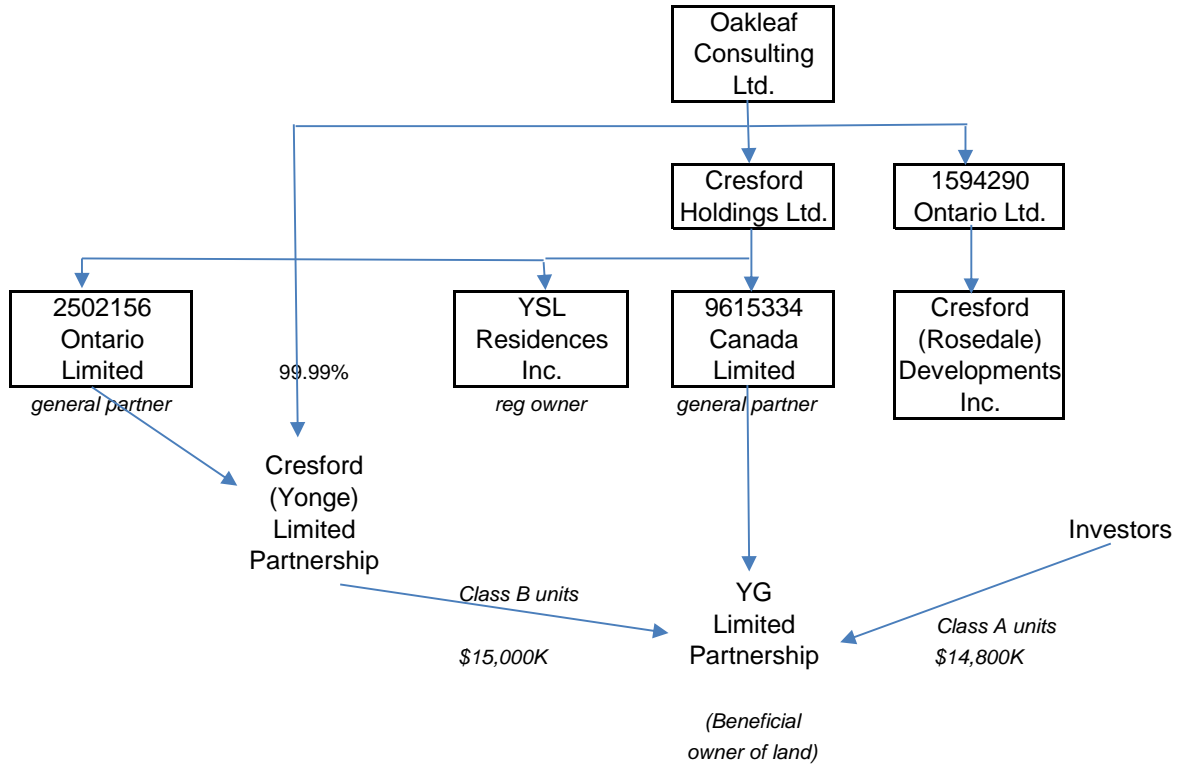
Official Receiver

151 Yonge Street, 4th Floor, Toronto, ONTARIO, M5C 2W7, 877/376-9902

Appendix “D”

Cresford Group

Organization Chart - Yonge/Gerrard



Appendix “E”

PROPOSAL SPONSOR AGREEMENT

THIS PROPOSAL SPONSOR AGREEMENT is dated as of April 30, 2021

AMONG:

YSL RESIDENCES INC., a corporation incorporated under the laws of the Province of Ontario ("**YSL Residences**")

– and –

YG LIMITED PARTNERSHIP, a limited partnership formed under the laws of the Province of Manitoba ("**YG LP**")

– and –

CRESFORD HOLDINGS LTD., a corporation incorporated under the laws of the Province of Ontario ("**CHL**")

– and –

2574733 ONTARIO LIMITED, a corporation incorporated under the laws of the Province of Ontario ("**257 Ontario**" and, together with YSL Residences, YG LP, 961 Canada, and CHL, collectively, "**YSL**")

– and –

CONCORD PROPERTIES DEVELOPMENT CORP. a corporation incorporated under the laws of the Province of Ontario (the "**Proposal Sponsor**")

RECITALS:

- A. YSL Residences is the registered owner of the real properties municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario (collectively, the "**Property**") acting as a bare trustee and nominee of for an on behalf of YG LP;
- B. YG LP is the beneficial owner of the Property, and was formed for the purpose of developing the Property into a mixed-use office, retail and residential condominium development comprised of approximately 1,100 residential units, 190,000 square feet of commercial/retail/institutional space and 242 parking spaces, and known as Yonge Street Living Residences (the "**Project**");
- C. CHL and 257 Ontario are entities within the Cresford Group of companies, a condominium development group involved in the development and financing of the Project;
- D. The Proposal Sponsor is prepared to sponsor a court supervised restructuring of YSL which will result in the Proposal Sponsor or its affiliate acquiring the Property and the rights to the Project and the parties have therefore entered into this Proposal Sponsor Agreement.

SECTION 1
THE TRANSACTION AND BIA PROPOSAL

- 1.1 Subject to the terms hereof and as further described in Section 1.5, the parties agree to use commercially reasonable efforts to effect a financial restructuring of YSL that will result in the acquisition of the Property by the Proposal Sponsor together with YSL's rights, title and interests in and to such Project-related contracts as may be stipulated by the Proposal Sponsor (the "**Transaction**"), pursuant to a proposal substantially in the form attached hereto as Schedule "A" (as may be amended from time to time, the "**Proposal**"), in proceedings under the *Bankruptcy and Insolvency Act* (the "**BIA**"), and on the terms set out in and consistent in all material respects with this Agreement.
- 1.2 It is agreed that KSV Restructuring Inc. shall act as trustee in respect of the Proposal (in such capacity, the "**Proposal Trustee**").
- 1.3 The agreement of the parties is conditional upon the following procedural steps occurring on the following dates (and, in the case of court orders, not thereafter being appealed or if appealed, the appeal being disposed of on terms satisfactory to the parties):
- (a) By April 30, 2021, YSL shall file a Notice of Intention to Make a Proposal with the Official Receiver;
 - (b) by May 4, 2021, the Proposal Trustee shall cause the Proposal and prescribed statement of affairs to be filed with the Official Receiver;
 - (c) by May 5, 2021, the Proposal Trustee shall deliver or cause to be delivered to affected creditors the materials contemplated by Section 51(1) of the BIA, all in form and substance satisfactory to the Proposal Trustee;
 - (d) by May 25, 2021, the Proposal Trustee shall convene a creditors' meeting for the purpose of voting on the Proposal;
 - (e) should the Proposal be accepted by creditors entitled to vote, by May 28, 2021, the Proposal Trustee shall serve an application pursuant to section 58 of the BIA, together with the Proposal Trustee's report in accordance with section 59 of the BIA, all in form and substance satisfactory to the Proposal Sponsor; and
 - (f) by June 9, 2021, the Proposal Trustee shall obtain an order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), in form and substance satisfactory to the Proposal Sponsor, among other things, approving the Proposal pursuant to and in accordance with the BIA.
- 1.4 The obligations of the Proposal Sponsor to fund or continue funding its commitments are subject to following conditions precedent for the benefit of the Proposal Sponsor:
- (a) the Proposal Sponsor shall have secured the support of the holders of at least two-thirds (2/3) in value of the aggregate unsecured debt of YSL as at the date of the filing of the Proposal;
 - (b) the execution of an agreement between the Proposal Sponsor (or its nominee) and Westmount Guarantee Services Inc. (or its nominee) providing for, among other things, the

maintenance of Westmount Guarantee Services Inc.'s existing security in respect of the Property, in form and substance satisfactory to the Proposal Sponsor;

- (c) the Proposal Sponsor (or its nominee) shall have acquired the claims and security of 2576725 Ontario Inc. and 2574733 Ontario Limited;
- (d) implementation of the Proposal ("**Closing**") will have occurred by no later than July 31, 2021 (the "**Outside Date**")
- (e) upon Closing, the assignment of such agreements of purchase and sale in respect of residential condominium units in the Project as may be specified by the Proposal Sponsor to the Proposal Sponsor, or as it may direct;
- (f) the disclaimer by YSL, without objection (or where objected to, such disclaimer is approved by the Court), of such contracts relating to the Project or otherwise to which YSL is a party as may be requested by the Proposal Sponsor;
- (g) the Proposal Sponsor's sponsorship of the Proposal and continued support of YSL as set out in this Agreement and in the Proposal shall not cause or result in any event of default under any other agreement to which the Proposal Sponsor is a party;
- (h) there shall have been no material adverse change to the Property or the Project prior to Closing;
- (i) the business of YSL will be operated in the normal course, consistent with past practice, until Closing;
- (j) all third-party approvals or consents or government or regulatory filings, permits or approvals required to implement the Proposal and the Project are received in a form satisfactory to the Proposal Sponsor;
- (k) there shall be no material adverse change to the market conditions for the sale and construction of residential condominium developments in the Greater Toronto Area prior to Closing; and
- (l) management of YSL will meet regularly with the Proposal Sponsor to ensure that YSL complies with the terms and conditions of this Agreement and conducts its day-to-day operations in collaboration with the Proposal Sponsor's dedicated restructuring team in order to ensure the successful completion of the Transaction and ultimate completion of the Project.

1.5 Subject to the terms set out herein and the satisfaction or waiver, in the Proposal Sponsor's sole discretion, of the conditions set out herein, the Proposal Sponsor agrees to:

- (a) provide YSL with such funds necessary to implement the Proposal proceedings, including with respect to the fees and disbursements of (i) legal counsel to YSL, (ii) the Proposal Trustee, and (iii) legal counsel to the Proposal Trustee, subject to the provision to the Proposal Sponsor of duly issued invoices in respect of same;
- (b) provide YSL with an amount of money to be determined, to settle or acquire all Secured Claims and security, Crown Claims and Preferred Claims (as such terms are defined in the

Proposal), including without limitation the secured claims of Timbercreek Mortgage Servicing Inc. and 2292912 Ontario Inc.;

- (c) provide YSL with an amount of money sufficient to fund the Proposal Fund up to the Maximum Proposal Fund Amount (as such terms are defined in the Proposal) to settle the unsecured claims against YSL pursuant the Proposal, which unsecured claims will be compromised and extinguished upon implementation of the Proposal. This funding will be provided by the Proposal Sponsor or its affiliate in consideration for the acquisition of the Property upon implementation of the Proposal;
 - (d) cooperate with YSL in good faith and use commercially reasonable efforts to complete, and to assist YSL in completing, the transactions and steps described in Sections 1.3 and 1.4 by the deadlines associated with those steps (where applicable);
 - (e) facilitate the payment of reasonably incurred construction costs necessary for the maintenance of the Property and the Project during the pendency of the Proposal proceedings, provided that invoices related to all such costs shall be furnished to the Proposal Sponsor for its review prior to any payment in respect thereof.
- 1.6 The Proposal Sponsor shall have the right to require that an approval and vesting order be obtained in respect of the acquisition of the Property by the Proposal Sponsor or its nominee, such order to be in form and substance satisfactory to the Proposal Sponsor.
- 1.7 If the Proposal fails because the required creditor approval is not obtained or if it is determined by the Proposal Sponsor that for any other reason it is no longer viable to implement the Transaction pursuant to the Proposal, then the Proposal Sponsor may, at its election, terminate this Agreement.
- 1.8 The Proposal Sponsor acknowledges and agrees that it is acquiring the Property pursuant to the Proposal on an “as is, where is” basis and on the basis that the Proposal Sponsor has conducted to its satisfaction an independent inspection, investigation and verification of the Property and all other relevant matters and has determined to proceed with the Transaction (subject to the conditions set out in this Agreement).
- 1.9 YSL covenants and agrees to take all steps as may be necessary or desirable to facilitate the Proposal and BIA proceedings in connection therewith, including executing such documents as may be reasonably requested by the Proposal Sponsor to give effect to the Proposal and the Transaction.

SECTION 2 TERMINATION

- 2.1 This Agreement may be terminated by notice given prior to the date of Closing:
- (a) by YSL or the Proposal Sponsor if a material breach of any representation, warranty, covenant obligation or other provision of this Agreement has been committed by the other party, unless such breach is capable of being cured by the Outside Date and the other party is proceeding diligently to cure such breach following notification of such breach;
 - (b) by the Proposal Sponsor if a condition in Section 1.3 or Section 1.4 becomes impossible to satisfy by the Outside Date (other than through the failure of the Proposal Sponsor to

comply with its obligations under this Agreement) and the Proposal Sponsor has not waived such condition;

- (c) by the Proposal Sponsor pursuant to Section 1.7; or
- (d) by written agreement of the Proposal Sponsor and YSL.

- 2.2 In the event of any termination of this Agreement, the obligations of the parties under this Agreement that have not been performed shall come to an end without any further obligation and the Proposal Sponsor may enforce any rights it may have against YSL or, if applicable, its affiliates, including any rights assigned to it by secured lenders to YSL (in accordance with the terms of any applicable agreement and subject to the orders in the Proposal proceeding). Nothing in this Agreement shall prevent the exercise by the Proposal Sponsor at any time of its rights assigned to it by secured lenders to any members of YSL (in accordance with the terms of this Agreement and any applicable agreement and subject to the orders in the Proposal proceeding).

SECTION 3 REPRESENTATIONS AND WARRANTIES

- 3.1 Each of the parties hereby represents and warrants to the other parties hereto that it has all requisite corporate power and authority to enter into this Agreement and to carry out the transactions contemplated by, and perform its respective obligations under, this Agreement.
- 3.2 Each of the parties hereto hereby represents and warrants to the other parties hereto that the execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary corporate action on its part.
- 3.3 YSL hereby represents and warrants, after making such investigations as it considers reasonably necessary to ensure its accuracy, that there is no matter, fact or event which is known to YSL which has not been disclosed to Proposal Sponsor in writing prior to execution of this Agreement which is likely to have a material adverse effect on the Project or the Proposal.

SECTION 4 EXCLUSIVITY

- 4.1 In consideration of the obligations of the Proposal Sponsor hereunder, YSL agrees that it will not, and shall not permit, to the extent legally possible, any officer, director, shareholder, affiliate, agent, representative or other person acting on its or their behalf to, directly or indirectly, continue, entertain, solicit or enter into any discussions, offers, agreements or negotiations with any other person (whether solicited or unsolicited), with respect to any offer or proposal from any person other than the Proposal Sponsor (or an affiliate of the Proposal Sponsor) relating to: (i) any sale or disposition (or any lease, license or other arrangement having the same economic effect as a sale of disposition) direct or indirect, through one more related transactions of the Property; (ii) any transaction, business arrangement or proposal the effect of which would be to modify the Project from its current conception as of the date of this Agreement; or (iii) any proposal, plan of arrangement, merger, amalgamation, consolidation, share exchange, business combination, reorganization, recapitalization, or other similar transaction or series of related transactions involving the Project or YSL, including any transaction similar to the Proposal, and shall suspend any existing activities or discussions with any parties other than the Proposal Sponsor and its representatives relating to a similar transaction unless such activities are contemplated by this Agreement.

**SECTION 5
GENERAL**

5.1 **Notices.** Any notice or communication to be delivered hereunder shall be in writing and shall reference this Agreement or, if filed, the Proposal, and may, subject as hereinafter provided, be made or given by registered mail, personal delivery or by means of electronic communication addressed to the recipient as follows:

(a) If to YSL Residences, YG LP, CHL or 257Ontario:

c/o Aird & Berlis LLP
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9
Attention: Harry Fogul
hfogul@airdberlis.com

If to the Proposal Sponsor:

82 Queen's Wharf Road, 2nd Floor
Toronto, ON M5V 3Y2

Attention: Dennis Au-Yeung

And with a copy to:

Bennett Jones LLP
Suite 3400
One First Canadian Place
P.O. Box 130
Toronto, Ontario
M5X 1A4

Attention: David Gruber
gruberd@bennettjones.com
- and -
Jesse Mighton
mightonj@bennettjones.com

5.2 **Binding Obligation.** Each party hereto hereby represents and warrants to the other party that this Agreement is a legally valid and binding obligation of it, enforceable against it in accordance with the Agreement's terms, except as enforcement may be limited by applicable law.

5.3 **Further Assurances.** Each party hereto will from time to time at the request and expense of the other execute and deliver all such further documents and instruments and do all acts and things as the other parties may, either before or after the date of Closing, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.


5.4 **Time of the Essence.** Time is of the essence of this Agreement.

- 5.5 **Fees, Commissions and other Costs and Expenses.** Except as otherwise expressly provided in this Agreement, each party shall pay its respective legal and accounting costs and expenses and any real estate or other commissions incurred in connection with the preparation execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses whatsoever and howsoever incurred and will indemnify and save harmless the other from and against any claim resulting from any broker's, finder's or placement fee or commission alleged to have been incurred as a result of any action by it in connection with the transactions under this Agreement.
- 5.6 **Entire Agreement.** This Agreement (including the agreements contemplated hereby) constitute the entire agreement between the parties with respect to the subject matter hereof and such agreements cancel and supersede any prior understandings and agreements between the parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement (including the agreements contemplated hereby).
- 5.7 **Remedies Cumulative.** The right and remedies of the parties under this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that party may be entitled.
- 5.8 **Good Faith.** Each party hereto agrees to cooperate in good faith with each other to facilitate the performance by the parties of their respective obligations hereunder and the purposes of this Agreement.
- 5.9 **Amendments.** Except as otherwise expressly provided herein, this Agreement shall not be amended, modified or supplemented, except in writing signed by each of the parties' signatories hereto.
- 5.10 **Governing Law.** This Agreement shall be governed by the laws of the Province of Ontario, without regard to any conflicts of law provision that would require the application of the law of any other jurisdiction.
- 5.11 **Specific Performance.** It is understood and agreed by the parties hereto that money damages would not be a sufficient remedy for any breach of this Agreement by any party and the non-breaching party shall be entitled to specific performance and injunctive or other equitable relief as remedy for any such breach.
- 5.12 **Headings.** The headings of the sections, paragraphs and subsections of this Agreement are inserted for convenience only and shall not affect the interpretation hereof.
- 5.13 **Successors and Assigns.** This Agreement is intended to bind and inure to the benefit of the parties hereto and their respective successors and assigns. The agreements, representatives and obligations of the undersigned parties under this Agreement are, in all respects, several and not joint.
- 5.14 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page by electronic transmission shall be effective as delivery of a manually executed counterpart.


5.15 **Third Party Beneficiaries.** This Agreement shall be solely for the benefit of the parties hereto and, subject to Section 5.13 hereof, no other person or entity shall be a third-party beneficiary hereto.

[Signatures on next pages]

**CONCORD PROPERTIES
DEVELOPMENT CORP.**

Per: 
Name: Dennis Au-Yeung
Title:


YSL RESIDENCES INC.

Per: 
Name: Daniel Casey
Title: President


**YG LIMITED PARTNERSHIP, by its
general partner 9615334 CANADA INC.**

Per: 
Name: Daniel Casey
Title: President

CRESFORD HOLDINGS LTD.

Per: 
Name: Daniel Casey
Title: President

2574733 ONTARIO LIMITED

Per: 
Name: Daniel Casey
Title: President

SCHEDULE "A"
PROPOSAL

44239582.2

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE PROPOSAL OF YG LIMITED PARTNERSHIP
AND YSL RESIDENCES INC. PURSUANT TO THE
*BANKRUPTCY AND INSOLVENCY ACT***

PROPOSAL

WHEREAS, upon delivery hereof, YSL Residences Inc. and 9615334 Canada Inc., as general partner of and on behalf of YG Limited Partnership (collectively, "YSL" or the "**Company**") have initiated proceedings under the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, B-3 as amended (the "**BIA**"), pursuant to Section 50(1) thereof;

NOW THEREFORE the Company hereby submits the following proposal under the BIA to its creditors (the "**Proposal**").

**ARTICLE I
DEFINITIONS**

1.01 Definitions

In this Proposal:

"**Administrative Fees and Expenses**" means the fees, expenses and disbursements incurred by or on behalf of the Proposal Trustee, the solicitors for the Proposal Trustee, the solicitors of the Company both before and after the Filing Date;

"**Affected Creditor Claim**" means a Proven Claim, other than an Unaffected Claim;

"**Affected Creditor Share**" means, subject to section 2.02(a)(i), the amount that is equal to 58% of the face value of an Affected Creditor Claim, subject to the Maximum Proposal Fund Amount which, if exceeded shall result in Affected Creditors receiving the Affected Creditor Pro Rata Share;

"**Affected Creditor Pro Rata Share**" means, in respect of an Affected Creditor Claim, (i) the face value of the Affected Creditor Claim, divided by (ii) the Maximum Proposal Fund Amount;

"**Affected Creditors**" means all Persons having Affected Creditor Claims, but only with respect to and to the extent of such Affected Creditor Claims;

"**Affected Creditors Class**" means the class consisting of the Affected Creditors established under and for the purposes of this Proposal, including voting in respect thereof;

"**Approval Order**" means an order of the Court, among other things, approving the Proposal;

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"**Assumed Contracts**" means, subject to section 8.02(e), those written contracts entered into by or on behalf of the Company in respect of the Project listed in Schedule "B" hereto, which are to be assumed by the Proposal Sponsor upon Implementation with the consent of the applicable counterparty or otherwise pursuant to an order issued in pursuant to section 84.1 of the BIA;

"**BIA**" has the meaning ascribed to it in the recitals;

"**Business Day**" means a day, other than a Saturday or Sunday, on which banks are generally open for business in Toronto, Ontario;

"**Claim**" means any right or claim of any Person against the Company in connection with any indebtedness, liability, or obligation of any kind whatsoever in existence on the Filing Date (or which has arisen after the Filing Date as a result of the disclaimer or repudiation by the Company on or after the Filing Date of any lease or executory contract), and any interest accrued thereon to and including the Filing Date and costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against the Company with respect to any matter, cause or chose in action, but subject to any counterclaim, set-off or right of compensation in favour of the Company which may exist, whether existing at present or commenced in the future, which indebtedness, liability or obligation (A) is based in whole or in part on facts that existed prior to the Filing Date, (B) relates to a period of time prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA;

"**Company**" has the meaning ascribed to it in the recitals;

"**Conditions Precedent**" shall have the meaning given to such term in section 8.02 hereof;

"**Condo Purchase Agreement**" means an agreement of purchase and sale in respect of a residential condominium unit in the Project between the Company and a Condo Purchaser;

"**Condo Purchaser**" means a purchaser of a residential condominium unit in the Project pursuant to a Condo Purchase Agreement;

"**Condo Purchaser Claim**" means any Claim of a Condo Purchaser in respect of its Condo Purchase Agreement;

"**Construction Lien Claim**" means any Proven Claim in respect of amounts secured by a perfected lien registered against title to the Property and are valid in accordance with the *Construction Act* (Ontario);

"**Convenience Creditor**" means an Affected Creditor with a Convenience Creditor Claim;

"**Convenience Creditor Claim**" means (a) any Proven Claims of an Affected Creditor in an amount less than or equal to **[\$10,000]**, and (b) any Proven Claim of an Affected Creditor in an amount greater than **[\$10,000]** if the relevant Creditor has made a valid election for the purposes of this Proposal in accordance with this Proposal prior to the Convenience Creditor Election Deadline;

"**Convenience Creditor Consideration**" has the meaning ascribed to it in Section 3.04;

"**Convenience Creditor Election Deadline**" means 5:00 p.m. (Toronto time) on **[May 24]**, 2021;

"**Convenience Creditor Election Form**" means the form, substantially in the form attached hereto as Schedule C, pursuant to which an Affected Creditor that is not a Convenience Creditor may elect to be treated as a Convenience Creditor, in accordance with Section 3.04 herein;

"**Court**" means the Ontario Superior Court of Justice (Commercial List);

"**Court Approval Date**" means the date upon which the Court makes the Approval Order;

"**Creditors' Meeting**" means the meeting of the Affected Creditors called for the purpose of considering and voting upon the Proposal;

"**Creditors' Meeting Date**" means such date and time for the Creditors' Meeting as may be called by the Proposal Trustee, but in any event shall be no later than twenty-one (21) days following the filing of this Proposal with the Official Receiver;

"**Crown**" means Her Majesty in Right of Canada or of any Province of Canada and their agents;

"**Crown Claims**" means the Claims of the Crown set out in Section 60(1.1) of the BIA outstanding as at the Filing Date against the Company, if any, payment of which will be made in priority to the payment of the Preferred Claims and to distributions in respect of the Ordinary Claims, and specifically excludes any other claims of the Crown;

"**Disputed Claim**" means any Claim which has not been finally resolved as a Proven Claim in accordance with the BIA as at the Proposal Implementation Date;

"**Distributions**" means a distribution of funds made by the Proposal Trustee from the Proposal Fund to Affected Creditors in respect of Affected Creditor Claims, in accordance with Article V;

"**Effective Time**" means 12:00 p.m. (Toronto time) on the Proposal Implementation Date;

"**Equity Claim**" has the meaning ascribed to it in Section 2 of the BIA;

"**Existing Equity**" means the limited partnership units of YG LP;

"**Existing Equityholders**" means the holders of the Existing Equity immediately prior to the Effective Time;

"**Filing Date**" means [●], 2021, being the date upon which a Notice of Intention to Make a Proposal was filed by the Company with the Official Receiver in accordance with the BIA;

"**Governmental Authority**" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (ii) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

"**Implementation**" means the completion and implementation of the transactions contemplated by this Proposal;

"**Implementation Certificate**" has the meaning ascribed to it in Section 8.02(j);

"**Maximum Proposal Fund Amount**" means [●\$];

"**Official Receiver**" shall have the meaning ascribed thereto in the BIA;

"**Outside Date**" means July 31, 2021;

"**Permitted Encumbrances**" means those encumbrances on the Property listed in Schedule "A" hereto;

"**Person**" means any individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority and a natural person in such person's capacity as trustee, executor, administrator or other legal representative;

"**Preferred Claim**" means a Claim enumerated in Section 136(1) of the BIA outstanding as at the Filing Date against the Company, if any, the payment of which will be made in priority to distributions in respect of Affected Creditor Claims;

"**Project**" means the mixed-used office, retail and residential condominium development to be constructed on the Property currently consisting of approximately 1,100 residential condominium units and 170 parking units and known as Yonge Street Living Residences;

"**Property**" means the real property owned by the Company and municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario, and legally described by PIN numbers 21101-0042 (LT) to 21101-0049 (LT), inclusive;

"**Proposal**" means this Proposal of the Company, and any amendments, modifications and/or supplements hereto made in accordance with the terms hereof;

"**Proposal Fund**" means the fund established by the Proposal Sponsor pursuant to and as described in Section 5.01;

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"Proposal Fund Amount" means the amount necessary to pay each Affected Creditor its Affected Creditor Share, provided that such amount shall not exceed the Maximum Proposal Fund Amount;

"Proposal Implementation Date" means the date on which Implementation occurs, which shall occur following the satisfaction of the Conditions Precedent, and no later than the Outside Date;

"Proposal Sponsor" means Concord Properties Development Corp.;

"Proposal Sponsor Agreement" means that agreement entered into among the Proposal Sponsor and the Company as of April [●], 2021, as amended from time to time;

"Proposal Trustee" means KSV Restructuring Inc. in its capacity as trustee in respect of this Proposal, or its duly appointed successor;

"Proposal Trustee's Website" means the following website: [www.ksvadvisory.com/insolvency-cases/case/\[●\]](http://www.ksvadvisory.com/insolvency-cases/case/[●]);

"Proven Claim" means in respect of an Affected Creditor, the amount of a Claim as finally determined in accordance with the provisions of the BIA, provided that the Proven Claim of an Affected Creditor with a Claim in excess of \$10,000.00 that has elected to be a Convenience Creditor by submitting a Convenience Creditor Election Form shall be valued for voting purposes as \$10,000.00;

"Released Claims" means, collectively, the matters that are subject to release and discharge pursuant to Section 7.01;

"Released Parties" means, collectively, (i) the Company, (ii) each affiliate or subsidiary of the Company; (iii) the Proposal Sponsor, (iv) the Proposal Trustee, and (v) subject to section 7.01, each of the foregoing Persons' respective former and current officers, directors, principals, members, affiliates, limited partners, general partners, managed accounts or funds, fund advisors, employees, financial and other advisors, legal counsel, and agents, each in their capacity as such;

"Required Majority" means an affirmative vote of a majority in number and two-thirds in value of all Proven Claims in the Affected Creditors Class entitled to vote, who are present and voting at the Creditors' Meeting (whether online, in-person, by proxy or by voting letter) in accordance with the voting procedures established by this Proposal and the BIA;

"Secured Claims" means:

- (a) The Claim of Timbercreek which is secured by, among other things a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (b) The Claim of 2576725 Ontario Inc. which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (c) All Construction Lien Claims but only to the extent of such Construction Lien Claims;

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"**Secured Creditor**" means a Person holding a Secured Claim, with respect to, and to the extent of such Secured Claim;

"**Superintendent's Levy**" means the levy payable to the Superintendent of Bankruptcy pursuant to sections 60(4) and 147 of the BIA;

"**Timbercreek**" means, collectively, Timbercreek Mortgage Servicing Inc. and 2292912 Ontario Inc.;

"**Unaffected Claim**" means:

- (a) the Administrative Fees and Expenses;
- (b) the Claims of Timbercreek;
- (c) the Claims of Westmount Guarantee Services Inc. which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (d) the Claims of 2576725 Ontario Inc., which is secured by, among other things, an equitable mortgage encumbering the Property;
- (e) any Claim of the City of Toronto;
- (f) all Condo Purchaser Claims;
- (g) all Construction Lien Claims, but only to the extent such Claims are valid in accordance with the *Construction Act* (Ontario) and have been perfected by the Proposal Implementation Date; and
- (h) such other Claims as the Company and Proposal Sponsor may agree with the consent of the Proposal Trustee;

"**Unaffected Creditor**" means a creditor holding an Unaffected Claim, with respect to and to the extent of such Unaffected Claim;

"**Undeliverable Distributions**" has the meaning ascribed to it in Section 5.04; and

"**YSL**" has the meaning ascribed to it in the recitals.

1.02 Intent of Proposal

This Proposal is intended to provide all Affected Creditors a greater recovery than they would otherwise receive if the Company were to become bankrupt under the BIA. More specifically, the Proposal will provide for a payment in full of Secured Claims and will provide a significant recovery in respect of Affected Creditor Claims. While the exact recovery cannot be determined until all Claims have been determined, and subject to the claims of contingent Affected Creditors, the Company expects Affected Creditors to receive a significant, albeit not a full recovery, on their

Claims and, in any event, a greater recovery than would occur if the Company were to become a bankrupt under the BIA.

In consideration for, among other things, its sponsorship of this Proposal, including the satisfaction of all Secured Claims, Preferred Claims and the establishment of the Proposal Fund, on the Proposal Implementation Date, title to the Property, subject only to the Permitted Encumbrances, as well as the Company's interests and obligations under the Assumed Contracts and Condo Purchase Agreements shall be acquired by the Proposal Sponsor, or its nominee in accordance with the terms hereof.

1.03 Date for Any Action

In the event that any date on which any action is required to be taken under this Proposal by any of the parties is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.04 Time

All times expressed in this Proposal are local time in Toronto, Ontario, Canada unless otherwise stipulated. Time is of the essence in this Proposal.

1.05 Statutory References

Except as otherwise provided herein, any reference in this Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.06 Successors and Assigns

The Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors, and assigns of any Person named or referred to in the Proposal.

1.07 Currency

Unless otherwise stated herein, all references to currency and to "\$" in the Proposal are to lawful money of Canada.

1.08 Articles of Reference

The terms "hereof", "hereunder", "herein" and similar expressions refer to the Proposal and not to any particular article, section, subsection, clause or paragraph of the Proposal and include any agreements supplemental hereto. In the Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of the Proposal.

1.09 Interpretation Not Affected by Headings

The division of the Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of a table of contents and headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.10 Numbers

In this Proposal, where the context requires, a word importing the singular number will include the plural and *vice versa* and a word or words importing gender will include all genders.

ARTICLE II **CLASSIFICATION AND TREATMENT OF AFFECTED PARTIES**

2.01 Classes of Creditors

For the purposes of voting on the Proposal, there will only be one class of creditors, being the Affected Creditors Class. For the purposes of voting on the Proposal, each Convenience Creditor shall be deemed to be in and shall be deemed to vote in and as part of, the Affected Creditors Class.

2.02 Treatment of Affected Creditors

- (a) As soon practicable after the Proposal Implementation Date, and after taking an adequate reserve in respect of any Disputed Claims:
 - (i) all Affected Creditor Claims (other than Convenience Class Creditors) shall receive, in respect of such Affected Creditor Claim, its Affected Creditor Share, net of the Superintendent's Levy, made by the Proposal Trustee from the Proposal Fund from time to time in accordance with Article V hereof; provided, however if the aggregate Affected Creditor Share amount payable to all Affected Creditors exceeds the Maximum Proposal Fund Amount, then Affected Creditors with Proven Claims shall receive, in respect of such Proven Claim, its Affected Creditor Pro Rata Share; and
 - (ii) all Convenience Class Creditors shall receive in respect of such Convenience Creditor Claims, the Convenience Creditor Consideration, net of the Superintendent's Levy;
- (b) On the Proposal Implementation Date, each Affected Creditor Claim shall, and shall be deemed to have been irrevocably and finally extinguished, discharged and released, and each Affected Creditor shall have no further right, title or interest in or to its Affected Creditor Claim.

2.03 Existing Equityholders and Holders of Equity Claims

Holders of Equity Claims shall not be entitled to vote in respect of their Equity Claims at the Creditors Meeting and shall not receive any distribution under this Proposal on account of their Equity Claims. Subject to Section 7.01, all Equity Claims shall be fully, finally and irrevocably and forever compromised, released, discharged, cancelled, extinguished and barred for no consideration on the Proposal Implementation Date in accordance with Section 5.01(g).

2.04 Application of Proposal Distributions

All amounts paid or payable hereunder on account of the Affected Creditor Claims (including, for greater certainty, any securities received hereunder) shall be applied as follows: (i) first, in respect of the principal amount of the Affected Creditor Claim, and (ii) second, in respect of the accrued but unpaid interest on the Affected Creditor Claim.

2.05 Full Satisfaction of All Affected Creditor Claims

All Affected Creditors shall accept the consideration set out in Section 2.02 hereof in full and complete satisfaction of their Affected Creditor Claims, and all liens, certificates of pending litigation, executions, or other similar charges or actions or proceedings in respect of such Affected Creditor Claims will have no effect in law or in equity against the Property, or other assets and undertaking of the Company. Upon the Implementation of the Proposal, any and all such registered liens, certificates of pending litigation, executions or other similar charges or actions brought, made or claimed by Affected Creditors will be and will be deemed to have been discharged, dismissed or vacated without cost to the Company and the Company will be released from any and all Affected Creditor Claims of Affected Creditors, subject only to the right of Affected Creditors to receive Distributions as and when made pursuant to this Proposal.

2.06 Undeliverable Distributions

Undeliverable Distributions shall be dealt with and treated in the manner provided for in the BIA and the directives promulgated pursuant thereto.

ARTICLE III
MEETING OF AFFECTED CREDITORS

3.01 Meeting of Affected Creditors

On the Creditors' Meeting Date, the Company shall hold the Creditors' Meeting in order for the Affected Creditors to consider and vote upon the Proposal.

3.02 Time and Means of Creditors' Meeting

The Creditors' Meeting shall take place at 10 a.m. (Toronto time) on [May 25], 2021. Due to COVID-19, the Creditors' Meeting shall be held online at the following website: [●].

3.03 Quorum and Conduct of Creditors' Meeting

A quorum shall be constituted for the Creditors' Meeting or any adjournment thereof if there is one Affected Creditor, entitled to vote, present in person (virtually) or by proxy, or if one Affected Creditor, entitled to vote, has submitted a voting letter in accordance with the provisions of the BIA and this Proposal. If the requisite quorum is not present at the Creditors' Meeting or if the Creditors' Meeting has to be postponed for any reason, then the Creditors' Meeting shall be adjourned by the Proposal Trustee to such date, time and place or online meeting platform as determined by the Proposal Trustee. For greater certainty, the Creditors' Meeting may be adjourned one or more times.

3.04 Voting at the Meeting

Each Affected Creditor will be required to submit a proof of claim to the Proposal Trustee. Each Affected Creditor shall be entitled to a single vote valued in the full amount of its Proven Claim. In order to vote at the Creditors' Meeting, the proof of claim must be submitted to the Proposal Trustee no later than 5:00 p.m. (Toronto time) on the day that is one (1) Business Day prior to the commencement of the Creditors' Meeting. Any Person asserting a Construction Lien Claim that has not been perfected in accordance with the *Construction Act* (Ontario) is required to file a proof of claim in accordance with this paragraph.

The only Persons entitled to attend and speak at the Creditors' Meeting are representatives of the Company and its legal counsel and advisors, the Proposal Sponsor and its legal counsel and advisors, the Proposal Trustee and its legal counsel and advisors, and all other Persons entitled to vote at the Creditors' Meeting and their respective legal counsel and advisors. Any other Person may be admitted to the Creditors' Meeting on invitation of the Proposal Trustee.

The provisions of section 135 of the BIA will apply to all proofs of claim submitted by Affected Creditors, including in respect of Disputed Claims. In the event that a duly submitted proof of claim has been disallowed or revised for voting purposes by the Proposal Trustee, and such disallowance has been disputed by the applicable Affected Creditor in accordance with Section 135(4) of the BIA, then the dollar value for voting purposes at the Creditors' Meeting shall be the dollar amount of such disputed claim set out in the proof of claim submitted by such Affected Creditor, without prejudice to the determination of the dollar value of such Affected Creditor's disputed claim for distribution purposes.

Notwithstanding the foregoing, each Convenience Creditor with a Proven Claim of \$10,000.00 or less is irrevocably deemed to have voted the full amount of its Proven Claims in favour of the approval of the Proposal without requirement for such Convenience Creditor to file a proxy to vote in favour of the Proposal, in consideration for the Proposal providing for the full payment of their Proven Claim. An Affected Creditor with a Proven Claim in excess of \$10,000.00 that wishes to be treated as a Convenience Creditor under the Proposal must deliver a duly completed and executed Convenience Creditor Election Form to the Proposal Trustee by no later than the Convenience Creditor Election Deadline, and upon doing so such Affected Creditor: (i) is irrevocably deemed to have voted the full amount of its Proven Claim in favour of the Proposal as a member of the Affected Creditors Class; and (ii) shall be treated as a Convenience Creditor for

all purposes and shall receive the lesser of (x) \$10,000.00, and (y) the amount of its Proven Claim (either (x) or (y), being the applicable “**Convenience Creditor Consideration**”).

3.05 Approval by Affected Creditors

In order to be approved, this Proposal must receive the affirmative votes of the Required Majority.

3.06 Modification to Proposal

Subject to the consent of the Proposal Trustee and the Proposal Sponsor, the Company reserves the right at any time prior to the Creditors' Meeting to file any modification of, amendment or supplement to the Proposal by way of supplementary proposal. Any such amended or supplementary proposal shall forthwith be posted on the Proposal Trustee's Website and filed with the Official Receiver as soon as practicable, in which case any such amended or supplementary proposal or proposals shall, for all purposes, be and be deemed to be a part of and incorporated in to this Proposal. At the Creditors' Meeting, the Company and/or the Proposal Trustee shall provide all Affected Creditors in attendance with details of any modifications or amendments prior to the vote being taken to approve the Proposal. Subject to the provisions of the BIA, after the Creditors' Meeting (and both prior to and subsequent to the Approval Order) and subject to the consent of the Proposal Trustee and the Proposal Sponsor, the Company may at any time and from time to time vary, amend, modify or supplement the Proposal.

ARTICLE IV PREFERRED CLAIMS AND MANDATORY PAYMENTS

4.01 Crown Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Crown Claims, if any, will be paid by the Proposal Trustee, in full with related interest and penalties as prescribed by the applicable laws, regulations and decrees.

4.02 Preferred Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Preferred Claims, if any, will be paid in full by the Proposal Trustee.

ARTICLE V ESTABLISHMENT OF PROPOSAL FUND AND DISTRIBUTIONS

5.01 Establishment of Proposal Fund

On the Plan Implementation Date, in accordance with the sequence set out in section 6.01 hereof, the Proposal Sponsor shall transfer to the Proposal Trustee, in trust, the Proposal Fund Amount, provided that such amount shall not exceed the Maximum Proposal Fund Amount, which funds shall be held in a specific trust account by the Proposal Trustee and used for the specific purposes set out in this Proposal, plus a reasonable reserve on account of Administrative Fees and Expenses,

and, subject to section 5.03, a reserve in respect of Disputed Claims (if any). All such cash transferred to the Proposal Trustee shall be held in trust by the Proposal Trustee in the Proposal Fund for the benefit of such Persons who are entitled to receive Distributions (including all Affected Creditors to the extent of their Proven Claims) pursuant to this Proposal. Any excess funds remaining in the Proposal Fund following the distribution of all amounts contemplated by the Proposal to those parties entitled to such disbursements shall be remitted directly to the Proposal Sponsor, or as it may direct.

5.02 Distributions

As soon as possible after the Proposal Implementation Date and the payments contemplated by Sections 4.01 and 4.02, the Proposal Trustee shall make a Distribution to Affected Creditors with Proven Claims as follows:

- (a) If the aggregate amount necessary to satisfy the Affected Creditor Share payable to all Affected Creditors with Proven Claims does not exceed the Maximum Proposal Fund Amount, the Proposal Trustee shall make a Distribution to each Affected Creditor with a Proven Claim in the amount of its Affected Creditor Share, net of the Superintendent's Levy; or
- (b) If the aggregate amount necessary to satisfy the Affected Creditor Share payable to all Affected Creditors with Proven claims exceeds the Maximum Proposal Fund Amount, then, after reserving an amount necessary in respect of unresolved Disputed Claims in accordance with Section 5.03, the Proposal Trustee shall make a Distribution of all funds available for distribution in the Proposal Fund to each Affected Creditor with a Proven Claim in the amount of its Affected Creditor Pro Rata Share, net of the Superintendent's Levy. The Proposal Trustee may make more than one distribution to Affected Creditors of the Affected Creditor Pro Rata Share amount as Disputed Claims are resolved.

5.03 Reserves for Unresolved Disputed Claims

Prior to making any Distribution to Affected Creditors pursuant to Section 5.02, the Proposal Trustee shall set aside in the Proposal Fund sufficient funds to pay all Affected Creditors with Disputed Claims the amounts such Affected Creditors would be entitled to receive in respect of that particular Distribution pursuant to this Proposal, in each case as if their Disputed Claim had been a Proven Claim at the time of such Distribution. Upon the resolution of each Disputed Claim in accordance with the BIA, any funds which have been reserved by the Proposal Trustee to deal with such Disputed Claim but which are not required to be paid to the Affected Creditor shall remain in the Proposal Fund and become available for further Distributions to Affected Creditors in respect of their Proven Claims.

5.04 Method of Distributions

Unless otherwise agreed to by the Proposal Trustee and an Affected Creditor, all Distributions made by the Proposal Trustee pursuant to this Proposal shall be made by cheque mailed to the address shown on the proof of claim filed by such Affected Creditor or, where an Affected Creditor has provided the Trustee with written notice of a change of address, to such address set out in that

notice. If any delivery or distribution to be made pursuant to Article IV hereof in respect of an Affected Creditor Claim is returned as undeliverable, or in the case of a distribution made by cheque, the cheque remains uncashed (each an "**Undeliverable Distribution**"), no other crediting or delivery will be required unless and until the Proposal Trustee is notified of the Affected Creditor's then current address. The Proposal Trustee's obligations to the Affected Creditor relating to any Undeliverable Distribution will expire six months following the date of delivery or mailing of the cheque or other distribution, after which date the Proposal Trustee's obligations under this Proposal in respect of such Undeliverable Distribution will be forever discharged and extinguished, and the amount that the Affected Creditor was entitled to be paid under the Proposal shall be distributed to the Proposal Sponsor.

5.05 Residue After All Distributions Made

Residual funds, if any, in the Proposal Fund which are not required for Distribution under this Proposal shall be returned to the Proposal Sponsor, or as it may direct, by the Proposal Trustee immediately prior to the filing of the certificate by the Proposal Trustee referenced in section 13.02 hereof.

ARTICLE VI IMPLEMENTATION

6.01 Proposal Implementation Date Transactions

Commencing at the Effective Time, the following events or transactions will occur, or be deemed to have occurred and be taken and effected, in the following order in five minute increments (unless otherwise indicated) and at the times and in the order set out in this Section 6.01 (or in such other manner or order or at such other time or times as the Company and the Proposal Sponsor may agree, each acting reasonably), without any further act or formality required on the part of any Person, except as may be expressly provided herein:

- (a) Either the Proposal Sponsor will, at its election, but subject to obtaining the consent of the applicable Secured Creditor, assume the Secured Claims, or on behalf of the Company, the Proposal Sponsor will make payment in full to Secured Creditors in respect of their Secured Claims;
- (b) the releases in respect of Secured Claims referenced in section 7.01 shall become effective, and any registrations on title to the Property in respect of such Secured Claims shall be discharged from title to the Property;
- (c) the Proposal Sponsor shall provide the Proposal Fund Amount to the Proposal Trustee in accordance with section 5.01 in full and final settlement of all Affected Creditor Claims;
- (d) the Proposal Sponsor shall provide the Proposal Trustee with an amount necessary to satisfy the Administrative Fees and Expenses, including a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated

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to be incurred in connection with the administration of Distributions, resolution of any Disputed Claims, and the Proposal Trustee's discharge;

- (e) title to the Property shall be registered in the name of the Proposal Sponsor, or its nominee, together with any charges applicable to security held by the lenders to the Proposal Sponsor in respect of the purchase of the Property and construction of the Project;
- (f) the assumption of the Assumed Contracts by the Proposal Sponsor, or its nominee, shall become effective;
- (g) all Affected Creditor Claims (including without limitation all Convenience Creditor Claims) shall, and shall be deemed to be, irrevocably and finally extinguished and the Affected Creditors shall have no further right, title or interest in and to their respective Affected Creditor Claims;
- (h) subject to Section 7.01, all Equity Claims shall, and shall be deemed to be, irrevocably and finally extinguished and all Existing Equityholders shall have no further right, title or interest in and to their respective Equity Claims; and
- (i) the releases in respect of Affected Creditor Claims referred to in Section 7.01 shall become effective.

ARTICLE VII

RELEASES

7.01 Release of Released Parties

At the applicable time pursuant to Section 6.01(b), in the case of Secured Claims, and Section 6.01(i), in respect of Affected Creditor Claims, each of the Released Parties shall be released and discharged from all present and future actions, causes of action, damages, judgments, executions, obligations, liabilities and Claims of any kind or nature whatsoever arising on or prior to the Proposal Implementation Date, including without limitation in connection with this Proposal and any proceedings commenced with respect to or in connection with this Proposal, the Project, the transactions contemplated hereunder, and any other actions or matters related directly or indirectly to the foregoing, provided that nothing in this paragraph shall release or discharge (i) any of the Released Parties from or in respect of their respective obligations under this Proposal or any order issue by the Court in connection with this Proposal or any document ancillary to any of the foregoing, (ii) any Released Party from liabilities or claims which cannot be released pursuant to s. 50(14) of the BIA, as determined by the final, non-appealable judgment of the Court, or (iii) any Released Party from any Secured Claim of Timbercreek. The foregoing release shall not be construed to prohibit a party in interest from seeking to enforce the terms of this Proposal, including with respect to Distributions, or any contract or agreement entered into pursuant to, in connection with or contemplated by this Proposal. Notwithstanding the foregoing, the directors and officers of the Company shall not be released in respect of any Equity Claim as defined in section 2 of the BIA or any analogous claim in respect of a partnership interest.

7.02 Injunctions

All Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Proposal Implementation Date, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever of any Person against the Released Parties, as applicable; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, guarantee, decree or order against the Released Parties; (iii) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (iv) taking any actions to interfere with the implementation or consummation of this Proposal or the transactions contemplated hereunder; provided, however, that the foregoing shall not apply to the enforcement of any obligations under this Proposal or any document, instrument or agreement executed to implement this Proposal.

ARTICLE VIII CONDITIONS PRECEDENT

8.01 Confirmation of Proposal

Provided that the Proposal is approved by the Required Majority, the Proposal Trustee shall apply for the Approval Order no later than five (5) days following the Creditors' Meeting.

8.02 Conditions Precedent

This Proposal will take effect on the Proposal Implementation Date. The Implementation of this Proposal on the Proposal Implementation Date is subject to the satisfaction of the following conditions precedent (collectively, the “**Conditions Precedent**”):

- (a) the Proposal is approved by the Required Majority;
- (b) the Approval Order, in form and substance satisfactory to the Proposal Sponsor, has been issued, has not been stayed and no appeal therefrom is outstanding;
- (c) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Authority, no application shall have been made to any Governmental Authority, and no action or investigation shall have been announced, threatened or commenced by any Governmental Authority, in consequence or in connection with the Proposal or the Project that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or inhibit), the Proposal or any part thereof or the Project or any part thereof or requires or purports to require a variation of the Proposal or the Project;
- (d) registrations in respect of all encumbrances, including without limitation any registrations in respect of Construction Lien Claims, but excluding the Permitted Encumbrances, shall have been deleted from title to the Property, provided that, should the Implementation of the Proposal not occur following the deletion of an

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Affected Creditor's encumbrance pursuant to this provision, such Affected Creditor shall have the right to renew such registration;

- (e) the Proposal Sponsor, or its nominee, shall have entered into assignment and assumption agreements in respect of all Assumed Contracts, or an assignment order pursuant to section 84.1 of the BIA shall have been issued, in each case in form and substance satisfactory to the Proposal Sponsor, provided that it shall be a condition of the assumption of each Assumed Contract that the written agreements set out in Schedule "B" hereto (as amended from time to time) represent the totality of the contractual arrangements between the Company and each applicable counterparty, and no verbal or extra-contractual arrangements will be recognized by the Proposal Sponsor;
- (f) sufficient financing for the acquisition of the Property and completion of construction of the Project by the Proposal Sponsor, or its nominee, shall have been provided by Otera Capital Inc., on terms satisfactory to the Proposal Sponsor, and all material conditions precedent to such financing shall be capable of completion by the Proposal Sponsor prior to the Proposal Implementation Date;
- (g) the Proposal Implementation Date shall occur on **[June 21]**, 2021, or such other date prior to the Outside Date as may be agreed by the Proposal Sponsor;
- (h) any required resolutions authorizing the Company to file this Proposal and any amendments thereto will have been approved by the board of directors of the Company;
- (i) the Proposal Sponsor Agreement shall not have been terminated by the Proposal Sponsor; and
- (j) the Company shall have delivered a certificate to the Proposal Trustee that the conditions precedent to the Implementation of the Proposal have been satisfied or waived (the "**Implementation Certificate**").

Upon written confirmation of receipt from the Proposal Trustee of the Implementation Certificate, the Implementation of the Proposal shall have been deemed to have occurred and all actions deemed to occur upon Implementation of the Proposal shall occur without the delivery or execution of any further documentation, agreement or instrument.

ARTICLE IX

EFFECT OF PROPOSAL

9.01 Binding Effect of Proposal

After the issuance of the Approval Order by the Court, subject to satisfaction of the Conditions Precedent, the Proposal shall be implemented by the Company and shall be fully effective and binding on the Company and all Persons affected by the Proposal. Without limitation, the treatment of Affected Creditor Claims under the Proposal shall be final and binding on the Company, the

Affected Creditors, and all Persons affected by the Proposal and their respective heirs, executors, administrators, legal representatives, successors, and assigns. For greater certainty, this Proposal shall have no effect upon Unaffected Creditors.

9.02 Amendments to Agreements and Paramountcy of Proposal

Notwithstanding the terms and conditions of all agreements or other arrangements with Affected Creditors entered into before the Filing Date, for so long as an event of default under this Proposal has not occurred, all such agreements or other arrangements will be deemed to be amended to the extent necessary to give effect to all the terms and conditions of this Proposal. In the event of any conflict or inconsistency between the terms of such agreements or arrangements and the terms of this Proposal, the terms of this Proposal will govern and be paramount.

9.03 Deemed Consents and Authorizations of Affected Creditors

At the Effective Time each Affected Creditor shall be deemed to have:

- (a) executed and delivered to the Company all consents, releases, assignments, and waivers, statutory or otherwise, required to implement and carry out this Proposal in its entirety;
- (b) waived any default by the Company in any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company that has occurred on or prior to the Proposal Implementation Date; and
- (c) agreed, in the event that there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company as at the date and time of Court approval of the Proposal (other than those entered into by the Company on, or with effect from, such date and time) and the provisions of this Proposal, that the provisions of this Proposal shall take precedence and priority and the provisions of such agreement or other arrangement shall be amended accordingly.

ARTICLE X ADMINISTRATIVE FEES AND EXPENSES

10.01 Administrative Fees and Expenses

Administrative Fees and Expenses will be paid in cash by the Company on the Proposal Implementation Date together with a reserve in respect of the discharge of the Proposal Trustee.

ARTICLE XI
INDEMNIFICATION

11.01 Indemnification of Proposal Trustee

The Proposal Trustee shall be indemnified in full by the Company for all personal liability arising from fulfilling any duties or exercising any powers or duties conferred upon it by this Proposal or under the BIA, except for any willful misconduct or gross negligence.

ARTICLE XII
POST FILING GOODS AND SERVICES

12.01 Payment of Payroll Deductions and Post Filing Claims

The following shall continue to be paid in the ordinary course by the Company prior to and after the Court Approval Date and shall not constitute Distributions or payments under this Proposal:

- (a) all Persons, who may advance monies, or provide goods or services to the Company after the Filing Date shall be paid by the Company in the ordinary course of business;
- (b) current source deductions and other amounts payable pursuant to Section 60(1.2) of the BIA, if applicable, shall be paid to Her Majesty in Right of Canada in full by the Company as and when due; and
- (c) current goods and services tax (GST), and all amounts owing on account of provincial sales taxes, if applicable, shall be paid in full by the Company as and when due.

ARTICLE XIII
TRUSTEE, CERTIFICATE OF COMPLETION, AND DISCHARGE OF TRUSTEE

13.01 Proposal Trustee

KSV Restructuring Inc. shall be the Proposal Trustee pursuant to this Proposal and upon the making of the Distributions and the payment of any other amounts provided for in this Proposal, the Proposal Trustee will be entitled to be discharged from its obligations under the terms of this Proposal. The Proposal Trustee is acting in its capacity as Proposal Trustee under this Proposal, and not in its personal capacity and shall not incur any liabilities or obligations in connection with this Proposal or in respect of the business, liabilities or obligations of the Company, whether existing as at the Filing Date or incurred subsequent thereto.

The Proposal Trustee shall not incur, and is hereby released from, any liability as a result of carrying out any provisions of this Proposal and any actions related or incidental thereto, save and except for any gross negligence or willful misconduct on its part (as determined by a final, non-appealable judgment of the Court).

13.02 Certificate of Completion and Discharge of Proposal Trustee

Upon the Proposal Trustee receiving confirmation in writing from the Company that the transactions contemplated in Section 6.01 have been completed in the order and manner contemplated therein, and all Distributions to Affected Creditors have been administered in accordance with Article IV, the terms of the Proposal shall be deemed to be fully performed and the Proposal Trustee shall provide a certificate to the Company, the Proposal Sponsor and to the Official Receiver pursuant to Section 65.3 of the BIA and the Proposal Trustee shall be entitled to be discharged.

**ARTICLE XIV
GENERAL****14.01 Valuation**

For purposes of voting and Distributions, all Claims shall be valued as at the Filing Date.

14.02 Preferences, Transfers at Undervalue

In conformity with Section 101.1 of the BIA, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal. As a result, all of the rights, remedies, recourses and Claims described therein:

- (a) all such rights, remedies and recourses and any Claims based thereon shall be completely unavailable to the Proposal Trustee or any Affected Creditors against the Company, the Property, or any other Person whatsoever; and
- (b) the Proposal Trustee and all of the Affected Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any Claims based thereon against the Company, the Property any other Person.

14.03 Governing Law

The Proposal shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. Any disputes as to the interpretation or application of the Proposal and all proceedings taken in connection with the Proposal shall be subject to the exclusive jurisdiction of the Court.

[remainder of page left intentionally blank]

Dated at Toronto, this [●] day of [●], 2021.

YSL RESIDENCES INC.

Per: _____

Name:

Title:

I have the authority to bind the Corporation.

**YG LIMITED PARTNERSHIP, by its
general partner 9615334 CANADA INC.**

Per: _____

Name:

Title:

I have the authority to bind the Corporation.

SCHEDULE A

PERMITTED ENCUMBRANCES

[NTD: SUBJECT TO CONFIRMATION]

- Instrument No. AT5018709 being a charge in favour of Westmount Guarantee Services Inc.
- Instrument No. AT5117887 being a Notice of Agreement Amending Charge in respect of Instrument No. AT5018709.
- Instrument No. AT5247886 being a Notice of Agreement Amending Charge in respect of Instrument No. AT5018709.
- Instrument No. AT5142532 being a Postponement of Charge in respect of Instrument No. AT5018709.
- Instrument No. AT5246457 being a Postponement of Charge in respect of Instrument No. AT5018709.
- Instrument No. AT5142530 being a S.71 Notice re Heritage Easement Agreement in favour of the City of Toronto.
- Instrument No. AT5246455 being a S.71 Notice re Section 37 Agreement in favour of the City of Toronto.

SCHEDULE B
ASSUMED CONTRACTS

[NTD: TO BE COMPLETED]

SCHEDULE C

CONVENIENCE CREDITOR ELECTION FORM

TO: KSV RESTRUCTURING INC., in its capacity as Proposal Trustee of YG Limited Partnership and YSL Residences Inc. (collectively, "YSL")

In connection with the Proposal of YSL pursuant to the *Bankruptcy and Insolvency Act* (Canada) dated [●], 2021 (as amended, restated, modified and/or supplemented from time to time, the "**Proposal**"), the undersigned hereby irrevocably elects to be treated for all purposes under the Proposal as a Convenience Creditor and thereby to receive the lesser of (i) [**\$10,000**], and (ii) the amount of its Proven Claim in full and final satisfaction of the Proven Claim(s) of the undersigned, and hereby acknowledges that the undersigned shall be deemed to vote the full amount of its Proven Claim(s) in favour of the Proposal at the Creditors' Meeting.

For the purposes of this election, capitalized terms not defined herein shall have the meanings ascribed thereto in the Proposal.

DATED at _____ this ____ day of _____, 2021.

AFFECTED CREDITOR'S SIGNATURE:

(Print Legal Name of Affected Creditor)

(Print Legal Name of Assignee, if applicable)

(Signature of the Affected Creditor/Assignee or an
Authorized Signing Officer of the Affected
Creditor/Assignee)

(Print Name and Title of Authorized Signing Officer of
the Affected Creditor/Assignee, if applicable)

(Mailing Address of the Affected Creditor/Assignee)

(Telephone Number and E-mail of the Affected
Creditor/Assignee or Authorized Signing Officer of the
Affected Creditor/Assignee)

Appendix “F”

**SUPERIOR COURT OF JUSTICE – ONTARIO
(COMMERCIAL LIST)**

**IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c.
B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF YG
LIMITED PARTNERSHIP AND YSL RESIDENCES INC. APPLICATION UNDER THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED**

BEFORE: S.F. Dunphy J.

COUNSEL: *Shaun Laubman and Sapna Thakker* Lawyers for the Moving Parties, 2504670
Canada Inc ., 8451761 Canada Inc ., and Chi Long Inc.

Alexander Soutter Lawyers for the Moving Parties Yonge SL et al.

Harry Fogul, Lawyers for YG Limited Partnership and YSL Residences Inc.

David Gruber Lawyers for Plan Sponsor Concord Properties Development Corp.

Bobby Kaufman and Mitch Vininsky for Proposal Trustee KSV Restructuring Inc.

Robin Schwill for KSV Restructuring Inc.

James W. MacLellan for Sureties Aviva et al and Westmount

Jane Dietrich for Timbercreek Mortgage Servicing Inc. et al.

HEARD at Toronto: June 1, 2021

REASONS FOR DECISION

[1] These two similar motions were brought by two applicants who between them represent all or substantially all of the limited partners of YG Limited Partnership. The LP is in turn the object of a *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended proposal which is scheduled to be voted upon at a June 15, 2021 meeting of creditors and, if approved by them, submitted to the court for approval on June 23, 2021 at a scheduled sanction hearing.

[2] The motions before me seek to declare the *BIA* stay of proceedings to be inapplicable to the two applications discussed below or, in the alternative, to lift the *BIA* stay of proceedings to enable the two applications to proceed on a parallel track for a full hearing on June 23, 2021.

[3] While I was invited to make a ruling on the applicability of the *BIA* stay of proceedings to the two applications, I declined to do so. I shall leave for another day the question of whether the addition of s. 140.1 and s. 54.1 to the *BIA* in 2005 and 2007 had the result of including holders of equity claims in the definition of “creditor” or merely clarified the status of debt claims such as class action misrepresentation claims or contractual rescission claims whose origin lies in an equity interest. Whether the stay of proceedings is found to be inapplicable as a matter of law or whether I conclude that it should be lifted as a matter of equity and judicial discretion is a matter of legal but not practical interest. In either event, it is plain to me that the two applicants’ arguments ought to be permitted a reasonable opportunity to be fleshed out and to be heard at the time the proposal is brought before the court for approval.

[4] The judge at a sanction hearing for a *BIA* proposal is always required to satisfy him or herself (i) that the application is procedurally sound in the sense that the statute and any relevant court orders relating to the approval process have been complied with; and (ii) that the proposal itself is fair and reasonable in all of the circumstances.

[5] The applicants raise grounds that – if established – would lead to the conclusion that either or both of the *BIA* Notice of Intention filed by the LP or the plan sponsorship agreement that forms the backbone of the proposed plan submitted to creditors for a vote were void. If true, there would be no proposal to approve. Further, they raise grounds that could lead to the conclusion that the plan itself is fundamentally unfair and unsound. Once again, if established, such grounds would be relevant to whether the judge at the sanction hearing can be satisfied that the proposed plan is fair and reasonable in all of the circumstances.

[6] The sanction hearing on June 23, 2021 is effectively the only opportunity the applicants will have to make their case. Deferring the hearing of their applications until after a potentially flawed or void proposal has been approved or implemented would be to deny them a hearing altogether. The arguments raised by them are neither spurious nor frivolous. I cannot purport to judge the merits of the claims at this early stage beyond concluding that they ought to be heard in the context of the sanction hearing on June 23, 2021.

[7] There is a difference between concluding that the two applicants need to be heard on June 23, 2021 and concluding that their applications ought to be heard in their entirety at the same time. A pragmatic approach is required to balance the competing interests, including those of creditors who may have a preference for even a flawed proposal over depending solely upon the tender mercies of a secured creditor initiating

its own realization process. There is only so much that can be accomplished in the time that is actually available. We must do the best we can do to be fair to all of the interests engaged in this process.

[8] The two applicants have initiated separate but largely identical proceedings against 9615334 Canada Inc. as general partner of the LP. At the risk of oversimplification, those two applications seek (i) an order that the general partner of the LP be removed from that role or a declaration that it has ceased to be general partner and can exercise none of the powers of a general partner over the LP; (ii) an order declaring that any agreements entered into by the general partner with the plan sponsor Concord are void; (iii) an order declaring the general partner to be in breach of the LP agreement; (iv) an order declaring the general partner to have breached its fiduciary obligations or its duty of good faith owed to the applicant limited partners; and (v) an order setting aside the NOI and the proposal as filed by the LP. One of the two applications (that of YongeSL et al) also has joined to it a request to appoint a Receiver on the grounds that it is just and convenient to do so.

[9] The primary relief sought on the two applications is (v) above. The applicants' position is that the NOI and the plan sponsorship agreement that underlies the proposal were filed or entered into by a general partner who had no authority to do so. The grounds for taking that position are the grounds for the relief sought in (i), (ii), (iii) and (iv). Those grounds are in turn based upon various provisions of the LP agreement that the applicants view as stripping the general partner of its authority to take certain steps (or to act as general partner) upon the happening of certain events including consenting to the appointment of a receiver or entering into the sponsorship agreement in relation to the plan.

[10] I am directing that the applicants should be entitled to seek to establish that the NOI is void or invalid by reason of the grounds alleged in support of the relief sought in (i) to (iv) above. In other words, the whole of both applications is not being heard on June 23, 2021 but so much of the grounds and evidence as are relevant to establish that the NOI and or plan sponsorship agreement are void shall be heard. Similarly, the alternative position of the applicants – that the grounds raised in support of invalidity are also grounds that justify exercising the discretion to reject the plan as unfair or unreasonable even if those grounds do not rise to the level of supporting a finding that the plan or the NOI itself are void – shall also be heard.

[11] I have passed over the claim of one of the applicants for a receiver purposefully. If the applicants are unable to establish that the NOI or the proposed plan are void and they are also unable to persuade the judge presiding over the sanction hearing to reject the proposed plan, the receivership application of YongeSL will be quite moot. If on the other hand the plan is not approved for any reason, then something of a vacuum would exist. The secured creditor Timbercreek has a pending application to enforce its security and to seek the appointment of a receiver that is currently scheduled for July

12, 2021. Timbercreek's counsel intends to file a short update affidavit for the June 23, 2021 sanction hearing and will be at the hearing for the purpose of alerting the court to its position should the plan not be approved for any reason. In that event, Timbercreek intends to ask the court to appoint a receiver either the same day or as soon after that date as is practicable. That position of course comes as a surprise to none of the parties nor should it. It is at least theoretically possible that the application by the LP unitholders for a receiver could have an object. In reality – given the volume of secured claims ahead of them – it is unlikely. That being said, I give them any necessary leave to proceed with that limited aspect of their application as well.

[12] In conclusion I am directing:

- a. that the prayer for relief in paragraph 1(d) of the 2504670 Canada Notice of Application shall be heard in connection with the scheduled Sanction Hearing of the BIA proposal and that in connection with that hearing, the grounds cited in support of the relief sought in paragraph 1(a), (b), (e) and (f) thereof may be referred to (the same direction applying to the analogous prayers for relief in the YongeSL application);
- b. both applicants shall also be heard on the question of whether the proposed plan is fair and reasonable having regard to their interests and to the grounds mentioned in the two Notices of Application; and
- c. the YongeSL application to appoint a receiver will only be considered in the event that the plan is not approved for any reason but the hearing judge may decide to defer the hearing of that application in favour of hearing the application of Timbercreek to be heard prior to July 12, 2021.

[13] The parties have conferred on a case timetable needed to have all of these arguments placed in a coherent and developed way in front of the judge on June 23, 2021. That timetable is as follows:

June 7 - Cresford's Record with respect to the LPs' Applications

June 10 - LPs' Reply Records with respect to the LPs' Applications

June 11 - Cross examinations

June 16 - LPs' Factums with respect to the LPs' Applications

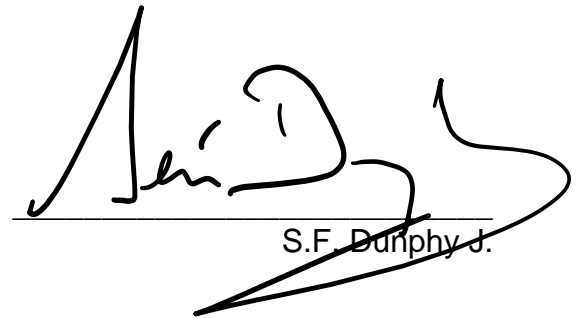
June 18 - Cresford's Factum re the LPs' Applications and Factum re BIA Proposal

June 21 - LPs' Reply Factums with respect to the LPs' Applications/Responding Factums with respect to the BIA Proposal

June 23 – Hearing

[14] I have given the parties directions regarding the conduct of the cross-examinations. Absent agreement to the contrary, the two applicants shall have a total of ½ day between them and the respondents to the applications (the GP) shall have ½ day.

[15] The parties are directed to adhere to the above timetable. Costs of these motions are reserved to be dealt with by the judge hearing these submissions on the merits at the sanction hearing.



S.F. Dunphy J.

Date: June 1, 2021

Appendix “G”



**Report to Creditors of
YG Limited Partnership and
YSL Residences Inc.
By KSV Restructuring Inc.
as Proposal Trustee**

June 4, 2021

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COURT FILE NO.: 31-2734090

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

PROPOSAL TRUSTEE'S PRELIMINARY REPORT TO CREDITORS

JUNE 4, 2021

1.0 Introduction

1. This report ("Report") is filed by KSV Restructuring Inc. ("KSV") in its capacity as proposal trustee (the "Proposal Trustee") in connection with Notices of Intention to Make a Proposal ("NOIs") filed on April 30, 2021 (the "Filing Date") by YG Limited Partnership (the "Partnership") and YSL Residences Inc. ("Residences", and together with the Partnership, the "Companies"), pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA").
2. On May 14, 2021, the Ontario Superior Court of Justice (Commercial List) (the "Court") issued an order (the "Consolidation Order") procedurally and substantively consolidating the NOI proceedings of the Partnership and Residences (the "NOI Proceedings") for the purpose of simplifying the administration of the NOI Proceedings, including the filing of a joint proposal and convening a single meeting of creditors. A copy of the Consolidation Order is attached as Appendix "A".
3. The principal purpose of these proceedings is to create a stabilized environment to allow the Companies to present a proposal that provides creditors with a recovery greater than they would receive in a bankruptcy or alternative insolvency process.
4. On May 27, 2021, the Companies filed a proposal with the Official Receiver in accordance with Section 62(1) of the BIA (the "Proposal"). A Certificate of Filing a Proposal (the "Certificate") was issued by the Office of the Superintendent of Bankruptcy (Canada) ("OSB") on May 28, 2021. On June 3, 2021, the Companies filed an amended proposal to include Conditional Claims (as defined below) and make other clarifications to the Proposal (the "Amended Proposal"). Copies of the Amended Proposal and the Certificate are attached as Appendices "B" and "C", respectively.

1.1 Meeting to Consider the Amended Proposal

1. The creditors' meeting to consider and vote on the Amended Proposal pursuant to Section 51(1) of the BIA (the "Meeting") will be held on:

Date: June 15, 2021
 Time: 2:00 p.m. (EST)
 Location: Due to COVID-19, the meeting will be convened virtually via
 Zoom:
<https://zoom.us/j/93541423177?pwd=eU1oQkh5a3o5QWtWbzhhM0lzaDYyUT09>
2. As discussed below, to vote on the Amended Proposal, a creditor of the Companies (other than a Convenience Creditor, as defined in the Amended Proposal) must file a proof of claim with the Proposal Trustee prior to the Meeting. Creditors can vote at the Meeting by attending in person (virtually) or by submitting voting letters to the Proposal Trustee by no later than 5:00 pm on June 14, 2021. Creditors can also vote by way of proxy and may identify the Proposal Trustee as their proxy.
3. A proof of claim form, proxy, voting letter and instruction letter are provided in Appendix "D". Creditors should read the instruction letter carefully to understand the voting procedures, including the procedure to properly submit claims to the Proposal Trustee.
4. The Proposal Trustee's Notice of Proposal to Creditors, a summary of the Companies' Statement of Affairs and a list of creditors based on the Companies' books and records as at the current date, with interest projected on secured creditor claims to June 30, 2021 are attached as Appendices "E", "F" and "G", respectively.

1.2 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Companies;
 - b) summarize the terms of the Amended Proposal;
 - c) provide the Proposal Trustee's opinion, as required pursuant to Section 50(10) (b) of the BIA, as to the reasonableness of the provision in the Amended Proposal that sections 95 to 101 of the BIA do not apply to the Amended Proposal;
 - d) compare the recovery for creditors if the Amended Proposal is implemented to the likely outcome for creditors if the Amended Proposal fails and the Companies become bankrupt and an alternative restructuring process is commenced; and
 - e) provide the Proposal Trustee's rationale for its recommendation that creditors should vote to accept the Amended Proposal.

1.3 Currency

1. Unless otherwise noted, all currency references in this Report are to Canadian dollars.

1.4 Definitions

1. Capitalized terms not defined in the Report have the meanings provided to them in the Amended Proposal.

1.5 Restrictions

1. In preparing this Report, the Proposal Trustee has relied upon unaudited financial information prepared by the Companies' representatives, the Companies' books and records and discussions with representatives of the Companies and Concord Properties Developments Corp., the sponsor of the Amended Proposal (the "Sponsor") and Concord Adex Inc. ("Concord"), an entity related to the Sponsor.
2. The Proposal Trustee has not performed an audit or other verification of such information. An examination of the Companies' financial forecasts as outlined in the Chartered Professional Accountants of Canada Handbook has not been performed. Future oriented financial information relied upon in this Report is based on the Companies' assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Proposal Trustee expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Report or relied upon by the Proposal Trustee in its preparation of this Report.
3. Any sale, restructuring and/or realization process for the YSL Project (as defined in Section 2.1 (4) below) could be affected by the Covid-19 pandemic and the effect of the pandemic on any such process cannot be predicted or projected at this time.

2.0 Background

2.1 Overview

1. The Partnership was formed on February 3, 2016 under *The Partnership Act*, C.C.S.M. c. P30 (Manitoba). 9615334 Canada Inc. (the "GP") is the Partnership's general partner. The GP has not filed an NOI. Residences was incorporated on January 28, 2016 under the *Business Corporations Act* (Ontario).
2. The Companies are part of the Cresford Group of Companies ("Cresford"), a real estate developer and builder. A corporate organization chart for Cresford is attached as Appendix "H".
3. Residences is the registered owner of the real properties municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario (the "Real Property"), acting as a bare trustee and nominee of, for and on behalf of the Partnership.

4. The Partnership is the beneficial owner of the Real Property and was formed for the purpose of developing the Real Property into a mixed-use office, retail and residential condominium development comprised of approximately 1,100 residential units, 190,000 square feet of commercial/retail/institutional space and 242 parking spaces known as Yonge Street Living Residences (the "YSL Project"). As of the Filing Date, approximately 800 residential condominium units had been pre-sold, with such contracts executed by Residences and each respective purchaser (each, a "Condo Purchase Agreement").
5. On May 11, 2021, the Companies disclaimed 56 Condo Purchase Agreements. The Companies advised that the purchase agreements disclaimed were under market and, therefore, the disclaimers served to improve the value of the YSL Project and enhance the prospects of a viable proposal being made by the Companies. The Proposal Trustee consented to the disclaimers.
6. Construction of the YSL Project has been suspended for more than a year and it is presently part way through the excavation and shoring stage, with no ongoing work being completed on the site at this time, other than certain ongoing dewatering and monitoring work that is required to be completed by the City of Toronto.
7. Pursuant to an agreement dated April 30, 2021 between the Companies, certain Cresford entities and the Sponsor (the "Sponsor Agreement"), the Sponsor agreed to sponsor the Amended Proposal by way of, *inter alia*, agreeing to fund the distributions contemplated by the Amended Proposal. In consideration for the payments contemplated under the Amended Proposal, if the Amended Proposal is implemented, the Sponsor or another Concord-affiliate will become the owner of the Real Property and developer of the YSL Project, with a view to resuming construction work expeditiously. A copy of the Sponsor Agreement is attached as Appendix "I".
8. The Companies' mortgagees consented to the Sponsor Agreement.

2.2 Applications by the Limited Partners

1. Certain of the Partnership's limited partners (the "LPs") have commenced separate applications (collectively, the "Applications") before the Court seeking Orders declaring that, among other things: a) the GP is terminated as general partner of the Partnership; b) any agreements entered into by the GP with the Sponsor are null and void; and c) the GP breached its duty of good faith to the LPs. Additionally, certain of the LPs are seeking the appointment of an equitable receiver.

2. Timbercreek Mortgage Servicing Inc. (“Timbercreek”) is the Companies’ senior mortgagee. The Proposal Trustee is advised that the Companies defaulted on their obligations to Timbercreek in early 2020. Pursuant to an agreement dated March 26, 2020 among Timbercreek, the Companies and two Cresford entities (the “Forbearance Agreement”), Timbercreek agreed to, among other things, forbear from enforcing its security against the Real Property. Timbercreek subsequently brought a motion to appoint a receiver on November 13, 2020. Pursuant to amendments to the Forbearance Agreement, the receivership application was adjourned several times and remains pending. In the event that the NOI proceedings are discontinued, or if the Amended Proposal is not approved by creditors or sanctioned by the Court, Timbercreek has scheduled an application for the appointment of a receiver on July 12, 2021.
3. Timbercreek takes the position that the granting of any of the relief sought in the LPs’ applications would trigger a Forbearance Termination Event (as defined in the Forbearance Agreement), and that Timbercreek will seek to be in a position to resume its application for appointment of a court-appointed receiver (as noted, currently scheduled for July 12, 2021), with such relief being in priority to any of the relief being sought by the LPs. Accordingly, if the Amended Proposal is not implemented, Timbercreek has indicated that it intends to immediately proceed with its application for the appointment of a receiver.
4. On June 1, 2021, the Court heard motions by the LPs to, among other things, lift the stay of proceedings pursuant to Section 69(1) of the BIA and to authorize the LPs to bring their Applications. Pursuant to an endorsement made on the same day (the “June 1st Endorsement”), the Court, among other things, set a litigation timetable in respect of a hearing on June 23, 2021 where the LPs’ arguments could be made at the same time as Court approval of the Amended Proposal, should the Amended Proposal be accepted by the Affected Creditors voting at the Meeting. A copy of the June 1st Endorsement is provided as Appendix “J”.
5. The Proposal Trustee engaged Finnegan-Marshall Inc. (“FM”), a real estate and development cost consulting firm, to, among other things, prepare a report (the “FM Report”) that opines on:
 - a) the sales price for the project on an as-is basis after assessing the project budget, project revenue and resultant profitability;
 - b) the sales price for the project if the purchaser disclaimed all existing Condo Purchase Agreements and re-marketed all the units¹; and
 - c) two appraisals for the YSL Project prepared by CBRE Limited dated August 8, 2019 and April 30, 2021 in order to explain the differences between the two appraisals and provide an opinion on the appraised values contained therein.

¹ This was to be considered under the assumption that the purchaser could obtain a higher price per square foot for the units based on market rates.

6. The FM Report is discussed further below in Section 6.
7. Additional information about these proceedings, including the LPs' applications, is included in the Proposal Trustee's First Report to Court dated May 6, 2021 and its Second Report to Court dated May 14, 2021 and, accordingly, that information is not repeated in this Report.
8. Certain of the Court materials in these proceedings are available on the Proposal Trustee's website at <https://www.ksvadvisory.com/insolvency-cases/case/yq-limited-partnership>.

3.0 Financial Position

1. A summary of the of the Companies' current financial position, at book value², is included in the table below:

(\$000s)	As at May 27, 2021	
		Book Value
Assets		
Cash		16
Letters of Credit	1	4,290
Real Property and Development Costs		325,742
Total Assets		<u>330,048</u>
Total Liabilities	2	<u>314,021</u>
Notional Surplus		<u>16,027</u>

Notes

1. Represents two Letters of Credit held by The Toronto-Dominion Bank in favour of the City of Toronto. The funds which collateralize the Letters of Credit may be returned to the Companies if the project is completed, which the Companies estimate to be in 2027, and meets all required approvals by the City of Toronto.
2. A breakdown of the liabilities is provided in the table below.

2. As reflected in the table above, the Companies' primary asset is the Real Property and related development costs that have been capitalized in connection with the YSL Project.

² The book value of the assets is based on the values in the Statement of Affairs sworn on May 27, 2021. The Statement of Affairs summary is provided in Appendix "F".

3. A summary of the Companies' liabilities based on its books and records is presented below. The table includes all claims as of the current date, with interest projected on secured creditor claims to June 30, 2021. The table is reflected as at June 30, 2021, which is the approximate implementation date if the Amended Proposal is approved by the Court.

(\$000s)	
Creditors	Amounts
Secured Creditors/Mortgagees	
Timbercreek	106,799
Westmount	112,446
2576725 Ontario	30,865
City of Toronto – property taxes	729
Total Secured Creditors	250,839
Other Creditors and Related Party Creditors	
Construction Lien Claimants	11,865
Third party unsecured creditors	13,043
Related Party Creditors	38,274
Other Creditors and Related Party Creditors	63,182
Total	314,021

3.1 Secured Creditors

1. Timbercreek, the Companies' senior mortgagee, is projected to be owed approximately \$106.8 million including interest to June 30, 2021. Timbercreek is secured by, among other things, a mortgage, charge, lien or other security charging or encumbering the Real Property.
2. Westmount Guarantee Services Inc. ("Westmount") is projected to be owed approximately \$112.5 million as at June 30, 2021. Westmount provides, among other things, condominium deposit insurance to the Companies. Westmount has a mortgage, charge, lien or other security charging or encumbering the Real Property.
3. 2576725 Ontario Inc. ("257 Ontario") provided a loan in the principal amount of \$20 million to the Companies, which loan provides for a preferred return due on completion of the YSL Project calculated at an interest rate of 12.5% per annum (the "Fei Han Loan"). The Fei Han Loan is secured by, among other things, an equitable mortgage encumbering the Real Property. The outstanding amount under the Fei Han Loan is estimated to be approximately \$30.9 million as at June 30, 2021, including projected interest to that date.
4. Davies Ward Phillips & Vineberg LLP ("Davies"), the Proposal Trustee's counsel, has reviewed the Timbercreek, Westmount and 257 Ontario security. Davies has issued opinions that, subject to standard assumptions and qualifications, the security held by each of Timbercreek, Westmount and 257 Ontario is valid and enforceable as against a licensed insolvency trustee. Copies of the security opinions will be made available to the Court upon request.

3.2 Related Party Creditors

1. Cresford (Rosedale) Developments Inc. (“Cresford Rosedale”), East Downtown Redevelopment Partnership (“EDRP”) and Oakleaf Consulting Ltd. (“Oakleaf” and together with Cresford Rosedale and EDRP, the “Related Party Creditors”) are entities within the Cresford Group that are related to the Companies. In aggregate, the Companies’ books and records reflect that the Related Party Creditors are presently owed approximately \$38.3 million in respect of amounts that they have advanced to the Companies or expenses that they funded on the Companies’ behalf (the “Related Party Claims”).
2. The Related Party Creditors have provided support for the Related Party Claims to the Proposal Trustee for its review.
3. As at the date of the Report, the Proposal Trustee has not completed its review of the Related Party Claims and accordingly, has not yet determined their treatment under the Amended Proposal.
4. The LPs have raised concerns related to the Related Party Claims, including that the amounts owing to the Related Party Creditors should be treated as equity rather than debt owing by the Companies.

3.3 Other Creditors

1. Pursuant to the Companies’ creditor listing provided in Appendix “G”, the Companies’ unsecured claims total approximately \$24.9 million, excluding the Related Party Claims. This includes certain claims where the balance owing is listed as \$1, meaning that the amount owing is unknown or has not yet been quantified.
2. The Proposal Trustee understands that certain trade creditors have registered liens against title to the Real Property in accordance with the *Construction Act* (Ontario) (the “Construction Lien Claimants”), with such amounts included in the \$24.9 million balance referenced above.
3. The Companies are of the view that, pursuant to the terms of the Condo Purchase Agreements, the claims of the 56 condo purchasers whose Condo Purchase Agreements were disclaimed are limited to the return of their deposit. As these deposits are held in trust with the Companies’ legal counsel, their return does not affect the recoveries under the Amended Proposal.

4.0 The Amended Proposal

1. This section provides an overview of the terms of the Amended Proposal. Review of this section is not a substitute for reading the Amended Proposal. Creditors are strongly encouraged to carefully read the Amended Proposal in its entirety prior to voting on the Amended Proposal. Creditors are encouraged to discuss the terms of the Amended Proposal with their legal counsel. A copy of the Amended Proposal is provided in Appendix “B”.

4.1 Purpose and Effect

1. The overall purpose of the Amended Proposal is to:
 - a) provide for payment in full of the Secured Claims³; and
 - b) make a distribution of up to 58% of the amounts owing to each Affected Creditor.
2. In consideration for, among other things, the Sponsor's sponsorship of the Amended Proposal, including the satisfaction of all Secured Claims, Preferred Claims and the establishment of the Proposal Fund in the maximum amount of \$37.7 million (discussed further below in Section 4.6), on the Proposal Implementation Date, title to the Real Property, subject only to the Permitted Encumbrances, as well as the Companies' interests and obligations under the Assumed Contracts and Condo Purchase Agreements, shall be acquired by the Sponsor, or its nominee.
3. As discussed further in Section 4.9 below, as of the date of this Report, subject to the approval of the Amended Proposal by creditors and its sanctioning by the Court, the Sponsor has entered into agreements to obtain an assignment of claims owing to certain creditors totalling more than \$16 million (inclusive of claims where registered liens have been filed).

4.2 Classes of Creditors

1. For the purpose of voting on the Amended Proposal, there is only one class of creditors, being the Affected Creditor Class. The Amended Proposal includes a Convenience Creditor concept (discussed further below in Section 4.4) and a Convenience Creditor shall be deemed to vote in favour of the Amended Proposal as part of the Affected Creditor Class.

4.3 Treatment of Claims

1. The Amended Proposal is being made to the holders of Affected Claims against the Companies (the "Affected Creditors").
2. Unaffected Claims include:
 - a) the Claims of Timbercreek;
 - b) the Claims of Westmount;
 - c) the Claims of 257 Ontario;
 - d) any Claim by the City of Toronto;
 - e) all Condo Purchaser Claims;

³ The treatment of Construction Lien Claimants under the Amended Proposal is addressed in Section 4.3.

- f) all Construction Lien Claims, but only to the extent such Claims are valid in accordance with the *Construction Act* (Ontario) and have been perfected by the Proposal Implementation Date;
- g) Administrative Fees and Expenses, including the fees, expenses and legal fees and disbursements incurred by or on behalf of the Proposal Trustee and the solicitors of the Companies; and
- h) such other Claims as the Companies and Sponsor may agree with the consent of the Proposal Trustee.

4.4 Convenience Creditors

1. A Convenience Creditor is an Affected Creditor with a Convenience Creditor Claim, being:
 - a) any Proven Claims of an Affected Creditor in an amount less than or equal to \$15,000; and
 - b) any Proven Claim of an Affected Creditor in an amount greater than \$15,000 if the relevant Creditor has submitted a valid Convenience Creditor Election Form prior to 5:00 pm (Toronto time) on June 14, 2021 (the "Convenience Creditor Election Deadline"). A copy of the Convenience Creditor Election Form is provided in Schedule "B" of the Amended Proposal.
2. A Convenience Creditor will be deemed to have voted the full amount of its Proven Claim in favour of the approval of the Amended Proposal.

4.5 Conditional Claims

1. Conditional Claims include, but are not limited to, any Claim of an Affected Creditor that is not a Proven Claim as at the Filing Date because one or more conditions precedent to establish such Affected Creditor's entitlement to payment by the Companies had not been completed in accordance with any applicable contractual terms as at the Filing Date, and such Affected Creditor has indicated in its proof of claim that the Claim should be treated as a Conditional Claim.
2. If an Affected Creditor's claim is a Conditional Claim based on one or more of the pre-conditions to such Affected Creditor's right to payment by the Companies not being satisfied as at the Filing Date due to acts or omissions of such Affected Creditor, then:
 - a) such Affected Creditor shall have until 5:00 pm (Toronto Time) on September 13, 2021 (the "Conditional Claim Completion Deadline") to complete or otherwise satisfy all outstanding pre-conditions to payment in accordance with the terms of the applicable agreement between such Affected Creditor and the Companies (the "Conditional Claim Conditions"), and provide proof of such completion to the Proposal Trustee;

- b) if proof of completion of the Conditional Claim Conditions is provided and accepted by the Proposal Trustee prior to the Conditional Claim Completion Deadline, then such Affected Creditor's Conditional Claim shall be deemed to be a Proven Claim, and such Affected Creditor shall be entitled to its share of the distribution to Affected Creditors; and
- c) if the Affected Creditor has not satisfied one or more Conditional Claim Conditions prior to the Conditional Claim Completion Deadline, then, effective immediately upon the Conditional Claim Completion Deadline, such Affected Creditor's Conditional Claim shall be irrevocably and finally extinguished, and such Affected Creditor shall have no further right, title or interest in and to its Conditional Claims.

4.6 Proposed Distributions

1. On the Proposal Implementation Date, the Sponsor shall transfer to the Proposal Trustee, in trust, the Proposal Fund Amount, being the lesser of:
 - a) the amount necessary to pay each Affected Creditor 58% of the face value of its Affected Creditor Claim (the "Affected Creditor Share"); and
 - b) if aggregate Proven Claims exceed the Maximum Proposal Claims amount of \$65,000,000, an amount sufficient to satisfy the Affected Creditor Pro Rata Share distribution, being, in respect of an Affected Creditor Claim, the face value of such Affected Creditor Claim multiplied by the formula $0.58 \times (X/Y)$ where "X" equals the Maximum Proposal Claims Amount and "Y" equals the aggregate total amount of Proven Claims.
2. As soon as practicable after the Proposal Implementation Date, and after taking an adequate reserve in respect of any Disputed Claims and Conditional Claims, in exchange for the release of each Affected Creditor Claim:
 - a) each Affected Creditor (other than a Convenience Creditor and Affected Creditors holding Conditional Claims where one or more Conditional Claim Conditions have not been completed) shall receive the lesser of the Affected Creditor Share and the Affected Creditor Pro Rata Share:
 - b) all Convenience Creditors shall receive in respect of such Convenience Creditor Claims, the Convenience Creditor Consideration, being the lesser of:
 - i. the amount of its Proven Claim; and
 - ii. \$15,000.

3. In order to receive a distribution from the Amended Proposal, an Affected Creditor must submit a valid Proof of Claim prior to the time the Proposal Trustee distributes the funds in accordance with the Amended Proposal.
4. Except as expressly provided in the Proposal, the Proposal Trustee's determination of claims pursuant to the Amended Proposal and the BIA shall only apply for the purposes of the Amended Proposal, and such determination shall be without prejudice to a Creditor's right to submit a revised proof of claim in any subsequent proceeding in respect of the Companies should the Amended Proposal not be implemented.

4.7 Voting on the Amended Proposal

1. To vote at the Meeting, each Affected Creditor shall have filed a valid Proof of Claim with the Proposal Trustee no later than 5:00 pm (Toronto time) on June 14, 2021 and thereafter the Proposal Trustee shall determine the claims in accordance with the provisions of Section 135 of the BIA. The Proof of Claim form is attached as Appendix "D".
2. Any Person asserting a Construction Lien Claim that has not been perfected in accordance with the *Construction Act* (Ontario) is required to file a Proof of Claim in order to vote at the Meeting.
3. Each Convenience Creditor is deemed to have voted the full amount of its Proven Claim in favour of the Amended Proposal.
4. Pursuant to Section 54(3) of the BIA, a creditor who is related to the debtor may vote against but not for the acceptance of the Amended Proposal.

4.8 Dividend Amount

1. Based on the list of known creditors attached in Appendix "G", at the date the Amended Proposal was filed, Affected Creditors (including Related Party Creditors) were owed approximately \$63.2 million. If the total Proven Claims are under \$65 million, Affected Creditors are to receive a distribution of their Affected Creditor Share, being 58% of the face value of their Affected Creditor Claims. If the total Proven Claims exceed the Maximum Proposal Claims Amount, Affected Creditors are to receive their Affected Creditor Pro Rata Share, as described above in section 4.6 (1)(b) above.
2. The estimated Affected Creditor Claims do not include a provision for Conditional Claims, litigation claims or other unknown claims. Amounts filed in the claims process may be materially different from the amounts as recorded in the Companies' books and records and could exceed \$65 million. Accordingly, the dividend to Affected Creditors may be less than 58% of the face value of the Affected Creditor Claims.

3. The quantum of Affected Creditor Claims may be affected by:
 - a) claims being filed as Construction Lien Claims. The Proposal Trustee understands that certain Construction Lien Claimants have agreed to assign their claims to Concord or a Concord affiliate, subject to the terms of the Amended Proposal. The Construction Lien Claimants which have agreed to assign their claims are expected to file Affected Claims rather than Construction Lien Claims, meaning that they would receive the same consideration under the Amended Proposal as all other Affected Creditors rather than be treated as Unaffected Creditors. The Proposal Trustee understands that this assignment is conditional upon the implementation of the Amended Proposal and does not bar the Construction Lien Claimants from asserting lien claims in a bankruptcy or any subsequent insolvency proceeding;
 - b) the claims of real estate brokers in relation to commissions on condo sales. An estimated \$6 million of such claims are not recorded as liabilities on the Companies' books and records as the Companies do not have records to support whether brokers have satisfied the Companies' criteria for their commissions to be payable. In most cases, the contractual criteria for commission approval includes, among other things, that the condo purchaser is required to pay the deposit as per the Condo Purchase Agreement and provide evidence of a mortgage approval from a Tier 1 bank in respect of the purchased unit. Under the Amended Proposal, broker claimants may elect to be treated as Conditional Claimants by so indicating on the Conditional Claim Addendum appended to the proof of claim form. By so electing, the claimant will have until Conditional Claim Completion Deadline (being 5:00 pm on September 13, 2021) to provide the Proposal Trustee with proof of the completion of any Conditional Claim Conditions, as discussed more fully in section 4.5 of this Report; and
 - c) potential litigation or other unknown claims, including from former employees of entities related to the Companies who have advised the Proposal Trustee that they may file claims in these proceedings.

4.9 Participation of the Sponsor

1. Concord has advised the Proposal Trustee that certain of the Companies' creditors, which as of the date of the Report were owed approximately \$16 million in respect of unsecured or lien claims, have conditionally agreed to assign their claims to the Sponsor or an affiliate of the Sponsor (the "Claim Assignment Agreement"). The Claim Assignment Agreement is subject to implementation of the Amended Proposal and provides for an upfront payment to these creditors in exchange for the respective creditors:
 - a) assigning their Claim to the Sponsor or a Sponsor affiliate; and
 - b) agreeing to:
 - i. file their Claim as an Affected Claim under the Amended Proposal;
 - ii. vote to approve the Amended Proposal; and
 - iii. name a representative of the Sponsor as their proxy.

2. The Related Party Claims are not subject to the Claim Assignment Agreement.
3. As a result of the Claim Assignment Agreement, the Sponsor is bearing the risk in respect of the assigned claims that the Maximum Proposal Claims Amount is exceeded and therefore that the distributions under the Amended Proposal are less than 58% of Proven Claims.

4.10 Proposal Conditions

1. Implementation of the Amended Proposal is conditional upon:
 - a) acceptance of the Amended Proposal by the statutory majority of the Affected Creditors as required under the BIA (described in Section 4.12 below);
 - b) the Approval Order being issued by the Court in a form and substance satisfactory to the Sponsor;
 - c) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Authority, no application shall have been made to any Governmental Authority, and no action or investigation shall have been announced, threatened or commenced by any Governmental Authority, in consequence or in connection with the Amended Proposal or the YSL Project that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or inhibit), the Amended Proposal or any part thereof or the Project or any part thereof or requires or purports to require a variation of the Amended Proposal or the Project;
 - d) registrations in respect of all encumbrances, including without limitation any registrations in respect of Construction Lien Claims, but excluding the Permitted Encumbrances, shall have been deleted from title to the Real Property, provided that, should the Implementation of the Amended Proposal not occur following the deletion of an Affected Creditor's encumbrance pursuant to this provision, such Affected Creditor shall have the right to renew such registration;
 - e) the Sponsor, or its nominee, shall have entered into assignment and assumption agreements in respect of all Assumed Contracts, or an assignment order pursuant to section 84.1 of the BIA shall have been issued, in each case in form and substance satisfactory to the Sponsor;
 - f) sufficient financing for the acquisition of the Real Property by the Sponsor, or its nominee, shall have been provided by Otera Capital Inc., on terms satisfactory to the Sponsor, and all material conditions precedent to such financing shall be capable of completion by the Sponsor prior to the Proposal Implementation Date;
 - g) the Proposal Implementation Date occurring on June 30, 2021, or any such other date prior to July 31, 2021 as may be agreed by the Sponsor;
 - h) the Sponsor Agreement shall not have been terminated by the Sponsor; and

- i) the Companies shall have delivered a certificate to the Proposal Trustee that the conditions precedent to the Implementation of the Amended Proposal have been satisfied or waived (the "Implementation Certificate").

4.11 Other Amended Proposal Terms

1. Other Amended Proposal terms are summarized below:
 - a) upon Implementation, each of the Released Parties⁴ shall be released and discharged from all present and future actions, causes of action, damages, judgement, executions, obligations, liabilities and Claims arising on or prior to the Proposal Implementation Date, including in connection with the Amended Proposal and any proceedings commenced with respect to or in connection with the Amended Proposal, the YSL Project, the transactions contemplated by the Amended Proposal, and any other actions or matters related directly or indirectly to the foregoing, provided that this release shall not apply to: i) any of the Released Parties in relation to their obligations under the Amended Proposal or any order issued by the Court in connection with this Amended Proposal or any ancillary document to the foregoing; ii) any Released Party for any liabilities or claims which cannot be released pursuant to Section 50(14) of the BIA; and iii) any Released Party from any Secured Claim of Timbercreek;
 - b) upon Implementation, any registration on title of the Real Property in respect of a Secured Claim shall be discharged from the Real Property;
 - c) the Companies, with the consent of the Proposal Trustee and the Sponsor, may propose an alteration or modification to the Amended Proposal prior to the Meeting;
 - d) pursuant to Section 147 of the BIA, distributions to Affected Creditors and other payments under the Amended Proposal are subject to a levy payable to the Superintendent of Bankruptcy⁵;
 - e) the Proposal Trustee shall be entitled to apply for its discharge upon the Companies completing all Distributions and paying any other amounts provided for in the Amended Proposal;
 - f) administrative Fees and Expenses will be paid in cash by the Companies on the Proposal Implementation Date together with a reserve in respect of the discharge of the Proposal Trustee;

⁴ Released Parties means, collectively, (i) the Companies, (ii) each affiliate or subsidiary of the Companies, (iii) the Sponsor, (iv) the Proposal Trustee, and (v) subject to Section 7.01 of the Amended Proposal, each of the foregoing Persons' respective former and current officers, directors, principals, members, affiliates, limited partners, general partners, managed accounts or funds, fund advisors, employees, financial and other advisors, legal counsel, and agents.

⁵ The rate of the Levy is 5% of the first \$1 million of distributions and 1.25% of the second \$1 million. No Levy is payable on amounts in excess of \$2 million.

- g) the Companies shall continue to pay in the ordinary course of business the following amounts prior to and after the Court Approval Date:
 - i. all Persons who advance monies, or provide goods and services to the Companies after the Filing Date;
 - ii. any outstanding or current source deductions, and other amounts payable pursuant to Section 60(1.2) of the BIA; and
 - iii. any outstanding or current goods and services tax, and all amounts owing on account of provincial sales tax;
- h) holders of Equity Claims shall not be entitled to vote in respect of their Equity Claims at the Meeting and shall not receive any distribution under the Proposal on account of their Equity Claims. Upon Implementation, all Equity Claims shall, and shall be deemed to be, irrevocably and finally extinguished and all Existing Equityholders shall have no further right, title or interest in and to their respective Equity Claims; and
- i) prior to making a Distribution to Affected Creditors, the Proposal Trustee shall set aside in the Proposal Fund sufficient funds to pay all Affected Creditors with Disputed Claims or Conditional Claims the amounts such Affected Creditors would be entitled to receive if their Disputed Claim or Conditional Claim, as the case may be, had been a Proven Claim at the time of the Distribution. Upon resolution of each Disputed Claim or Conditional Claim, any funds in the reserve held by the Proposal Trustee shall become available for further Distribution to Affected Creditors. Residual funds, if any, in the Proposal Fund which are not required for Distribution shall be returned to the Sponsor.

4.12 Acceptance and Approval of the Proposal

1. In order for the Amended Proposal to be accepted, two-thirds in dollar value and over 50% in number of the Affected Creditors present and voting, in person or by proxy, must vote in favour of the Amended Proposal.
2. Rejection of the Amended Proposal by the creditors would result in the Companies being deemed to have made an assignment in bankruptcy. Should that occur, the Proposal Trustee understands that Timbercreek intends to bring on its application for the appointment of a receiver, which is scheduled to be heard on July 12, 2021.
3. If creditors vote to accept the Amended Proposal, the Amended Proposal must be approved by the Court. A motion has been scheduled to be heard on June 23, 2021 at 10:00 am (EST) for this purpose. If the Court does not approve the Amended Proposal, the Companies will be deemed to have made an assignment in bankruptcy.

5.0 Preferences and Transfers at Undervalue

1. As part of its statutory duties under the BIA, the Proposal Trustee conducted a review of the Companies' bank statements and cancelled cheques for the twelve-month period immediately preceding the commencement of the NOI proceedings (the "Review Period") to identify transactions that could be considered preferences or transfers at undervalue. The focus of the Review Period was transactions above \$25,000. The Proposal Trustee's review did not identify any transaction that could be considered a preference or transfer at undervalue⁶.
2. A summary of the transactions during the Review Period is provided in the table below:

(\$000s, unaudited)	
Receipts and Disbursements	Amounts
Receipts	
Cresford Rosedale	1,455
Oakleaf	1,814
HST refund	458
Other miscellaneous receipts	162
Total Receipts	3,889
Disbursements	
Timbercreek – interest	3,021
Cresford Rosedale	180
Oakleaf	300
Property tax	171
Other operating disbursements	210
Total Disbursements	3,882
Net	7

3. The Proposal Trustee identified that of the payments totalling \$480,000 identified above to Cresford Rosedale and Oakleaf, each a Related Party Creditor, \$400,000 was made in or prior to June 2020. However, approximately \$2.6 million of an aggregate \$3.3 million advanced to the Companies by Cresford Rosedale and Oakleaf during the Review Period occurred subsequent to those payments, primarily to service interest on the Timbercreek mortgage and to pay other YSL Project operating expenses. As the Related Party Creditors advanced more than \$2.8 million to the Companies on a net basis, and based on the timing of the advances compared to the payments, the Proposal Trustee is of the view that these payments are not properly characterized as a preference.

⁶ The Companies made payments totalling \$48,507 to Strada Aggregates ("Strada") during the Review Period as a result of a judgment that Strada obtained in connection with a lien registered against the Real Property.

4. Section 14.02 of the Amended Proposal provides that Sections 95 to 101 of the BIA, being the relevant sections under the BIA dealing with transactions that may be challenged by a Proposal Trustee, do not apply to the Amended Proposal and may not be relied upon by the creditors or by the Proposal Trustee. Therefore, by voting in favour of the Amended Proposal, creditors will be foregoing their right to pursue any of the remedies under these sections of the BIA.
5. The Proposal Trustee did not identify any transactions that could be considered a preference or transfer at undervalue during the Review Period or that, in the Proposal Trustee's view, would justify the expense of pursuing such transactions. Accordingly, the Proposal Trustee is of the view that Section 14.02 of the Amended Proposal is reasonable as creditors are not foregoing possible recoveries under these sections.

6.0 Estimated Distribution in the Event of a Bankruptcy

1. As described above in Section 2.2, the Proposal Trustee engaged FM, a prominent real estate and development cost consulting firm based in Toronto with extensive experience overseeing and consulting on projects similar to the YSL Project. FM was retained to, among other things, prepare the FM Report so that the Proposal Trustee could provide a recommendation to the Companies' creditors with respect to the Proposal.
2. The key findings from the FM Report are summarized in Section 6.2 below.
3. The FM Report has not been included in this Report as it contains sensitive financial and other information that could negatively impact realizations on the YSL Project should the Amended Proposal not be implemented and a sale process be undertaken. If the Amended Proposal is accepted by the Affected Creditors, the Proposal Trustee intends to include a copy of the FM Report and a waterfall analysis as confidential appendices to its report to Court in connection with a motion seeking Court approval of the Amended Proposal.

6.1 Realizations in a Bankruptcy/Receivership

1. The Amended Proposal implicitly pays \$188,057,000 for the YSL Project, as detailed below.

(\$000s; unaudited)		
Implied Purchase Price Calculation		Amounts
Payments in full:		
Secured Creditors		250,110
City of Toronto		729
Construction Lien Claimants	1	2,600
Total of payments in full		253,439
Payments to Affected Creditors:		
Proposal Fund Amount	2	37,700
		291,139
Less: Foregone deposits	3	(103,082)
Implied Purchase Price		188,057

Profit Percentage Calculation

Projected Revenue	4	1,092,185
Budgeted Costs	5	(986,619)
Profit		105,566
Profit as a % of Budgeted Costs		10.7%

Notes

1. Represents Construction Lien Claimants that, as of the date of this Report, have not agreed to be treated as Affected Creditors.
2. Represents the Proposal Fund Amount assuming Affected Creditor Claims total \$65 million.
3. Represents a reduction in the implied purchase price for condo purchaser deposits that have been spent by the Companies, as the Sponsor will not get the benefit of these deposits upon acquisition. This amount excludes the 56 disclaimed Condo Purchase Agreements, as the Sponsor will get the benefit of the proceeds of sale once it re-sells those units.
4. Represents the projected revenue that the YSL Project is expected to generate, excluding the spent deposits.
5. Represents the budgeted costs to complete the YSL Project, including the Implied Purchase Price, per above.

2. The Proposal Trustee asked FM to consider the purchase price that a purchaser would pay for the Real Property in a sale process if:
 - a) all existing Condo Purchase Agreements were assumed by the purchaser (excluding the 56 Condo Purchase Agreements that were disclaimed) (the "As-Is Scenario"); or
 - b) all existing Condo Purchase Agreements were disclaimed and all of the units marketed for sale, on the assumption that the purchaser can obtain a higher price per square foot by re-selling the condominium units based on current market prices (the "Re-Sell Scenario").
3. The FM Report provides detailed projections of the revenues and costs for both scenarios in order to estimate an implied purchase price, considering developers require a target profit of at least 15%, per FM.
4. The FM Report concludes that the recoveries to creditors in the As-Is and Re-Sell Scenarios would be materially inferior to the Amended Proposal, and it is possible that under these scenarios, there would be no recovery for unsecured creditors.
5. FM's conclusions are based on the following:

As-Is Scenario

- a) the projected revenue of the project would be largely unchanged - all existing purchase agreements would be retained (except for the 56 disclaimed during these proceedings) and the balance of the units would be sold at current market prices, which are largely consistent with the price at which the YSL Project condominiums were sold;
- b) the projected costs to complete the YSL Project, which have increased significantly in recent years;

- c) the extended duration of the project, which is not expected to be completed for at least six years;
- d) the financing risks associated with the YSL Project;
- e) the standard purchaser deposit minimums which have, with some exceptions, declined from 20% to 15%;
- f) lien claimants, who would likely require payment in full, as the conditions to the Claim Assignment Agreements will not have been met;
- g) incremental debt service costs on senior secured debt while a sale process is carried out⁷; and
- h) professional costs to carry out a sale process.

Re-Sell Scenario

In addition to the factors summarized above, the following was considered:

- a) the risks associated with a full sales program re-launch of 1,100 residential units in order to prevent a potential “flooding” of the market;
 - b) the risks associated with financing the project, including financing condo deposits;
 - c) the potential for additional claims and costs of litigation that may result from disclaiming all existing Condo Purchase Agreements;
 - d) the possibility that a developer might not be able to secure financing, or might be delayed in securing financing for the project due to the high level of risk and uncertainty associated with a re-launch; and
 - e) the rate of return that a developer would require in light of the foregoing, which is at least 15% and likely more given the above enumerated and other risks.
6. Accordingly, the FM Report indicates that the value of the YSL Project under the Amended Proposal exceeds the value of the YSL Project if it was sold through the As-Is Scenario or the Re-Sell Scenario.
 7. Additionally, the FM Report indicates that in a sale of the YSL Project under the As-Is and the Re-Sell Scenarios, there would be no value for the LPs, even if the Related Party Claims were excluded.

⁷ Interest costs on the Companies senior secured debt (Timbercreek) is estimated to be \$ 604,167 per month.

7.0 Conclusion and Recommendation

1. The FM Report reflects that the value of the YSL Project under the Amended Proposal exceeds the value of the YSL Project under the As-Is and Re-Sell Scenarios. In the Proposal Trustee's opinion, these are the only two reasonable options for the YSL Project if the Amended Proposal is not approved.
2. Affected Creditors will have an opportunity for a recovery of up to 58¢ on the dollar value of their claims should the Amended Proposal be accepted and approved by the Court.
3. If the Amended Proposal is not accepted by creditors or approved by the Court, the Companies will be deemed to have made an assignment in bankruptcy. In such a case, Timbercreek's receivership application will be heard on or before July 12, 2021.
4. Based on the FM Report, distributions to Affected Creditors may be nil if the YSL Project is marketed for sale.
5. **Based on the foregoing, the Proposal Trustee recommends that the Companies' creditors vote in favour of the Amended Proposal.**
6. If the Amended Proposal is accepted by the Affected Creditors at the Meeting, the Companies will seek the Court's approval on June 23, 2021 at 10:00 am EST.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YG LIMITED PARTNERSHIP AND
YSL RESIDENCES INC.,
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “H”

YG Limited Partnership and YSL Residences Inc.

Creditors List - Proposal

(\$; unaudited)

Creditor	Amount	Address
Secured		
2576725 Ontario Inc	30,865,424	35 Wembley Avenue, Markham, ON L3R 1Z1
Timbercreek Mortgage Servicing Inc.	106,798,989	25 Price Street, Toronto, Ontario M4W 1Z1
Westmount Guarantee	112,445,730	600 Cochrane Drive, Ste 205, Markham, Ontario L3R 5K3
The Treasurer, City of Toronto	729,418	55 John Street, 26th Floor, Metro Hall Toronto, Ontario M5V 3C6
Total - Secured	<u>250,839,561</u>	
Unsecured and Other		
2600924 Ontario Inc.	67,800	18 Leone Lane, Brampton, Ontario L6P 0K9
1st Choice Disposal	8,917	2117 Codlin Crescent, Rexdale, Ontario M9W 5K7
AEC Paralegal Corporation	593	640 - 10 Carlson Crt, Etobicoke, Ontario M9W 6L2
Aim Home Realty Inc	15,018	2175 Sheppard Avenue E, #106, Toronto, Ontario M2J 1W8
Aird & Berlis LLP	16,583	181 Bay Street, Ste 1800, Box 754 Toronto, Ontario M5J 2T9
Altus Group Limited	20,960	126 Don Hillock Drive, Aurora, Ontario L4G 0G9
AlumaSafway, Inc	46,505	c/o Lockbox 919760, PO Box 4090 STN A Toronto, Ontario M5B 1S1
Architects Alliance	1,008,915	317 Adelaide Street West, 2nd Floor, Toronto, Ontario M5V 1P9
Arthur J. Gallagher Canada Li	105,288	P.O. Box 57194, Station A,, Toronto, Ontario M5W 5M5
BA Consulting Group Ltd.	7,845	45 St. Clair Avenue West, Suite 300, Toronto, Ontario M4V 1K9
Baaron Group Inc.	20,398	51 Adirondack Drive, Vaughan, Ontario L6A 2V7
Bay Street Group Inc	97,278	8300 Woodbine Avenue, Ste 500, Markham, Ontario L3R 9Y7
Beck Taxi	4,037	1 Credit Union Drive, Toronto, Ontario M4A 2S6
Bell Canada	456	1 Carrefour Alexandre-Graham-Bell, Aile E 3, Verdun, QC H3E 3B3
Bennett Jones LLP	20,813	3400 One First Canadian Place, P.O. Box 130 Toronto, Ontario M5X 1A4
Blaney McMurtry LLP	100,057	2 Queen Street East, Suite 1500, Toronto, Ontario M5C 3G5
BVDA Group Ltd.	1,130	107 Toronto St South, Suite 1, Uxbridge, Ontario L9P 1H4
Canon Canada Inc.	38	Lockbox 914820, PO Box 4090, Stn A Toronto, Ontario M5W 0E9
CBSC Capital Inc.	6,126	c/o T9649, PO Box 9649, STN A, Toronto, Ontario M5W 1P8
Century 21 Kennect Realty	53,036	7780 Woodbine Avenue, U#15, Markham, Ontario L3R 2N7
Century 21 King's Quay Real E	37,594	7300 Warden Avenue, Suite 401, Markham, Ontario L3R 9Z6
Century 21 Leading Edge Real	10,878	165 Main Street North, Markham, Ontario L3P 0E7
Cityscape Real Estate Ltd.	246,999	25 Waitline Avenue, Suite 402, Mississauga, Ontario L4Z 2Z1
Citywide Door & Hardware Inc.	1,130	80 Vinyl Court, Woodbridge, Ontario L4L 4A3
Cresford (Rosedale) Developments Inc.	13,100,000	203 - 250 Merton Street, Toronto, ON M4S 1B1
Dale & Lessmann LLP	5,322	181 University Avenue, Suite 2100, Toronto, Ontario M5H 3M7
Dekla Corporation	25,000	288 Judson Street, Unit 8, Toronto, Ontario M8Z 5T6
E.R.A. Architects Inc.	46,764	600-625 Church St., Toronto, Ontario M4Y 2G1
East Downtown Redevelopment Part.	5,810,053	203 - 250 Merton Street, Toronto, ON M4S 1B1
Entuitive Corporation	5,509	200 University Avenue, 7th FL, Toronto, Ontario M5H 3C6
Federal Wireless Communicatio	4,292	5250 Finch Avenue East, #11, Scarborough, Ontario M1S 5A5
Forest Hill Real Estate Inc	30,876	441 Spadina Road, Toronto, Ontario M5P 2W3
Former Employees	1	c/o Naymark Law, Attn: James Gibson, 171 John St, Suite 101, Toronto ON M5T 1X3
Foster Interactive Inc.	1,627	80 Ward St. Office #213, Toronto, Ontario M6H 4A6
Four Seasons Hotel Toronto	97,938	60 Yorkville Avenue, Toronto, Ontario M4W 0A4
GFL Infrastructure Goup Inc.	4,356,940	100 New Park Place, # 500, Vaughan, Ontario L4K 0H9
Heritage Restoration Inc	393,006	14 Paisley Lane, Stouffville, ON L4A7X4
Home Standards Brickstone Rea	207,880	#30 - 180 Steeles Ave. West, Thornhill, Ontario L4J 2L1
Homelife/Bayview Realty Inc	1	505 Hwy. 7 East, Unit#201, Thornhill, Ontario L3T 7T1
Homelife Classic Realty Inc	12,478	1600 Steeles Ave. W., #36, Vaughan, Ontario L4K 4M2
HomeLife Frontier Realty Inc.	25,376	7620 Yonge Street, Suite 400, Toronto, Ontario L4J 1V9
HomeLife Landmark Realty Inc.	1,669,032	7240 Woodbine Ave, Suite 103, Markham, Ontario L3R 1A4
HomeLife New World Realty Inc	544,356	201 Consumers Road, Suite 205, Willowdale, Ontario M2J 4G8
Howe Gastmeier Chapnik Limite	15,343	Suite 203-2000 Argentia Rd, Plaza One, Mississauga, Ont L5N 1P7
Hunter & Associates Ltd.	2,924	1133 Yonge Street. 3rd Floor, (The Exchange) Toronto, Ontario M4T 1W1
Innocon Partnership	50,239	T10094, PO Box 10094, Stn A, Toronto, Ontario M5W 2B1
Investments Hardware Limited	15,091	250 Rowntree Dairy Road, Woodbridge, Ontario L4L 9J7
Isherwood	131,669	3100 Ridgeway Drive, Unit 3, Mississauga, Ontario L5L 5M5
Jablonsky, Ast and Partners	349,632	1129 Leslie Street, Don Mills, Ontario M3C 2K5
JanetRosenberg&Studio Inc.	16,690	148 Kenwood Avenue, Toronto, Ontario M6C 2S3
JDL Realty Inc.	48,154	95 Mural Street, Ste 105, Richmond Hill, Ontario L4B 3G2
Jensen Hughes Consulting Cana	53,889	C/O T56207C, PO Box 56207, Station A Toronto, Ontario M5W 4L1
Keller Williams Referred	39,174	Urban Realty, Brokerage, 156 Duncan Mill Rd., Unit 1 Toronto, Ontario M3B 3N2
Kohn Pedersen Fox Associates	2,149,015	11 West 42nd Street, New York, NY 10036

Kramer Design Associates Limi	74,185	103 Dupont Street, Toronto, Ontario M5R 1V4
Lam & Associates Ltd.	129,925	160 Applewood Crescent, #25, Concord, Ontario L4K 4H2
LandpowerReal Estate Ltd.	2,256,549	3621 Highway 7 E., Ste. 403, Markham, Ontario L3R 0G6
Lerch Bates	11,900	9780 S. Meridian Blvd., #450, Englewood, Colorado USA 80112
Live Patrol Inc.	16,781	2645 Skymark Avenue, #205, Mississauga, Ontario L4W 4H2
Living Realty Inc.	88,588	8 Steelcase Road West, Markham, Ontario L3R 1B2
Maria Athansoulis, c/o Goodmans LLP, Attn: Mark Dunn	1.00	333 Bay Street, Suite 3400, Toronto, ON, M5H 2S7
Master's Choice Realty, Inc.	379,298	3190 Steeles Avenue E. #110, Markham, Ontario L3R 1G9
McIntosh Perry	218	200-6240 Highway 7, Woodbridge, Ontario L4H 4G3
Michael Bros. Excavating	1,758,732	240 Toryork Drive, Weston, Ontario M9L 1Y1
Mike Catsiliras	1	62 Presteign Avenue, Toronto, Ontario M4B 3B2
Montana Steele	73,928	5255 Yonge Street Ste 1050, Toronto, Ontario M2N 6P4
Mulvey & Banani Lighting Inc.	29,979	44 Mobile Drive, Toronto, Ontario M4A 2P2
Municipal Mechanical Contract	11,303	9418 The Gore Road, Brampton, Ontario L6P 0A8
Myles Burke	53,698	10 Planchet Road, #29, Vaughan, Ontario L4K 2C8
Naf-Muk Contracting Inc	2,440	23 Gillingham Street, Scarborough, Ontario M1B 5X1
Nelligan O'Brien Payne LLP	103,599	50 O'Connor, Suite 300, Ottawa ON K1P 6L2
North American Sign Company I	2,825	499 Edgeley Boulevard, Unit 3, Concord, Ontario L4K 4H3
Oakleaf Consulting Ltd.	19,363,566	203 - 250 Merton Street, Toronto, ON M4S 1B1
Otis Canada Inc.	4,912,110	PO Box 57445 Station A, Toronto, Ontario M4Y 0E7
PETRA Consultants Ltd.	185,969	104-93 Dundas Street E., Mississauga, Ontario L5A 1W7
PM Sheetmetal & Ventilation	29,042	140 Bowes Road, Unit B, Concord, Ontario L4K 1J6
Powerland Realty, Brokerage	10,678	160 West Beaver Creek Rd., #2A, Richmond Hill, Ontario L4B 1B4
PricewaterhouseCoopers LLP	19,267	18 York Street, Suite 2600, Toronto, Ontario M5J 0B2
Priestly Demolition Inc.	660,123	3200 Lloydtown-Aurora Rd., King, Ontario L7B 0G3
R. Avis Surveying Inc.	53,758	235 Yorkland Boulevard, Suite 203, Toronto, Ontario M2J 4Y8
Rapid Equipment Rental Limite	4,520	5 St. Regis Crescent, N. U# 2, Toronto, Ontario M3J 1Y9
Re/Max Condo Plus Corp	16,358	45 Harbour Square, Toronto, Ontario M5J 2G4
RE/MAX Crossroads Realty Inc. Brokerage	1.00	8901 Woodbine Ave, Suite 208, Markham, ON L3R 9Y4
RE/MAX Goldenway Realty Inc.	125,424	15 Wertheim Court, Suite 309, Richmond Hill, Ontario L4B 3H7
RE/MAX Realtron Realty Inc.	42,576	88 Konrad Crescent, Markham, Ontario L3R 8T7, Attn: Wanda Ellins
RE/MAX Realty Enterprises Inc	72,090	125 Lakeshore Road East, Mississauga, Ontario L5G 1E5
Real One Realty Inc.	284,955	15 Wertheim Crt., Unit 302, Richmond Hill, Ontario L4B 3H7
Reco Cleaning Services	74,482	260 Spinnaker Way, Unit 9&10, Concord, Ontario L4K 4P9
ReMax Ultimate Realty Inc.	16,718	1739 Bayview Avenue, Toronto, Ontario M4G 3C1
Reprodux Limited	724	1120 Brevik Place, Mississauga, Ontario L4W 3Y5
Right At Home Realty Inc.	10,678	895 Don Mills Rd., Ste 202, Toronto, Ontario M3C 1W3
Right at Home Realty Inc. Brokerage	1.00	480 Eglinton Ave W., Unit 30, Mississauga, ON L5R 1Y5
Rosa Trading Ltd.	1	552 Wellington Street W #1203, Toronto, Ontario M5V 2V5
Royal Elite Realty Inc., Broke	16,198	7050 Woodbine Ave Unit101, Markham, Ontario L3R 4G8
Royal LePage - New Concept	85,770	1993 Leslie Street, Toronto, Ontario M3B 2M3
Royal LePage - Signature Real	14,678	8 Sampson Mews #201, Toronto, Ontario M3C 0H5
Ryan Property Tax Paralegal C	5,360	640 - 10 Carlson Crt, Etobicoke, Ontario M9W 6L2
Safeline Management Systems I	8,724	260 Spinnaker Way, Unit 9&10, Concord, Ontario L4K 4P9
Sebba Steel Construction Ltd.	86,075	PO Box 27, Gormley, Ontario L0H 1G0
Soberman Engineering Inc	1,271	55 St Clair Avenue W Ste 205, Toronto, Ontario M4V 2Y7
Stantec Consulting Ltd.	9,023	c/o Lockbox 310260, PO Box 578, Stn M Calgary, Alberta T2P 2J2
Stephenson's Rental Services	13,202	6895 Columbus Road, Mississauga, Ontario L5T 2G9
Strada Aggregates	36,999	30 Floral Parkway, Suite 400, Concord, Ontario L4K 4R1
The Odan/Detech Group Inc.	6,526	5230, South Service Rd, U#107, Burlington, Ontario L7L 5K2
Tradeworld RealtyInc.	67,770	411 Dundas Street W., #202, Toronto, Ontario M5T 1G6
V.A. Siu Design Consultants	96,050	596 Queen Street W., #301, Toronto, Ontario M6J 1E3
Verdi Structures Inc	775,180	91 Parr Blvd., Bolton, Ontario L7E 4E3
WSP Canada Inc.	76,063	c/o TX4022 C PO Box 4590 Stn A, Toronto, Ontario M5W 7B1
You-Go Rental & Sales	2,809	9418 The Gore Road, Brampton, Ontario L6P 0A8
Total - Unsecured and Other	<u>63,285,351</u>	

Appendix “I”

*Bankruptcy and Insolvency Act ("Act")***Proof of Claim**

(Section 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1), and Paragraphs 51(1)(e) and 66.14(b) of the Act)

All notices or correspondence regarding this claim must be forwarded to the following address:

Creditor Name: Maria Athanasoulis Telephone: (416) 849-6895 (Counsel)

Address: **Creditor:** Fax: (416) 979-1234 (Counsel)

**44 Glenallan Rd, North
York, Ontario, M4N 1G8**

Counsel to Creditor:**Goodmans LLP**

**3400 - 333 Bay Street,
Toronto, Ontario, M5H
2S7**

Email: mdunn@goodmans.ca (Counsel)
cfox@goodmans.ca (Counsel)

Account No.: _____

In the matter of the bankruptcy (or the proposal, or the receivership) of **YG Limited Partnership and YSL Residences Inc.** and the claim of Maria Athanasoulis, creditor.

I, Maria Athanasoulis, of North York, Ontario, do hereby certify:

1. That I am a creditor of the above-named debtors.
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That the debtor was, at the date of bankruptcy, (or the date of the receivership, or in the case of a proposal, the date of the notice of intention or of the proposal, if no notice of intention was filed), namely the 30th day of April, 2021, and still is, indebted to the creditor **in the amount of \$19 million, as described in Schedule "A" hereto and in the Statement of Claim attached as Schedule "B".** ~~in the sum of \$ —, as specified in the statement of account (or affidavit) attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)~~

4. (Check and complete appropriate category.)

A. UNSECURED CLAIM (AFFECTED CLAIM) OF \$ [See Schedule A and Appendix B hereto.]

(other than as a customer contemplated by Section 262 of the Act)

That in respect of this debt, I do not hold any assets of the debtor as security and (Check appropriate description.)

Regarding the amount of \$ 19,000,000 I do not claim a right to a priority.

Regarding the amount of \$ _____ I claim a right to a priority under Section 136 of the Act.

(Set out on an attached sheet details to support priority claim.)

B. SECURED CLAIM OF \$ _____

That in respect of this debt, I hold assets of the debtor valued at \$ _____ as security, particulars of which are as follows:

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

C. CONSTRUCTION LIEN CLAIM OF \$ _____

That in respect of this debt I have registered a lien on title to the Debtors' real property in accordance with the *Construction Act* (Ontario), particulars of which are as follows:

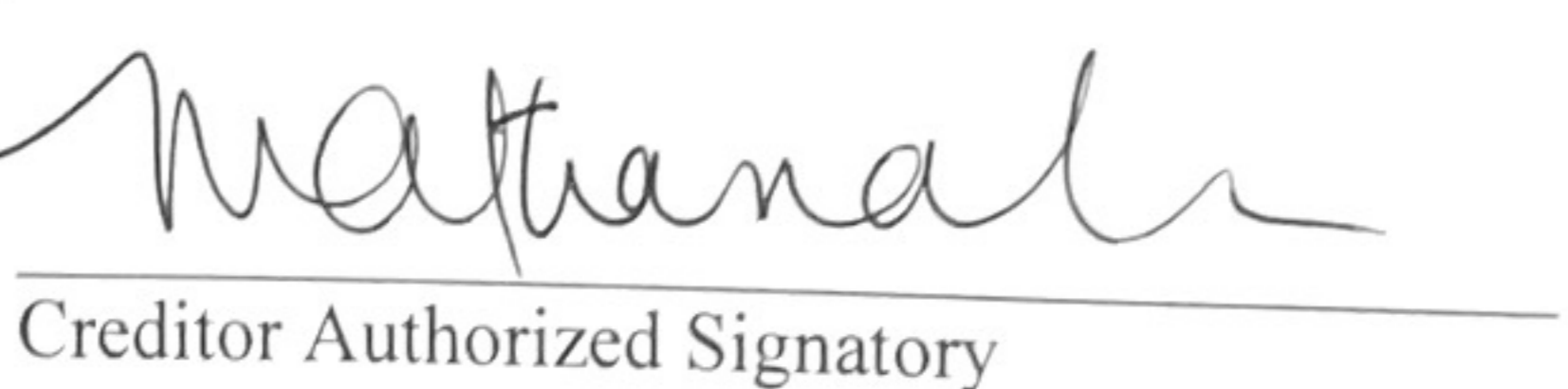
(Give full particulars of the lien, including the date on which the lien was registered and the value secured by such lien, and attach a copy of any relevant documents, including any statement of claim).

5. That, to the best of my knowledge, I am (or the above-named creditor is) (or am not or is not) related to the debtor within the meaning of Section 4 of the Act, and have (or has) (or have not or has not) dealt with the debtor in a non- arm's-length manner.

6. That the following are the payments that I have received from, the credits that I have allowed to, and the transfers at undervalue within the meaning of Subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of Section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Subsection 2(1) of the Act: (Provide details of payments, credits and transfers at undervalue.)

Dated at North York, this 10th day of June, 2021.


Witness


Creditor Authorized Signatory

SCHEDULE “A” TO THE PROOF OF CLAIM OF MARIA ATHANASOULIS**A. Ms. Athanasoulis’ Action Against Cresford**

1. Maria Athanasoulis is the former President and Chief Operating Officer of Cresford (Rosedale) Developments Inc. and its affiliates and subsidiaries (collectively, “**Cresford**”), including the debtors, YG Limited Partnership and YSL Residences Inc. (together, “**YSL**” or the “**YSL Debtors**”). She is also the Plaintiff in the Action having Court File No. CV-20-00635914-00CL (the “**Action**”) against Cresford, including YSL.

2. The Action seeks (among other things) damages for wrongful dismissal and damages for breach of an oral agreement that the owner of each Cresford project, including YSL, would pay Ms. Athanasoulis 20% of the profits earned on each project (the “**Profit Sharing Agreement**”).

B. The Profit Sharing Agreement

3. The Profit Sharing Agreement was an agreement entered into between Ms. Athanasoulis and the owners of each Cresford development project (the “**Owners**”). The YSL Debtors own Yonge Street Living Residences (the “**YSL Project**”), and they are bound by the Profit Sharing Agreement.

4. The terms of the Profit Sharing Agreement were negotiated between Ms. Athanasoulis and Mr. Dan Casey who was, at the time, the sole officer and director of each of the Owners, including the YSL Debtors.

5. The YSL Debtors are bound by the Profit Sharing Agreement. In fact, the YSL Debtors specifically admitted that they are bound by the Profit Sharing Agreement in their Statement of Defence and Counterclaim.

(i) *The Terms of the Profit Sharing Agreement*

6. The terms of the Profit Sharing Agreement were initially negotiated in 2014. The parties agreed that each Owner would pay Ms. Athanasoulis 10% of the profits earned on each project undertaken by an Owner (each, a “**Project**”) when the Project was completed and profits were realized.

7. In November 2014, Ms. Athanasoulis drafted an employment agreement based on a form of agreement that Cresford had used for another employee. The draft employment agreement prepared by Ms. Athanasoulis, which is attached as **Appendix “A”**, specified (among other things) that Ms. Athanasoulis’ entitlement under the Profit Sharing Agreement would not be extinguished if Ms. Athanasoulis left Cresford or was terminated by it. Ms. Athanasoulis provided the draft agreement to Mr. Casey, but does not recall whether Mr. Casey signed it. Ms. Athanasoulis does not have a signed copy of the agreement.

8. The draft agreement is between Ms. Athanasoulis and “Cresford Developments.” Although each Owner is not specifically named in the draft agreement, it was these Owners that had the ability to pay a share of the profits. “Cresford Developments” did not have any right to receive profits from the Owners, and it therefore had no ability to pay these profits to Ms. Athanasoulis. Ms. Athanasoulis and Mr. Casey agreed that the obligation to pay profits would rest with the Owners.

9. In 2015, Ms. Athanasoulis and Mr. Casey agreed that the Profit Sharing Agreement would be amended to provide that Ms. Athanasoulis would receive 15% of the profits earned on each project.

10. In October 2018, the parties (including the YSL Debtors) agreed that Ms. Athanasoulis' entitlement would increase to 20% of the profits earned on each Project. This included the YSL Project.

11. In late 2018 and early 2019, Ms. Athanasoulis also pressed Mr. Casey to properly document the Profit Sharing Agreement. Ms. Athanasoulis and Mr. Casey agreed that John Papadakis, a lawyer with Blaney McMurtry LLP, would reduce the terms of the Profit Sharing Agreement into a formal agreement.

12. The terms of the Profit Sharing Agreement were discussed and confirmed at a meeting with Mr. Papadakis on February 16, 2019. Specifically, Mr. Casey and Ms. Athanasoulis both confirmed during the meeting that:

- (a) Although it had never been reduced to writing, the Profit Sharing Agreement was an existing agreement that had been in place since 2014;
- (b) Under the Profit Sharing Agreement, Ms. Athanasoulis was entitled to 20% of the profits earned on each of the Projects, including the YSL Project; and
- (c) The Profit Sharing Agreement was an agreement between Ms. Athanasoulis and each Owner, including the YSL Debtors.

13. Ms. Athanasoulis never received a written Profit Sharing Agreement for her review and approval. She does not know why a written copy of the Profit Sharing Agreement was not provided to her, since Mr. Casey promised that it would be.

14. Although Ms. Athanasoulis was entitled to be paid a share of the YSL Debtors' profits, she was never a shareholder of the YSL Debtors.

(ii) *The YSL Debtors' repudiation of the Profit Sharing Agreement*

15. As noted, Ms. Athanasoulis commenced the Action, which seeks (among other things) a declaration that she is entitled to 20% of the profits earned on each of Cresford's Projects including the YSL Project. In their Defence and Counterclaim, the Defendants (including the YSL Debtors) admit the existence of the Profit Sharing Agreement but claim that Ms. Athanasoulis' entitlement was conditional on her continued employment by Cresford. They claim that Ms. Athanasoulis effectively waived her rights under the Profit Sharing Agreement by accepting her constructive termination (which is described below).

16. By refusing to honour or acknowledge the Profit Sharing Agreement, the YSL Debtors repudiated the essential terms of that agreement, thereby crystallizing Ms. Athanasoulis' claim against them for breach of contract. The YSL Debtors are liable for the damages caused by their repudiation of the Profit Sharing Agreement.

(iii) *Damages for breach of the Profit Sharing Agreement*

17. Ms. Athanasoulis is entitled to damages that will put her in the position that she would occupy but-for the YSL Debtors' breach of the Profit Sharing Agreement. Specifically, she is entitled to compensation for the lost opportunity to receive 20% of the profits from the YSL Project.

18. As described in detail in Ms. Athanasoulis' Statement of Claim, a copy of which is attached as **Appendix "B"**, as of the date of YSL's repudiation of the Profit Sharing Agreement, YSL was in a position to earn substantial profits. In fact, Cresford's internal documents forecast a profit of in excess of \$90 million as of February 2020. Thus, as of the date of the YSL Debtors' repudiation

of the Profit Sharing Agreement, Ms. Athanasoulis' claim under that agreement was worth approximately \$18 million.

C. Wrongful termination claim

(i) Cresford's wrongful termination of Ms. Athanasoulis

19. The corporate defendants in the Action (including the YSL Debtors) are all part of a group of companies engaged in the development, construction, marketing and sale of condominiums in Toronto, Ontario using the brand name Cresford.

20. Ms. Athanasoulis was hired by Cresford in 2004, and worked in progressively more senior positions thereafter. These positions are described in more detail in Ms. Athanasoulis' Statement of Claim.

21. Until 2014, Ms. Athanasoulis earned a salary of \$300,000 plus benefits. Recognizing Ms. Athanasoulis' value, Mr. Casey agreed to (among other things) increase her salary to \$500,000 per annum in 2014 and pay her 0.15% of Cresford's sales on every project going forward.

22. As described in Ms. Athanasoulis' Statement of Claim, Ms. Athanasoulis discovered how Mr. Casey had funded Cresford's business, and the need for significant further funding in 2018. She urged Mr. Casey to find stable funding for Cresford so it could complete the Projects and comply with its lending agreements. She worked diligently to help him do so, but made it clear she would not help him deceive lenders, contractors or anyone else. As more time passed, and the issues grew more serious, Ms. Athanasoulis' efforts to convince Mr. Casey to address the issues became more urgent and forceful.

23. Despite Ms. Athanasoulis' efforts, Mr. Casey took no steps to rectify the situation.

24. Ms. Athanasoulis, and other members of Cresford's management, asked Mr. Casey to clarify these issues. Mr. Casey provided no meaningful response. Instead, he instructed his litigation lawyer, Allan O'Brien, to write to Ms. Athanasoulis to accuse her of breaching her fiduciary duties to Cresford. Mr. O'Brien provided no particulars to support this allegation because there was no such breach.

25. Mr. Casey then prohibited Ms. Athanasoulis from communicating with any of Cresford's lenders, and indicated that he alone would speak to these lenders.

26. Mr. Casey then went further still, and advised that he alone would deal with *all* of Cresford's key stakeholders, including contractors. He also told Cresford's staff, who previously reported to Ms. Athanasoulis, that they would now report to him directly.

27. Mr. Casey's actions stripped Ms. Athanasoulis of essentially all of her responsibilities as Cresford's president and COO. She was terminated in all but name. On December 20, 2019, Mr. Casey even told Cresford staff that Ms. Athanasoulis was gone and would not be returning. He said that Cresford would be better and stronger without her.

28. Mr. Casey refused to formalize this termination because he was concerned about how Cresford's key stakeholders, including contractors, lenders, investors and employees, would react.

29. All of this put Ms. Athanasoulis in an impossible situation. She was nominally an officer of Cresford (and a director of YSL Residences Inc.) but had no ability to understand or affect how Cresford conducted business. She had good reason to believe that Mr. Casey planned to take steps that would violate Cresford's legal obligations and potentially expose her to personal liability.

30. The conduct described above, and set out in more detail in Ms. Athanasoulis' Statement of Claim, constituted repudiation of Ms. Athanasoulis' employment contract, and constructive termination of her employment by Cresford. By letter dated January 2, 2020, Ms. Athanasoulis wrote to accept this repudiation.

(ii) *Damages for wrongful termination*

31. Ms. Athanasoulis was constructively dismissed without notice or cause. The Defendants, including the YSL Debtors, are liable for damages in an amount equal to what Ms. Athanasoulis would have earned during the notice period to which she was entitled. Ms. Athanasoulis is entitled to 24 months' notice, having regard to:

- (a) **Character of employment:** Ms. Athanasoulis was Cresford's most senior employee except for Mr. Casey, with overall responsibility for virtually all aspects of Cresford's business except financing. In that capacity, she successfully executed some of the most ambitious development and construction projects in Canada;
- (b) **Age and length of employment:** Ms. Athanasoulis worked at Cresford for 16 years and was 42 years old at the time of her termination;
- (c) **Availability of similar employment:** similar employment is not currently available to Ms. Athanasoulis and will not be available to her for the foreseeable future. There are only a handful of developers in Canada that execute projects of the type, size and scope that Ms. Athanasoulis worked on while she was at Cresford. These developers already have presidents. As a result, Ms. Athanasoulis is unlikely to find comparable employment for at least 24 months.

(iii) *Punitive and exemplary damages*

32. As described above, and in the Statement of Claim, Ms. Athanasoulis was terminated because she insisted that Mr. Casey deal honestly with Cresford's stakeholders. Cresford's actions demonstrate a wanton and contumelious disregard for Ms. Athanasoulis' rights and warrant an award of punitive and exemplary damages. Those actions also caused significant mental and emotional distress to Ms. Athanasoulis such that an award of aggravated damages is also warranted.

(iv) *YSL's liability for wrongful termination*

33. Ms. Athanasoulis was simultaneously employed by each of the Cresford companies, including the YSL Debtors. They are jointly and severally liable for her wrongful termination.

34. Ms. Athanasoulis did not have a written employment agreement. Accordingly, YSL's liability is determined by the common law.

35. Cresford functioned as a single, integrated unit under the ultimate control of Mr. Casey. Each Cresford company operated from the same premises, and all were marketed as being part of the same entity. Each Cresford company had the same director and shareholder, Mr. Casey.

36. One important aspect of Cresford's integrated business was Mr. Casey's practice of moving funds between companies to meet liabilities. Mr. Casey routinely directed Cresford's accounting personnel to use funds belonging to one company to satisfy debts owed by another.

37. Cresford was in the business of buying, developing, marketing and selling new condominiums. Each new condominium project was owned by one of the Owners, and Ms. Athanasoulis provided her services directly to each of the Owners. Although the Owners sometimes paid fees to other Cresford entities, there was no written management agreement setting

out what fees would be paid and when. The timing and quantum of the fee payments were determined by Ms. Casey.

38. In light of the foregoing, the YSL Debtors and the other Cresford companies are common employers who are jointly and severally liable with the other Defendants in the Action for Ms. Athanasoulis' wrongful termination damages.

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APPENDIX "A"

THIS AGREEMENT, made as of 1st day of November, 2014,

BETWEEN:

Cresford Developments

(the "Employer")

-and-

Maria Athanasoulis

(the "Employee")

The Employee and the Employer wish to confirm a change to the compensation terms governing the terms and conditions of employment.

THEREFORE THE EMPLOYER AND THE EMPLOYEE AGREE AS FOLLOWS:

TITLE:

The Employer is employing the Employee as the President of Marketing and Sales.

Salary:

The Salary of the Employee will be \$500,000 per annum, payable bi-monthly less applicable statutory deductions. In addition, the Employee will participate in the group benefit plan provided by the Employer as amended from time to time. The Employee will be entitled to leave as required for absence due to illness.

The Employee will be eligible for bonus payments earned at the registration of the condominium declaration of each development as well as bonus on gross revenue sold. The specific process for allocation of the bonus will be determined and agreed upon by the Employer and the Employee and outlined in schedule "B" of this agreement.

Other Benefits:

The Employer will pay the Employee a monthly vehicle allowance of \$1200 (less statutory deductions). The Employee will be responsible for the cost of his vehicle, including insurance and gas. The Employer will pay the monthly allowance on a bi-monthly basis.

The Employer will provide a cellular phone to the Employee.

The Employer will reimburse the employee for all reasonable travel and other business expenses incurred while carrying out his responsibilities on behalf of the Employer, upon presentation of appropriate receipts for the expenses claimed.

The Employer will reimburse the Employee for the cost of memberships in business related professional associations, provided these membership fees are approved in advance by the Employer.

Annual Leave:

The Employee is entitled to 5 weeks vacation with pay.

Performance Review:

The performance of the Employee will be reviewed on an annual basis based on criteria agreed upon by the Employee and the Employer at the beginning of the year subject to review, and based on the agreed duties to be performed by the Employee as outlined in schedule "A".

The Employee's annual performance will be reviewed at the end of each calendar year and at that time the Employer and the Employee may make amendments to this contract and to compensation at their mutual agreement.

Termination of Employment:

The Employee's employment may be terminated as follows:

1. By the Employee at any time upon providing the employer with 6 weeks notice in writing; or
2. By the Employer at any time for just cause, without notice; or
3. By the Employer without cause upon ten months notice or, bi-monthly pay in lieu thereof, subject to the following. In the event of the employee finding comparable alternative employment, the employee will be paid 50% of the balance owing on the remainder of the termination payment from the date of commencement of such employment to the end of the notice period herein. The Employee agrees that he will advise the Employer forthwith upon finding such comparable employment.
4. Bonus payments will be paid in full at the completion of any project in the construction phase if employee's employment is terminated.

Confidential Information:

It is essential to the success of the Employer that the business and affairs of the Employer be kept in the strictest confidence. Therefore, the Employee shall not at any time nor in any manner, except where authorized or required by law or by the Employer, divulge, disclose or communicate to any person, firm or corporation any information concerning any matters affecting or relating to the enterprise of the Employer, including without limiting the generality of the foregoing, any information concerning the

Employers products and product designs, customer lists, the prices it obtains or has obtained from the sale of, or at which it sells or has sold its products, types and kinds of raw materials used by it, the suppliers and costs thereof, the manner of its operation, its marketing, product development and other plans, its manufacturing and other processes and any financial affairs of the Employer.

Company Property:

The Employee agrees that upon termination of his employment, all property belonging to Employer will be returned immediately.

Amendment of Agreement:

Any amendment to this agreement must be in writing and signed by both parties.

Dated at Toronto this ____ day of October, 2014

Witness

Per: Dan Casey, President & C.E.O "Employer"

Cresford Developments Inc.

Witness

Per: Maria Athnasoulis "Employee"

SCHEDULE 'A'

The following outlines the terms agreed to for bonus between the employer and the employee.

- 1) A \$500,000 bonus will be paid upon the final registration of 1000 Bay Condominiums
- 2) A \$500,000 bonus will be paid upon the final registration of CASA 2 Condominiums
- 3) A \$500,000 bonus will be paid upon the final registration of CASA 3 Condominiums
- 4) A bonus of 10% of final profits will be paid upon the final registration of VOX Condominiums
- 5) A bonus of 10% of final profits will be paid on final closing on any future site Cresford acquires
- 6) A bonus of 0.15% on the gross sales of each project marketed by Cresford will be paid on construction start for sales earned to date, with the balance after construction start paid on final closing



APPENDIX "B"

Electronically issued : 21-Jan-2020
Délivré par voie électronique : 21-Jan-2020
Toronto

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

MARIA ATHANASOULIS

Plaintiff

- and -

CRESFORD (ROSEDALE) DEVELOPMENTS INC., EAST DOWNTOWN REDEVELOPMENT PARTNERSHIP, THE CLOVER ON YONGE INC., THE CLOVER ON YONGE LIMITED PARTNERSHIP, 33 YORKVILLE RESIDENCES INC., 33 YORKVILLE RESIDENCES LIMITED PARTNERSHIP, 480 YONGE STREET INC., 480 YONGE STREET LIMITED PARTNERSHIP, YG LIMITED PARTNERSHIP, YSL RESIDENCES INC., YSL RESIDENCES LIMITED PARTNERSHIP, 50 CHARLES STREET LIMITED, 50 CHARLES STREET LIMITED PARTNERSHIP and DANIEL C. CASEY

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date January 21, 2020 Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue, 7th Floor
Toronto ON M5G 1R7

TO: **NELLIGAN O'BRIEN PAYNE LLP**
50 O'Connor Street, Suite 300
Ottawa, ON K1P 6L2

Allan R. O'Brien LSO No.: 15326T

allan.obrien@nelliganlaw.ca

Tel 613.231.8224

Fax 613.788.3654

Counsel to the Defendants

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CLAIM

1. The Plaintiff, Maria Athanasoulis, claims against the Defendants for:
 - (a) A declaration that the Defendants wrongfully terminated Ms. Athanasoulis;
 - (b) Damages for wrongful dismissal in the amount of \$1,000,000;
 - (c) A declaration that Ms. Athanasoulis is entitled to 20% of the profits earned by each of the Projects (as defined below);
 - (d) Damages in the amount of \$48 million, representing the value of the entitlement referenced in (c) above;
 - (e) Damages for defamation, in an amount to be provided prior to trial;
 - (f) Punitive, aggravated and exemplary damages;
 - (g) Pre and post judgment interest; and
 - (h) Such further and other relief as this Court deems just.

PART I. BACKGROUND

A. THE DEFENDANTS' BUSINESS

(i) *Cresford*

2. The corporate defendants (collectively, “**Cresford**”) are all part of a group of companies engaged in the development, construction, marketing and sale of condominiums in Toronto, Ontario using the brand name Cresford.

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3. Cresford's corporate predecessors were founded by the Defendant, Daniel C. Casey, approximately 40 years ago. However, until approximately 2014, Cresford and its predecessors focused on small and medium-sized condominium developments.

4. Since 2014, Cresford has developed a reputation for developing and building large luxury condominium communities, largely as a result of the Plaintiff's efforts (which are described below). It has completed some of the largest and most ambitious condominium development and construction projects in the Greater Toronto Area.

5. Each of Cresford's development and construction projects is owned by a separate legal entity. That entity purchases the land where the relevant project is to be built, obtains the required permissions, markets the project to proposed purchasers, hires contractors to build the project and takes all of the other steps to convert real estate into a major condominium development.

6. The staff required to complete this work, including Ms. Athanasoulis, were paid by East Downtown Redevelopment Partnership ("EDRP"). However, EDRP does not own any real estate or conduct any active business. Cresford employees, including Ms. Athanasoulis, provided services directly to the entities that owned, developed and built Cresford's projects.

(ii) Ms. Athanasoulis was critical to Cresford's success

7. Ms. Athanasoulis joined Cresford in 2004 as its Manager, Special Projects. Although she had not previously worked in real estate, she quickly demonstrated a talent for marketing development projects. In 2005, she was promoted to Vice President of Sales and Marketing.

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8. In 2012, Ms. Athanasoulis was promoted again to President, Sales and Marketing. In that capacity, she reported directly to Mr. Casey. Over time, her role expanded to include virtually all aspects of Cresford's business except for land acquisition and project finance. In 2018, Ms. Athanasoulis was promoted again to President and Chief Operating Officer ("COO") around the time that Ted Dowbiggin, the President of Cresford Capital, resigned.

(iii) The real estate development and construction process

9. Condominium development and construction projects are complex, and each is unique to some extent. However, certain steps are common to virtually all projects. The builder/developer must:

- (a) identify an attractive development site;
- (b) negotiate an agreement to purchase the site;
- (c) hire third parties to design the proposed project;
- (d) obtain the municipal permissions required to build the proposed project, which often involves a long and extensive review and approval process. The process of obtaining these approvals is typically called the "development process";
- (e) market condominium units to purchasers. These purchasers provide a deposit (or a series of deposits) to secure their purchases;¹

¹ These deposits must be insured before they can be used to fund construction costs. The deposit insurer guarantees that the deposits will be repaid to purchasers if the units are not built, and registers a mortgage on title to protect itself against the risk of repayment.

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- (f) hire contractors to supply the labour and materials required to build the project; and
- (g) register the condominium and transfer control of it to the condominium corporation.

10. Importantly, the vast majority of revenues earned on a project are not released to the builder/developer until construction is complete and the condominium is registered. This means that the builder/developer must fund development and construction costs using both debt and equity.

(iv) Mr. Casey was responsible for providing or securing the equity that Cresford required

11. In recent years, Mr. Casey has had very little involvement in Cresford's day to day operations. He rarely attended Cresford's offices and was largely unaware of – and uninvolved in – Cresford's business except for financing matters and cost overruns. Unlike other aspects of the business, which were operated by Ms. Athanasoulis, Mr. Casey always kept control of Cresford's financing and limited Ms. Athanasoulis' access to information about it.

12. As noted above, almost all of the revenue from a condominium development is earned after the condominium is built and registered. Almost all of the costs required to complete the development must be incurred before then. Real estate development projects, and particularly the large-scale projects that Cresford has pursued recently, have substantial (and complex) funding needs.

13. Cresford, like all major developers, secures third party mortgage financing to fund a significant portion of its construction and development costs. Lenders agree to fund based on a detailed budget prepared for each project and carefully monitor costs. A project inspector reviews

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detailed information to ensure that funds are properly used and the project can be completed in accordance with the original budget. If the project inspector identifies cost overruns, then the owner of the project must immediately provide the required funds. The Altus Group (“**Altus**”) is the project inspector on Cresford’s current projects.

14. In addition, lenders rely on the financial position of the project owner in deciding to advance funds. As a result, the loan agreements all prohibit further borrowing without prior consent from the lender.

15. Cresford’s lenders required that the owner of each project make a significant equity investment before funds were advanced. Mr. Casey’s primary role at Cresford was to provide or secure these equity investments. The investments were critical. In order to complete its projects, Cresford needed a stable source of equity funds. Without such funds, Cresford could not meet its commitments to lenders, construction contractors, consultants, brokers, purchasers and other stakeholders.

16. Mr. Casey represented to Ms. Athanasoulis that he was a wealthy and successful businessman. Ms. Athanasoulis believed that Mr. Casey had the ability to make the investments that Cresford’s business required.

17. As described below, these funds either did not exist or Mr. Casey was not prepared to invest them in Cresford’s business. Mr. Casey was unwilling or unable to provide the equity funding that Cresford required. This failure threatened (and continues to threaten) the viability of Cresford’s business.

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18. Importantly, prior to the fall of 2018, Ms. Athanasoulis was not responsible for acquiring development sites or financing the purchase and construction of projects. Ted Dowbiggin, the President of Cresford Capital, was responsible for site acquisitions and finance until his resignation effective August 31, 2018. Mr. Dowbiggin reported directly to Mr. Casey, and together, they were solely responsible for financing Cresford's acquisition and development activities. Finance activities were separated from the rest of Cresford's operations. Ms. Athanasoulis and her team had little information about how Mr. Casey and Mr. Dowbiggin financed projects and what they communicated to lenders.

19. Thus, Ms. Athanasoulis was responsible for executing Cresford's projects successfully but was not responsible for how those projects were financed, did not participate in communications with lenders and did not know what Mr. Casey did (and did not) tell lenders.

(v) *Cresford's recent success*

20. Although Ms. Athanasoulis developed (and has) significant expertise in every aspect of the real estate development and construction business, she has a unique talent for designing and marketing residential condominium units to purchasers. As a result, Cresford was able to sell a large volume of condominium units quickly and for premium prices. Every condominium must pre-sell units worth a minimum amount before construction loan funding will be advanced – typically 65% or more of the total project revenue. Cresford's most recent projects have met their targets very quickly.

21. As importantly, Ms. Athanasoulis built Cresford into a recognized luxury condominium brand. Satisfied customers bought units in multiple Cresford projects, and the real estate brokers

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that represented Cresford's target customers trusted Cresford to keep its promises. This allowed Cresford to charge premium prices for its units. Few, if any, Canadian developers have the sort of reputation that Ms. Athanasoulis built for Cresford.

22. Put simply, Ms. Athanasoulis was the driving force behind Cresford's success. In the last five years alone, Cresford has sold more than 3,000 condominium units and generated revenues in excess of \$2.5 billion. In the process, she built a reputation (both for herself and for Cresford) for dealing honestly and fairly with consultants, construction contractors and real estate agents.

(vi) Ms. Athanasoulis' compensation

23. Mr. Casey recognized Ms. Athanasoulis' value. He knew that Ms. Athanasoulis was the key to Cresford's success and, over the years, he offered her significant incentives to remain at Cresford.

24. In 2014, Ms. Athanasoulis supervised the design, marketing and sales on the Vox project at Yonge and Wellesley in Toronto, as she had done on several previous projects. The Vox project met its sales targets with ease, and the project was a success. Moreover, because of Ms. Athanasoulis' sales and marketing expertise, Cresford saved the substantial cost of a third party marketing company. A third party marketing company would have charged Cresford more than \$3 million to market only the Vox project, but Ms. Athanasoulis was paid only \$300,000 per annum, plus a payment equal to 0.15% of Cresford's sales on every project, to market all of Cresford's projects and fulfill her other duties. Ms. Athanasoulis realized that she could earn much more working as a contractor for Cresford and other developers.

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25. Recognizing Ms. Athanasoulis' value, Mr. Casey agreed to increase her salary to \$500,000 per annum in 2014 and pay her 0.15% of Cresford's sales on every project going forward. Most importantly, after the Vox project, Mr. Casey agreed that Ms. Athanasoulis would be entitled to 15% of the profits earned on all projects launched by Cresford thereafter as well as an additional \$500,000 at registration of each of the active projects (i.e., 1000 Bay, Casa II and Casa III). Following the successful launch of YSL, Mr. Casey increased the percent of profits that Ms. Athanasoulis was to be entitled to from 15% to 20%. In an effort to assist with monthly cash flow, Ms. Athanasoulis never drew her increased salary. Mr. Casey knew this, and knew that Ms. Athanasoulis was still owed her increased salary.

26. Ms. Athanasoulis worked closely with Mr. Casey, and trusted him to protect her interests. As a result, their agreement was not immediately reduced to writing. Ms. Athanasoulis launched three more very successful projects in 2015, 2016 and 2017.

27. After the successful launch of YSL (as defined below) in October 2018, Ms. Athanasoulis realized that the services she provided to Cresford on its four most recent projects had saved it approximately \$37.5 million on fees that would otherwise have been paid to a third party marketing consultant. She asked Mr. Casey to memorialize his agreement to pay her 20% of the profits on existing projects. She subsequently attended a meeting with Mr. Casey and John C. Papadakis, Cresford's corporate lawyer. At the meeting, Mr. Casey confirmed that Ms. Athanasoulis was entitled to 20% of the profits generated by Cresford's projects and asked Mr. Papadakis to document the agreement.

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28. Ms. Athanasoulis did not receive the agreement that Mr. Papadakis was instructed to draft. She did not press for a written agreement, however, because Mr. Casey had confirmed her entitlement several times and she trusted him.

29. As described below, her trust was misplaced.

PART II. CRESFORD'S CASH CRISIS

A. CRESFORD'S CURRENT PROJECTS

30. In recent years, Cresford has focused on large condominium developments in or near downtown Toronto. Cresford currently has four active condominium developments (collectively, the "**Projects**"):

- (a) The Clover on Yonge ("**Clover**"), a 44 story condominium located near Yonge and Bloor. Clover is owned by Clover on Yonge Inc. ("**Clover Inc.**") in its capacity as General Partner of Clover on Yonge Limited Partnership ("**Clover LP**"). Clover LP is beneficially owned by entities related to or controlled by Mr. Casey;
- (b) Halo Residences on Yonge ("**Halo**"), a 38 story condominium tower located on Yonge Street between Wellesley and Carlton in Toronto. Halo is owned by 480 Yonge Street Inc. ("**Halo Inc.**"), the general partner of 480 Yonge Street Limited Partnership ("**Halo LP**"). Halo LP is, in turn, beneficially owned by entities related to or controlled by Mr. Casey;
- (c) The Residences of 33 Yorkville ("**33 Yorkville**"), a condominium with one 64-story tower and one 41-story tower. 33 Yorkville is owned by 33 Yorkville

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Residences Inc. (“**33 Yorkville Inc.**”), in its capacity as general partner of 33 Yorkville Residences Limited Partnership (“**33 Yorkville LP**”). There are two classes of limited partnership units in 33 Yorkville LP. The Class A limited partnership units are held by 20 third parties, who collectively invested \$75 million. These investments are described in more detail below; and

- (d) Yonge Street Living Residences (“**YSL**”), an 85-story condominium tower located at the corner of Yonge and Gerrard in Toronto. YSL is owned by YSL Residences Inc. (“**YSL Inc.**”), in its capacity as general partner of YG Limited Partnership (“**YSL LP**”). YSL LP is beneficially owned by entities controlled by or related to Mr. Casey and third party investors.

31. Revenue from the project will not be realized unless and until the Projects are completed. In order to complete the Projects, Cresford must meet its obligations to lenders, contractors and other stakeholders. This requires access to funding that Cresford does not currently have.

B. MR. CASEY’S FAILURE TO MAKE (OR SECURE) EQUITY INVESTMENTS

32. As noted above, each lender required that Cresford (or Mr. Casey) invest significant equity into each Project. Ms. Athanasoulis only role in these equity investments was to introduce potential investors to Mr. Casey.

33. Mr. Dowbiggin resigned from Cresford in August 2018. Around the time of Mr. Dowbiggin’s resignation, Ms. Athanasoulis learned, for the first time, that Cresford was woefully underfunded on Clover and Halo. Cresford did not have the funds required to complete the Projects, and Mr. Casey did not have a plan to secure the funds it needed.

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34. Mr. Casey and Mr. Dowbiggin initially directed Ms. Athanasoulis to reach out to CBRE, a well-known commercial real estate brokerage, to explore the possibility of selling the land owned by YSL Inc. Mr. Casey hoped to earn a gross profit on the sale of \$80-\$100 million and use that profit to fund cost overruns on the Clover and Halo projects.

35. Given the scale of the YSL Project, the pool of potential buyers was quite small. CBRE reached out to the most likely purchasers, but did not find an interested buyer. Accordingly, the only alternative was to design, market and sell the project in order to make it viable. Ms. Athanasoulis worked tirelessly in September and October to launch the YSL Project quickly. This work paid off, and the YSL launch was a huge success. Among other things, the purchasers were contracted to pay approximately \$140 million in deposits on YSL units.

36. Ms. Athanasoulis continued to work with Mr. Casey to try to find a solution to Cresford's cash issues. However, in the summer of 2019 she learned that Mr. Casey's own financial position was far more precarious than he had claimed.

37. Worse still, Ms. Athanasoulis learned in the fall of 2019 that Cresford had made significant misrepresentations to its lenders. When Ms. Athanasoulis pressed Mr. Casey to make the equity investments the business required and to deal honestly with lenders, she was stripped of her responsibilities and constructively terminated.

(i) Mr. Casey's secret loans

38. Cresford did not actually make many of the equity investments that it was contractually required to make, and claimed to have made. Instead, Mr. Casey represented to lenders that funds borrowed from a third party lender, OTB Capital Inc. ("**OTB**"), were equity investments made by

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Mr. Casey or entities that he controlled. These so-called equity investments were, in fact, high interest financing that was specifically prohibited by the applicable loan documents. OTB's loans are secured by every piece of collateral that Mr. Casey could offer, including the unsold retail and residential condominium units in the Clover and Halo projects. Neither Ms. Athanasoulis nor the affected lenders were aware of this.

39. Specifically, Ms. Athanasoulis learned that Mr. Casey had borrowed money from OTB in or around 2014. She also knew that Cresford had to make substantial monthly interest payments to OTB. This was a significant burden on Cresford's cashflow, since interest on most loans in the real estate development industry is capitalized and paid at the end of the project.

40. Ms. Athanasoulis did not, however, know the details of Mr. Casey's arrangements. Most importantly, she did not know what Mr. Casey had told lenders about OTB. She assumed that Mr. Casey had disclosed the nature of his relationship with OTB to existing and prospective lenders, as he was required to do. Shortly before her termination (which is described below), she learned that he had not.

(ii) Clover

41. Mr. Casey's scheme is illustrated by the funding of Clover. Pursuant to a commitment letter dated April 27, 2016 (the "**Clover Loan Agreement**"), British Columbia Investment Management Corporation ("**QuadReal**") agreed to provide Clover Inc. with:

- (a) a construction financing and letter of credit facility in the amount of approximately \$175 million, which was to be secured by a first mortgage charge; and

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- (b) a third mortgage facility in the amount of approximately \$30 million (including a \$9 million interest reserve).

42. The Clover Loan is managed by QuadReal Property Group (“QuadReal”), a real estate company owned by BC IMC.

43. The Clover Loan Agreement required that the borrower, Clover Inc., invest equity of approximately \$20.6 million before any funds could be advanced. The Clover Loan Agreement prohibited any other financing without the prior written consent of QuadReal, but it allowed Clover Inc. to register *its own* mortgage on title to secure the equity investment it was required to make.

44. Clover Inc. represented to QuadReal that it made the required equity investment, and registered a mortgage on title in favour of Cresford Financial Limited (“CFL”). Once it was satisfied that this investment had been made, QuadReal began to advance funds.

45. Unbeknownst to QuadReal, and to Ms. Athanasoulis, neither Clover Inc. nor any other entity related to Mr. Casey invested \$20.6 million in Clover. Most of the so-called equity investment was borrowed from OTB.

46. Specifically, OTB lent CFL \$17 million. The loan was guaranteed by Clover Inc., Mr. Casey and a host of other Cresford companies. CFL pledged all of its shares to OTB until OTB’s loan was repaid. Accordingly, the mortgage registered by CFL secured OTB’s loan and was effectively controlled by OTB.

47. Put simply, the majority of the “equity” in the Clover project was actually high interest secured debt.

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(iii) *Halo*

48. Mr. Casey made substantially identical arrangements relating to Halo, without the knowledge of Ms. Athanasoulis or QuadReal.

49. By commitment letter dated November 24, 2016 (the “**Halo Loan Agreement**”), QuadReal agreed to fund a first mortgage construction loan (including a \$2 million letter of credit facility) in the amount of approximately \$159 million and a third mortgage mezzanine loan in the amount of approximately \$29 million to fund the Halo Project. The Halo Loan Agreement required that Halo Inc. invest equity of \$13.6 million before any loan advances were made, and prohibited any other borrowing by Halo Inc. without QuadReal’s prior consent. Halo Inc. was, however, allowed to register a mortgage to secure its own equity investment in the Project.

50. Halo Inc. did not make the equity investment required of it. By Loan Agreement dated November 30, 2016, Cresford Equities Inc. (“**Cresford Equities**”) agreed to borrow \$10.1 million from OTB. This amount was guaranteed by, among other companies, Halo Inc.

51. Cresford Equities registered a fifth mortgage against the lands owned by Halo Inc. However, Cresford Equities pledged all of its shares to OTB until the loan was repaid. Thus, the fifth mortgage that was meant to secure Cresford’s equity was in fact registered to secure OTB’s loan. None of this was shared with Ms. Athanasoulis, or QuadReal.

(iv) *33 Yorkville*

52. The budget submitted to lenders in respect of 33 Yorkville required an equity investment of approximately \$75 million. Mr. Casey approached Ms. Athanasoulis and asked her to identify third party investors who might fund some of this commitment. As a result of Cresford’s

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reputation for successful projects, and her own close relationships with a number of potential investors, Ms. Athanasoulis was able to introduce Mr. Casey to investors that ultimately purchased \$75 million worth of limited partnership units in 33 Yorkville LP (the “**33 Yorkville Investors**”). She trusted Mr. Casey to make appropriate arrangements and disclose those arrangements to the lenders. This did not happen.

53. Without Ms. Athanasoulis’ knowledge, Mr. Casey represented to QuadReal that the 33 Yorkville Investors had invested approximately \$20.5 million in 33 Yorkville and that Cresford and/or Mr. Casey had made the balance of the equity investment required.

(v) **YSL**

54. YSL is Cresford’s largest project to date, with its most complex funding structure. The purchase price and early stage project costs were funded by a \$100 million first mortgage from Timbercreek Financial Corp. (“**Timbercreek**”) and a deposit insurance facility in the amount of \$120 million from Westmount Guarantee Services Inc. (“**Westmount**”) that was arranged after the success of the YSL launch to repay a prior mortgage that had come due. Timbercreek’s first mortgage was to be repaid using a first mortgage construction loan from Otera Capital Inc. (“**Otera**”) in the amount of approximately \$623 million (the “**YSL Construction Loan**”). The YSL Construction Loan was arranged after the successful launch of YSL.

55. The YSL Construction Loan required equity of \$75 million. Mr. Casey represented to lenders that these funds had been raised from equity investments in YSL LP. Mr. Casey and YSL Inc. guaranteed that the investments would be repaid with interest.

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56. Indeed, Mr. Casey and YSL Inc. even agreed to grant one of the so-called limited partners, 247625 Ontario Inc. (“**247 Inc.**”) a mortgage over the YSL lands to secure its \$20 million “equity” investment. Mr. Casey told Cresford’s staff that he had personally borrowed the funds from 247 Inc. to invest in YSL, but this is not true. YSL Inc.’s corporate predecessor borrowed the funds, and YSL Inc. is liable for them. Although the mortgage has not yet been registered on title, the funds advanced by 247 Inc. (like the so-called equity investments in Halo and Clover described above) were high interest secured debt in all but name.

C. CRESFORD’S MANAGEMENT IDENTIFIES CASH SHORTFALLS

57. Beginning in mid-2018, Cresford’s management team identified significant cash shortfalls in the Clover and Halo projects. In late 2018, after the launch of YSL, a cash shortfall was identified in the 33 Yorkville Project. Each of these projects could (and still can) be completed successfully. But each project requires additional equity funding, and Mr. Casey has been unwilling or unable to provide or secure that funding.

(i) *Clover cash shortfall*

58. Clover is currently under construction. Construction costs are funded through the Clover Construction Loan, which is described above. These costs are carefully monitored by Altus, the project inspector hired by QuadReal (although paid by Clover Inc.). Clover Inc. must provide detailed information about the status of construction, and the projected cost to complete the project, in order to secure the advances that it needs to pay contractors. Clover Inc. is responsible for cost overruns, and if projected costs exceed the original budget, then Clover Inc. must fund the increased costs before further funds will be advanced.

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59. As noted, Clover is a 44-story condominium tower. Clover Inc. (through its contractors and suppliers) had to purchase a significant volume of steel and other material in order to build the project. In 2018, the price of steel and other construction materials increased significantly, primarily as a result of tariffs imposed by the United States. At the same time, unions representing the workers required to build Clover negotiated new agreements that significantly increased labour costs. These factors significantly increased the cost of building the Clover project, and all of the other condominium developments in Toronto.

60. In addition, the original construction schedule proposed for the Clover project was very aggressive. After construction began, it became clear that the original schedule was unrealistic. The delay further increased construction and project costs.

61. By the fall of 2018, Ms. Athanasoulis, and the rest of Cresford's senior management team, advised Mr. Casey that Clover would require an additional \$50 million to complete construction. Though this additional funding requirement would mean that no profit would be earned on this project, all lenders, trades and costs would be paid in full and Cresford could continue as a going concern with a solid reputation. Cresford funded some of the Clover obligations using fees earned on other projects, but a shortfall of \$37 million remains.

(ii) Halo cash shortfall

62. Cresford faces a similar cash shortfall on the Halo project, for substantially the same reasons. Halo construction costs increased substantially as a result of the increased costs of steel and other materials. In addition, the aggressive schedule originally proposed for the Halo project proved unachievable.

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63. Halo Inc. awarded a number of construction contracts in November 2018. When the contracts were awarded, Cresford's management estimated that the total overrun would be \$45 million. Some of the shortfall has been funded using fees earned on other projects, leaving a \$38 million funding shortfall for the Halo project. Though this additional funding requirement would mean that no profit would be earned on the Halo project, all lenders, trades and costs would be paid in full, and Cresford could continue as a going concern with a solid reputation.

(iii) 33 Yorkville cash shortfall

64. In late 2018, Cresford's construction team hired a third party peer review cost consultant, CB Ross, to assess the construction budget for 33 Yorkville to confirm the magnitude of anticipated cost overruns. As a result of this review, the projected cost of the project that had been presented by the construction team was confirmed. Based on the new estimate, 33 Yorkville is facing a cash shortfall of approximately \$65 million. Though an additional \$65 million funding requirement would mean that only nominal profit would be earned on this project, all lenders, trades and costs would be paid in full, and Cresford could continue as a going concern with a solid reputation.

(iv) Casa III

65. As noted, Mr. Casey used funds earned from earlier projects to fund overruns on later projects. One of these earlier projects was Casa III, a luxury condominium that was owned by 50 Charles Street Limited and registered in August 2018. Funds earned from Casa III were used to pay amounts due on other projects, which left Casa III without the funds required to make the final payments that it owed. The final work on Casa III, which will cost approximately \$4.5 million,

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cannot be completed. The owner of Casa III already owes approximately \$5 million to construction contractors and real estate contracts. It is unable to fund either the outstanding payables or the construction required to complete the project, leaving the building and landscaping unfinished for the past two years.

(v) *Mr. Casey proved unwilling or unable to address Cresford's cash flow issues*

66. Mr. Casey was unwilling or unable to provide an adequate solution – or any solution – to Cresford's cash flow problems. As noted, Mr. Casey told Ms. Athanasoulis for years that he had substantial assets available to him. Mr. Casey refused to use these funds (if they existed) to fund Cresford's business. The only funds invested in Clover, Halo, 33 Yorkville and YSL were generated from earlier projects that Cresford completed but these projects did not generate nearly enough cash to satisfy the requirements.

67. But taking funds from predecessor projects did not solve the problem. Instead, it caused the cash flow problem to grow and spread. For example, real estate brokers that were owed commissions for previously completed projects (including Cresford's own brokers, employed by Cresford Real Estate Corporation) are owed approximately \$5 million.

(vi) *Cresford's cash flow crisis worsened*

68. The understanding of the overall cash flow issues grew significantly worse over time. The projected cash shortfall across Casa III, Clover, Halo and 33 Yorkville ballooned to a combined \$150 million. Projects were unable to pay contractors what they were owed as payments came due on Casa III and Halo. Clover and 33 Yorkville would soon have the same issue, because Cresford did not have a plan in place, and because Mr. Casey was unwilling to use funds available

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to him personally, to fund the contracts it had entered into. These contractors pressed Cresford's construction staff (who reported to Ms. Athanasoulis) for payment. As the situation grew worse, contractors demanded answers from Ms. Athanasoulis. She did not have those answers. In addition, Cresford could not enter into new construction contracts because it did not have the ability to fund the resulting costs.

(vii) Mr. Casey could not or would not help solve Cresford's cash problems

69. As noted, Mr. Casey had repeatedly represented to Ms. Athanasoulis that he had access to significant funds. Ms. Athanasoulis believed that Mr. Casey could use some of this wealth to solve Cresford's cash problems. In the summer of 2019, however, Mr. Casey told Ms. Athanasoulis that he had substantial mortgages registered against both his cottage and home. Ms. Athanasoulis began to suspect that Mr. Casey was not as wealthy as he claimed, and that he would not be able to contribute the funds that Cresford required.

70. Ms. Athanasoulis' concerns about Mr. Casey were exacerbated by his lavish lifestyle. He told her in the summer of 2019 that he required between \$4 million and \$5 million annually to maintain his lifestyle, and Ms. Athanasoulis learned that funds needed by Cresford had been used for personal purposes. As noted, Cresford had used fees earned on earlier projects to fund some of the cost overruns on later projects. But Mr. Casey prioritized his own interests over Cresford's. For example, in February 2019, when Cresford was desperate for cash, he took approximately \$750,000 from Casa III (which should have been used to pay creditors) to buy a house for his son.

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(viii) The Defendants conduct caused significant mental and emotional harm

71. This caused Ms. Athanasoulis significant stress and anxiety. Ms. Athanasoulis had spent years building Cresford's reputation with Toronto's largest and most reliable contractors and real estate brokers. She developed close personal and professional relationships with many of these contractors and brokers. Her hard work and critical relationships were threatened by Cresford's inability to pay contractors and brokers on time, or at all. She also worried about how contractors and brokers would react when they learned that there were no funds available to pay them. She worried about what would happen to purchasers who had trusted Cresford and paid deposits on condominium units. She worried about what would happen to Cresford's staff if funding was not secured.

(ix) Potential purchaser to solve Cresford's cash flow crisis

72. Ms. Athanasoulis worked diligently to solve Cresford's financial difficulties. She explored a number of potential solutions once it became clear Mr. Casey could not or would not provide the funds that Cresford desperately needed. In the course of these discussions, Mr. Casey suggested that he would consider selling the business to solve the cash flow crisis.

73. Ms. Athanasoulis was ultimately introduced to a well-known Toronto businessman who expressed an interest in buying Cresford's four ongoing projects and other assets. The potential purchaser was, however, only interested in Cresford if Ms. Athanasoulis stayed with the company and continued to operate its business. Mr. Casey was of the same opinion and agreed the opportunity should be explored.

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74. Ms. Athanasoulis discussed the potential sale with Mr. Casey and he authorized her to continue discussions with the potential purchaser. The potential purchaser signed a non-disclosure agreement, and began to evaluate Cresford's business.

75. The potential purchaser offered Ms. Athanasoulis an interest in the business to incentivize her to participate in the transaction and remain with Cresford after the sale.

76. Ms. Athanasoulis told Mr. Casey that, if the purchase was completed, she would have an interest in the purchaser. He did not object, nor did he suggest that Ms. Athanasoulis' potential interest with the purchaser would interfere with her continued role at Cresford.

77. Discussions with the purchaser progressed to the point that the potential purchaser provided Mr. Casey with a non-binding letter of intent ("LOI") setting out the terms of a potential deal in December 2019. The proposed transaction would have addressed Cresford's cash flow issues, injected the proper required equity by paying out the high interest loans and investors, and generated a significant personal profit for Mr. Casey. But Mr. Casey did not accept, or even negotiate to improve, the LOI.

(x) *Mr. Casey tries to conceal Cresford's cash flow crisis*

78. Instead of completing the proposed purchase, or pursuing an alternative solution to Cresford's cash crisis, Mr. Casey focused on concealing that crisis from lenders and other stakeholders.

79. As noted above, Halo Inc. had an obligation to provide Altus with copies of all of its construction contracts. This allowed Altus to (among other things) identify cost overruns. In

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October 2018, Cresford hired Verdi Inc. (“**Verdi**”) to perform concrete forming work on the Halo project. The Verdi contract created a cash shortfall of approximately \$4.5 million. Instead of funding this overrun with equity (or finding outside funding), Mr. Casey directed Cresford’s staff to withhold the Verdi contract and all progress bills from Altus. This was a breach of the Halo Loan Agreement. It was also very short-sighted. Verdi erected a large crane on the Halo site, which is prominently located on Yonge Street, to complete its work. It is only a matter of time before Altus sees the crane, identifies the breach of contract and notifies the affected lenders.

80. The cash flow issues on 33 Yorkville are also urgent. The applicable loan agreements require that 75% of the remaining construction contracts be awarded by January 1, 2020. Awarding these contracts would crystallize cost overruns in the approximate amount of \$65 million, and 33 Yorkville Inc. would have to fund these overruns. Mr. Casey had no plan in place to fund the overruns, so he instructed Cresford’s construction staff to delay awarding the contracts. This breached the 33 Yorkville loan agreements. It is also short-sighted, since the contracts will still need to be awarded, and the cost overruns will need to be addressed.

81. In addition, contractors and real estate brokers already working on the Projects have not been paid on time. The owners of these projects owe approximately \$20 million to contractors and real estate brokers. Many of these amounts are significantly overdue. Mr. Casey has no funding in place to pay the contractors, and several have threatened to sue and/or register liens in accordance with the *Construction Lien Act* if they are not paid immediately.

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D. CONSTRUCTIVE TERMINATION

82. As soon as Ms. Athanasoulis discovered how Mr. Casey had funded Cresford's business, and the need for significant further funding, she urged Mr. Casey to find stable funding for Cresford so it could complete the Projects and comply with its lending agreements. She worked diligently to help him do so, but made it clear she would not help him deceive lenders, contractors or anyone else. As more time passed, and the issues grew more serious, Ms. Athanasoulis' efforts to convince Mr. Casey to address the issues became more urgent and forceful.

83. Despite Ms. Athanasoulis' efforts, Mr. Casey took no steps to rectify the situation.

84. Instead of focusing on the projects that required cash, Mr. Casey told Ms. Athanasoulis that Cresford's sole priority was to satisfy the conditions precedent on the YSL Construction Loan. In order to access that funding, YSL Inc. had to enter into an agreement to sell the retail component of YSL. This was the final funding condition, so once a suitable purchaser was found YSL could access the first tranche of the YSL Construction Loan.

85. As is standard, funds advanced pursuant to the YSL Construction Loan can only be used to fund construction costs on YSL. Thus, funding the YSL Construction Loan would do nothing at all to help Cresford's overall cash position unless YSL diverted funds to other projects. Such diversions would be fraud.

86. Ms. Athanasoulis raised this concern with Mr. Casey, but did not receive a meaningful response. Instead, Mr. Casey sent a non-binding letter of intent purporting to relate to the sale of the retail component of YSL directly to YSL's construction lender, Otera. The letter of intent did not satisfy the condition of the YSL Construction Loan, since an actual agreement of purchase and

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sale was required, no one (including Cresford's management) knew who the purchaser was and the transaction contemplated by the letter of intent did not satisfy the requirements of the YSL Construction Loan in any event. The YSL Construction Loan required that the deposit on the retail component be available to fund construction costs, and such use was prohibited by the letter of intent Mr. Casey provided.

87. Ms. Athanasoulis, and other members of Cresford's management, asked Mr. Casey to clarify these issues. Mr. Casey provided no meaningful response. Instead, he instructed his litigation lawyer, Allan O'Brien, to write to Ms. Athanasoulis and accuse her of breaching her fiduciary duty by interfering with YSL Inc.'s attempts to close the YSL Construction Loan. Mr. O'Brien provided no particulars to support this allegation, because there was no interference.

88. Otera was, understandably, confused by Mr. Casey's e-mail. Ms. Athanasoulis had been responsible for Cresford's relationship with Otera since early 2019, so Otera asked to speak with her. Mr. Casey prohibited her from communicating with Otera, or any other lender, and indicated that he alone would speak to Cresford's lenders.

89. Mr. Casey then went further still, and advised that he alone would deal with *all* of Cresford's key stakeholders including contractors and lenders. He also told Cresford's staff, who previously reported to Ms. Athanasoulis, that they would now report to him directly.

90. Mr. Casey's actions stripped Ms. Athanasoulis of essentially all of her responsibilities as Cresford's president and COO. She was terminated in all but name. But Mr. Casey refused to formalize this termination because he was concerned about how Cresford's key stakeholders, including contractors, lenders, investors and employees, would react.

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91. All of this put Ms. Athanasoulis in an impossible situation. She was nominally an officer of Cresford (and a director of YSL Inc.) but had no ability to understand or affect how Cresford conducted business. She had good reason to believe that Mr. Casey planned to take steps that would violate Cresford's legal obligations and potentially expose her to personal liability.

92. The conduct described above constituted repudiation of Ms. Athanasoulis' employment contract, and constructive termination of her employment by Cresford. By letter dated January 2, 2020, Ms. Athanasoulis wrote to accept this repudiation.

E. DEFAMATION

93. Ms. Athanasoulis' January 2, 2020 letter indicated that she would like to negotiate an amicable separation from Cresford and that, while negotiations were ongoing, she would tell third parties only that she was no longer with Cresford and that all inquiries relating to Cresford should be directed to Mr. Casey.

94. Ms. Athanasoulis did what she said she would do. When lenders, contractors and other stakeholders contacted her, she referred them to Mr. Casey and said nothing about Cresford's business.

95. Unfortunately, Mr. Casey followed the opposite path. Before Ms. Athanasoulis accepted Cresford's repudiation, Mr. Casey began telling lies meant to harm her reputation and blame her for Cresford's cash flow issues. His false and defamatory statements continued after Ms. Athanasoulis' termination.

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96. On December 21, 2019, Mr. Casey told the potential purchaser – who was also Ms. Athanasoulis’ potential business partner – that “people” had invented Cresford’s cash crisis to further their own financial interests. Mr. Casey’s statement obviously referred to Ms. Athanasoulis, since she was the only person in a position to “create” the cash flow crisis and then profit from it. Mr. Casey’s statement was, in essence, an allegation that Ms. Athanasoulis committed a grievous breach of her duties as President by harming Cresford to further her own interests.

97. In addition, on January 2, 2020, Mr. Casey told members of Cresford’s staff that Ms. Athanasoulis had caused Cresford’s cash crisis by selling condominium units for less than they were worth. This, too, was defamatory.

98. Mr. Casey’s defamatory campaign continued. After terminating Ms. Athanasoulis, Mr. Casey hired Ted Dowbiggin, the former president of Cresford Capital. He told Mr. Dowbiggin that Ms. Athanasoulis had devalued Cresford so that she could buy it. Mr. Dowbiggin relayed Mr. Casey’s false allegations to Cresford personnel and others.

99. On January 7, 2020, Mr. Casey met again with the prospective purchaser. At that meeting, Mr. Casey repeated his allegations against Ms. Athanasoulis. He claimed again that “people” had “hidden” Cresford’s profits for their own benefit. It was clear to the potential purchaser that Mr. Casey was referring to Ms. Athanasoulis, and alleging again that she had breached her duties to Cresford in order to further her own financial interests.

100. Ms. Athanasoulis has spent many years building a stellar reputation in the real estate development industry. She is known to be a talented executive who conducts business honestly.

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This reputation is very valuable. Indeed, because of her reputation, Ms. Athanasoulis had the opportunity to acquire an interest in Cresford's business if the purchase transaction described above was completed. That reputation is particularly important now, since Ms. Athanasoulis has been terminated by Cresford and must now seek new opportunities in the industry.

101. Mr. Casey's statements harmed – and were meant to harm – Ms. Athanasoulis' reputation. Mr. Casey's false allegations that she betrayed him would, if believed, make it difficult or impossible for Ms. Athanasoulis to do business with the potential purchaser or other business partners. Potential new employers would, of course, never hire an executive who had tried to destroy her previous employer so its business could be purchased at a discount.

102. Mr. Casey's statements are unquestionably defamatory. They are also entirely false. Ms. Athanasoulis did not – and would not – do anything to harm Cresford. Cresford's cash crisis was (and is) real. It was caused by Mr. Casey's own failure to inject equity into the business, and the secret high interest loans he took out to fool lenders into thinking he had made the equity injections he agreed to make.

F. COMPENSATORY DAMAGES

(i) Notice period

103. Ms. Athanasoulis was constructively dismissed without notice or cause. The defendants are liable for damages in an amount equal to what Ms. Athanasoulis would have earned during the notice period that she was entitled to. Ms. Athanasoulis is entitled to 24 months' notice, having regard to:

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- (a) **Character of employment:** Ms. Athanasoulis was Cresford's most senior employee except for Mr. Casey, with overall responsibility for virtually all aspects of Cresford's business except financing. In that capacity, she successfully executed some of the most ambitious development and construction projects in Canada;
- (b) **Age and length of employment:** Ms. Athanasoulis worked at Cresford for 16 years and is 42 years old;
- (c) **Availability of similar employment:** similar employment is not currently available to Ms. Athanasoulis and will not be available to her for the foreseeable future. There are only a handful of developers in Canada that execute projects of the type, size and scope that Ms. Athanasoulis worked on while she was at Cresford. These developers already have presidents. As a result, Ms. Athanasoulis is unlikely to find comparable employment for at least 24 months.

(ii) *Profit and revenue shares owed*

104. As noted, Ms. Athanasoulis was entitled to \$500,000 per annum, plus benefits. She also was entitled to 0.15% of all revenue earned by Cresford on new projects during her notice period.

105. In addition, and most importantly, Ms. Athanasoulis continued to dedicate her time, energy and talent to Cresford's business because Mr. Casey agreed to pay her 20% of the profits yielded by that business. She is entitled to 20% of all the profits earned by Cresford on the Projects. The Projects are expected to yield profits of \$242 million, with a majority of this coming from YSL, and Ms. Athanasoulis is entitled to 20% of those profits, which are equal to \$48 million.

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G. PUNITIVE AND EXEMPLARY DAMAGES

106. As described above, Ms. Athanasoulis was terminated because she insisted that Mr. Casey deal honestly with Cresford's stakeholders. Cresford's actions, and those of Mr. Casey, demonstrate a wanton and contumelious disregard for Ms. Athanasoulis' rights and warrant an award of punitive and exemplary damages. Those actions also caused significant mental and emotional distress to Ms. Athanasoulis, and an award of aggravated damages is also warranted.

January 21, 2020

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- and - DANIEL CASEY ET AL.
Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

STATEMENT OF CLAIM

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Appendix “J”

Re Clower on YONGE INC

- ① This is a motion for an order sanctioning the Plan of Compromise and Arrangement dated November 6, 2020. ("Plan")
- ② The Plan was approved on December 15, 2020 by the requisite statutory majorities of affected creditors with voting claims in each of the Plan's two classes of creditors. 96.6% of the Depositor Creditor class voted in favour of the

Plan and 98.8% of the General Unsecured Creditor class voted in favor of the plan.

3) There is one unsecured voting claim advanced by Maria Athanasiou, which she values at \$49 Million ("Maria's claim"). If this claim is accepted in the value asserted, the Plan would be defeated in the General Unsecured Creditor class. All but \$1 million of Maria's claim is a claim for a share of

profits in a number of projects, including the Clouet on Yonge project.

④ I accept the Monitor's position that with respect to the component of Mania's claim related to an alleged profit sharing agreement with respect to the Clouet on Yonge project there was no prospect of any profit from that project because as of March 31, 2020, shortly after the receivership commenced, the Clouet on Yonge project was forecast to generate a loss of \$61 Million. As a

result because I accept that the proper date to value Monica's claim is when the receiver was appointed on March 27, 2020. There was no profit from the closed on George project that could be stored with Monica.

⑤ Mr. Dunn, on behalf of Monica, concedes there can be no profit from this project unless the pre-sale unit purchase contracts are disclaimed. I have already addressed that those contracts can only

(3) be disclaimed if the Plan is approved.

(6) as the Monitor points out in the Supplementary Report & its 1472 Report any forecast profit is entirely dependent on the restructuring of the revenues of the Clover on yard project. I accept and adopt the Monitor's following statement:

"It does not avail Ms. Athanaroulis to argue she is entitled to share in profit denied from a successful Plan that she would vote against and cause to fail

if she had a claim."

7 In my view to argue that the relevant date to calculate her profit-sharing claim is later than the receivership appointment date and that profit will be deemed from the cloud on George Frost is far too remote and speculative and lacks an air of reality. I agree with the Applicant's

submission that "there is no profit absent disclaimer, and no disclaimer absent the approval, sanction and

implementation of the Plan.
Accordingly, if the profit
component of the alleged
Athanasouitis claim is allowed
for negative voting purposes,
"it must follow that the
value attributed to it is a
profit expectation of \$ nil,
and not a profit expectation
of \$48 million."

⑧ The criterion I must
use to determine if
Honia's claim, which is a
contingent claim, is to be
included in the
insolvency process is
whether the event that has

not yet occurred is too remote or speculative. In my view Mania's claim cannot be shown to be neither too remote nor speculative unless the Plan is approved, sanctioned and implemented. This is the very event that Mania would defeat if her contingent profit-sharing claim of \$48 Million is allowed for voting purposes.

⑨ I rely on Justice Morrison's decision in Nalco Energy v. Grant Thornton, 2015 NBQB 20 at para 35 where he

affirmed the proposal trustee's decision to disallow a contingent creditor's claim for purpose of voting on a summary basis on facts that are strikingly similar to the facts in this case.

(10) Accordingly, I have concluded, for the reasons outlined above, that Monia's claim is so speculative and remote in the amount of \$48 million to be allowed for voting purposes. I will therefore not have to consider whether Monia's claim is an equity claim that should not be counted for voting purposes.

(11) With respect to the issue of whether the Plan should be sanctioned, I am satisfied that,

(a) It has been approved by the requisite statutory majority of the Applicants' non-equity creditors;

(b) There has been strict compliance with all statutory requirements and adherence to previous orders of the Court;

(c) Nothing has been done, or purported to be done

That is not authorized by
The CAA; and
(d) The Plan is fair and
reasonable.

(12) In conclusion, for the
reasons set out above,
The Plan is sanctioned by
The Court in its entirety
and I declare that
Hodia's claim cannot be
valued at more than
\$1 Million (the wrongful demand
portion of the claim) for
voting purposes with
respect to the Plan.

13 An order shall go
to this effect.

14 I thank all counsel
for their helpful
submissions.

Hainey J.

January 8, 2021

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF THE
CLOVER ON YONGE INC., THE CLOVER ON YONGE LIMITED PARTNERSHIP**

Applicants

**UNOFFICIAL TRANSCRIPT OF THE ENDORSEMENT
OF HAINEY J. DATED JANUARY 8, 2021**

1. This is a motion for an order sanctioning the Plan of Compromise and Arrangement dated November 6, 2020 ("Plan").
2. The Plan was approved on December 15, 2020 by the requisite statutory majorities of affected creditors with voting claims in each of the Plan's two classes of creditors. 96.6% of the Depositor Creditor Class voted in favour of the Plan and 98.8% of the General Unsecured Creditor Class voted in favour of the Plan.
3. There is one unresolved voting claim advanced by Maria Athanasoulis, which she values at \$49 million ("Maria's Claim"). If this claim is accepted in the value asserted, the Plan would be defeated in the General Unsecured Creditor Class. All but \$1 million of Maria's Claim is a claim for a share of profits in a number of projects, including the Clover on Yonge Project.
4. I accept the Monitor's position that with respect to the component of Maria's Claim related to an alleged profit-sharing agreement with respect to the Clover on Yonge Project. There was no prospect of any profit from that project because as of March 31, 2020, shortly after the receivership commenced, the Clover on Yonge Project was forecast to generate a loss of \$61 million. As a result, because I accept that the proper date to value Maria's Claim is when the Receiver was appointed on March 27, 2020, there was no profit from the Clover on Yonge Project that could be shared with Maria.
5. Mr. Dunn, on behalf of Maria, concedes there can be no profit from this project unless the pre-sale unit purchase contracts are disclaimed. I have already ordered that those contracts can only be disclaimed if the Plan is approved.

6. As the Monitor points out in the Supplementary Report to its 14th Report, any forecast profit is entirely dependent on the restructuring of the revenues of the Clover on Yonge Project. I accept and adopt the Monitor's following statement:

“It does not assist Ms. Athanasoulis to argue she is entitled to share in profit derived from a successful Plan that she would vote against and cause to fail if she had a claim.”

7. In my view, to argue that the relevant date to calculate her profit-sharing claim is later than the Receivership Appointment date and that profit will be derived from the Clover on Yonge Project is far too remote and speculative and lacks an air of reality. I agree with the Applicants' submissions that “there is no profit absent disclaimer, and no disclaimer absent the approval, sanction and implementation of the Plan. Accordingly, if the profit component of the alleged Athanasoulis Claim is allowed for negative voting purposes, it must follow that the value attributed to it is a profit expectation of \$ nil, and not a profit expectation of \$48 million”.

8. The criterion I must use to determine if Maria's Claim, which is a contingent claim, is to be included in the insolvency process is whether the event that has not yet occurred is too remote or speculative. In my view, Maria's Claim cannot be shown to be neither too remote nor speculative unless the Plan is approved, sanctioned and implemented. This is the very event that Maria would defeat if her contingent profit-sharing claim of \$48 million is allowed for voting purposes.

9. I rely on Justice Morrison's decisions in *Nalcor Energy v. Grant Thornton*, 2015 NBQB 20 at paragraph 35 where he affirmed the proposal trustee's decision to disallow a contingent creditor's claim for the purpose of voting on a summary basis on facts that are strikingly similar to the facts in this case.

10. Accordingly, I have concluded, for the reasons outlined above, that Maria's Claim is too speculative and remote in the amount of \$48 million to be allowed for voting purposes. I will therefore not have to consider whether Maria's Claim is an equity claim that should not be counted for voting purposes.

11. With respect to the issue of whether the Plan should be sanctioned, I am satisfied that,

- (a) It has been approved by the requisite statutory majority of the Applicants' non-equity creditors;
- (b) There has been strict compliance with all statutory requirements and adherence to previous orders of the Court;
- (c) Nothing has been done, or purported to be done that is not authorized by the CCAA; and
- (d) The Plan is fair and reasonable.

12. In conclusion, for the reasons set out above, the Plan is sanctioned by the Court in its entirety and I declare that Maria's Claim cannot be valued at more than \$1 million (the wrongful dismissal portion of the claim) for voting purposes with respect to the Plan.

13. An order shall go to this effect.

14. I thank all counsel for their helpful submissions.

January 8, 2021

Hailey J.

Appendix “K”

Murtaza Tallat

From: Dunn, Mark <mdunn@goodmans.ca>
Sent: June 15, 2021 10:34 AM
To: Schwill, Robin
Cc: Armstrong, Christopher; Bobby Kofman; Mitch Vininsky; Murtaza Tallat; Fox, Carlie
Subject: Re: YSL - Maria Athanasoulis

Robin,

Thank you for your e-mail. We object to this determination, and reserve all of our rights. Please also record that our client will vote against the plan, if allowed to vote. In the interest of an orderly meeting, we do not object to all of this simply being noted at the meeting without the need for Ms. Athanasoulis or our firm to actually say anything or physically vote.

We are considering a procedure to resolve Ms. Athanasoulis' claim, and would appreciate a discussion after the vote has occurred to set a schedule for that resolution.

Please also confirm that the Proposal Trustee will be tracking votes according to: whether Concord has purchased the claim; and, whether the creditor is entitled to a lien claim.

Finally, we have not received a link to the creditors meeting. If links have been circulated, we would appreciate if that could be forwarded to us.

Sent from my iPad

On Jun 15, 2021, at 9:46 AM, Schwill, Robin <rschwill@dwpv.com> wrote:

Mark,

As discussed, the Proposal Trustee will be treating your client's claim as a contingent unliquidated claim that is too speculative to value and, therefore, not entitled to vote at the creditors' meeting.

The Proposal Trustee will note your objection to this determination and, accordingly, will mark your client's claim as objected to for voting purposes and record your client's vote as such.

Robin B. Schwill | [Bio](#) | [vCard](#)
T 416.863.5502
rschwill@dwpv.com

DAVIES

155 Wellington Street West
Toronto, ON M5V 3J7
[dwpv.com](#)

DAVIES WARD PHILLIPS & VINEBERG LLP

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1056

***** Attention *****

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Appendix “L”

Murtaza Tallat

From: Daniel Naymark <dnaymark@naymarklaw.com>
Sent: June 15, 2021 12:15 PM
To: Schwill, Robin
Cc: James Gibson; Bobby Kofman; Mitch Vininsky; Murtaza Tallat
Subject: Re: YSL Creditors' Meeting

Thanks for this, Robin. Confirming it is consistent with our discussion.

It sounds like it might be helpful for us to work through the claims with KSV once we get to valuing them for distribution purposes, assuming we get to that stage. That is not today's issue, though. Good luck for a smooth meeting.

Daniel

--

Daniel Naymark*
NAYMARK LAW
t: (416) 640-6078 | f: (647) 660-5060
dnaymark@naymarklaw.com
*practicing as Naymark Law Professional Corporation

From: "Schwill, Robin" <rschwill@dwpv.com>
Date: Tuesday, June 15, 2021 at 10:09 AM
To: Daniel Naymark <dnaymark@naymarklaw.com>
Cc: James Gibson <jgibson@naymarklaw.com>, Bobby Kofman <bkofman@ksvadvisory.com>, Mitch Vininsky <mvininsky@ksvadvisory.com>, Murtaza Tallat <mtallat@ksvadvisory.com>
Subject: YSL Creditors' Meeting

Daniel,

As discussed, the Proposal Trustee will be treating your clients' claims as follows at the meeting:

Ryan Millar

Claim will be permitted to vote for the amount of the \$83,333.33 bonus earned for the YSL project plus the Halo claim amount of \$205,000 without prejudice to the amount to be finally determined for distribution purposes.

You will object to that determination for the balance of the claim and, accordingly, the balance of his claim will be marked as objected to and permitted to vote on that basis pending final determination of the objection.

Marco Mancuso

Claim is for a contingent unliquidated amount that is too speculative to value and, therefore, not entitled to vote.

You will object to that determination and, accordingly, his claim will be marked as objected to and permitted to vote on that basis pending final determination of the objection.

Louie Giannakopoulos

Claim is for a contingent unliquidated amount that is too speculative to value and, therefore, not entitled to vote.

You will object to that determination and, accordingly, his claim will be marked as objected to and permitted to vote on that basis pending final determination of the objection.

1059

Sarven Cicekian

Claim is for a contingent unliquidated amount that is too speculative to value and, therefore, not entitled to vote.

You will object to that determination and, accordingly, his claim will be marked as objected to and permitted to vote on that basis pending final determination of the objection.

Mike Catsiliras

Claim will be permitted to vote for the amount that was accepted in the Halo proceeding, being \$125,000, without prejudice to the amount to be finally determined for distribution purposes.

You will object to that determination for the balance of the claim and, accordingly, the balance of his claim will be marked as objected to and permitted to vote on that basis pending final determination of the objection.

Robin B. Schwill | [Bio](#) | [vCard](#)

T 416.863.5502

rschwill@dwpv.com

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Appendix “M”

YG Limited Partnership and YSL Residences Inc.
Claims Summary
(unaudited; \$C)

Date received	Creditor	Amount as filed	Convenience Claim	Conditional Claim	Value for Voting* (For Voting)	Disputed Amount	Objection to Dispute	Vote	Vote method	Proxy	Notes
08-Jun-21	Master's Choice Realty Inc.	379,248.00	No	Yes	379,248.00	-	-	Accept	Letter	Cliff McCracken	
08-Jun-21	JDL Realty Inc.	48,154.00	No	Yes	20,478.00	27,676	No	Accept	Letter	Cliff McCracken	
09-Jun-21	Real One Realty Inc.	321,939.99	No	No	181,936.00	139,604	No	Accept	Letter	Cliff McCracken	
09-Jun-21	Home Standards Brickstone Realty	595,868.00	No	No	114,568.00	471,292	No	Accept	Letter	Cliff McCracken	
09-Jun-21	ReMax Realtion Realty Inc.	14,458.00	Yes	No	14,458.00	-	-	Accept	Letter	Cliff McCracken	
10-Jun-21	1st Choice Disposal	8,917.00	Yes	No	8,917.00	-	-	Accept	Letter	Cliff McCracken	Convenience Creditor Claim as -\$15,000
10-Jun-21	David Ryan Millar	935,246.71	No	No	288,333.33	646,913	Yes	Objected - Accept	Email	James Gibson	Contingent - Partially allow for voting at \$288,333
11-Jun-21	ERA Architects, Inc.	46,763.76	No	No	46,763.76	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	R Avis Surveying Inc.	47,051.79	No	No	47,051.79	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	Mulvey & Banani Lighting Inc.	17,987.35	No	No	393,005.53	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	Heritage Restoration Inc.	393,005.53	No	No	76,063.71	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	WSP Canada Inc.	62,288.00	No	Yes	67,770.00	14,518	No	Accept	Letter	Cliff McCracken	
11-Jun-21	Tradeworld Realty Inc.	11,529.14	Yes	No	11,529.14	-	-	Accept	Letter	Cliff McCracken	Convenience Creditor Claim as -\$15,000
11-Jun-21	Municipal Mechanical Contractors Ltd.	1,009,360.03	No	No	1,009,360.03	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	Architectural & Stephen Wells	3,087.91	Yes	No	3,087.91	-	-	Accept	Letter	Cliff McCracken	Convenience Creditor Claim as -\$15,000
11-Jun-21	Yeo Go Realty & Sales	74,482.26	Yes	No	74,482.26	-	-	Accept	Letter	Cliff McCracken	Convenience Creditor Claim as -\$15,000
11-Jun-21	Reco Cleaning Services	8,723.60	Yes	No	8,723.60	-	-	Accept	Letter	Cliff McCracken	Convenience Creditor Claim as -\$15,000
11-Jun-21	Safeline Management Group	19,000,000.00	No	No	19,000,000.00	Yes	Objected - Reject	Email	Letter	N/A	Contingent and unliquidated
11-Jun-21	Maria Athanasoulis	19,266.50	No	No	185,969.30	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	PricewaterhouseCoopers LLP	185,969.30	No	No	13,202.22	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	Petra Consultants Ltd.	13,202.22	Yes	No	96,050.00	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	Stephenson's Rental Services Inc.	96,050.00	No	No	53,698.00	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	V.A. Su Design Consultants	53,698.00	No	No	74,184.50	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	Myles Burke Architectural Models Inc.	74,184.50	No	No	1,962,750.00	-	-	Accept	Letter	Justin Kanji	
11-Jun-21	Kramer Design Associates Limited	1,962,750.00	No	No	660,122.70	-	-	Accept	Letter	N/A	
11-Jun-21	Kohn Pedersen Fox Associates PC	660,122.70	No	No	775,180.00	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	Priesty Demolition Inc.	775,180.00	No	No	15,000.00	-	-	Accept	Letter	N/A	Filed a Convenience Creditor Election Form. Deamed to Accept.
11-Jun-21	Verd Structures Inc.	21,668.78	Yes	No	15,000.00	-	-	Accept	N/A	N/A	
11-Jun-21	Dale & Leesmann LLP	1,758,732.00	Yes	No	1,758,732.00	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	Royal Excavating & Grading Limited	125,424.00	No	No	125,424.00	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	Bros Development	125,424.00	No	No	-	-	-	Accept	Letter	Cliff McCracken	
11-Jun-21	REMAX Goldenway Realty Inc.	517,500.00	No	No	517,500.00	Yes	Objected - Accept	Email	Letter	James Gibson	Contingent and unliquidated
11-Jun-21	Marco Mancuso	882,320.00	No	No	882,320.00	Yes	Objected - Accept	Email	Letter	James Gibson	Contingent and unliquidated
11-Jun-21	Sarven Cicekan	532,115.00	No	No	532,115.00	Yes	Objected - Accept	Email	Letter	James Gibson	Contingent and unliquidated
11-Jun-21	Louie Giannakopoulos	689,789.00	No	Yes	689,789.00	No	-	Accept	Letter	Cliff McCracken	
12-Jun-21	Sultan Realty Inc.	841,877.00	No	No	125,000.00	716,877	Yes	Objected - Accept	Email	James Gibson	Contingent - Partially allow for voting at \$288,333
13-Jun-21	Mike Cataliras	10,000.59	Yes	No	10,000.59	-	-	Accept	N/A	N/A	Convenience Creditor Claim as -\$15,000
14-Jun-21	Aird & Berlis LLP	72,090.00	No	Yes	246,998.00	-	-	Accept	Letter	Cliff McCracken	
14-Jun-21	ReMax Realty Enterprises Inc.	246,998.00	No	Yes	-	-	-	Accept	Letter	Cliff McCracken	
14-Jun-21	Chiscape Real Estate Ltd.	300,000.00	No	Yes	300,000.00	No	No	Fully Disputed -	Letter	Cliff McCracken	
14-Jun-21	Jia Yi (Joy) Wang	53,036.00	No	Yes	53,036.00	No	No	Accept	Letter	Cliff McCracken	
14-Jun-21	Chai Street Realty	87,573.99	No	Yes	45,737.98	41,836	No	Accept	Letter	Cliff McCracken	
14-Jun-21	Bay Street Group Inc.	18,992,620.00	No	No	18,992,620.00	No	No	No Vote	N/A	N/A	
14-Jun-21	Oakleaf Consulting Ltd.	5,810,053.00	No	No	5,810,053.00	No	No	Fully Disputed -	N/A	N/A	
14-Jun-21	East Downtown Redevelopment Partnership (EDRP)	13,480,946.00	No	No	13,480,946.00	No	No	Fully Disputed -	N/A	N/A	
14-Jun-21	Cresford (Rosedale) Developments Inc.	88,588.00	No	Yes	88,588.00	No	No	Accept	Letter	Cliff McCracken	
14-Jun-21	Livite Realty Inc.	131,688.84	No	Yes	131,688.84	-	-	Accept	Letter	Cliff McCracken	
14-Jun-21	Brian Isherwood & Assoc. Ltd.	29,380.00	Yes	No	15,000.00	-	-	Accept	Letter	Cliff McCracken	
14-Jun-21	PM Sheet Metal & Ventilation Ltd.	4,356,940.17	No	No	4,356,940.17	-	-	Accept	Letter	Cliff McCracken	
14-Jun-21	GFL Infrastructure Group Inc.	1,838,537.45	No	No	544,355.99	1,294,231	No	Accept	Letter	Cliff McCracken	
14-Jun-21	HomeLife New World Realty Inc.	3,170,869.62	No	No	1,689,032.01	1,501,358	No	Accept	Letter	Cliff McCracken	
14-Jun-21	HomeLife Landmark Realty Inc.	50,239.22	No	No	50,239.22	-	-	Accept	Letter	Cliff McCracken	
14-Jun-21	Innocont Partnership	67,600.00	No	No	67,600.00	-	-	No vote	N/A	N/A	
14-Jun-21	2800924 Ontario Inc.	346,000.00	No	No	346,000.00	-	-	Accept	Letter	Cliff McCracken	
14-Jun-21	Robinsky Architects	4,500,000.00	No	No	2,256,548.80	2,243,451	No	Accept	Letter	Cliff McCracken	
14-Jun-21	Liaison Real Estate Ltd.	15,081.41	No	No	15,081.41	-	-	Accept	Letter	Cliff McCracken	
15-Jun-21	Investments Hardware Limited	1,520,000.00	No	No	1,520,000.00	No	No	Fully Disputed -	Letter	Cliff McCracken	
15-Jun-21	Yulei Zhang (Henry Zhang)	1,520,000.00	No	No	1,520,000.00	No	No	Accept	Letter	Cliff McCracken	

Total Claims 87,452,287.62 11 18,601,139.19 68,833,095.55

*Broker claims are valued for voting at the amount as per the Companies' APF records, which indicate the "approved" commissions as at the date of the Meeting.

Volting Summary

	Number of Votes	Dollar Value of Votes (\$)
Accept	46	18,533,339
Reject	-	-
No Vote	1	67,800
Total	47	18,601,139

	Number of Votes	Dollar Value of Votes (\$)
Objected - Accept	3	3,285,725
Objected - Reject	1	48,000,000
Objected - No Vote	3	67,800
Total	7	61,579,344

Volting Result (excluding Objected)

% Accept	100%	100%
STAT REQ	PASS	PASS

Volting Result (including Objected)

% Accept	98%	53%
STAT REQ	PASS	REJECT

Appendix “N”

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

MINUTES OF GENERAL MEETING OF CREDITORS

1. The following are the minutes of the Meeting of Creditors (the "Meeting") in the Proposal proceedings of YG Limited Partnership ("YG LP") and YSL Residences Inc. ("Residences", and together with YG LP, the "Companies") held via video conference on the 15th day of June 2021 at 2:00 p.m. (EST).
2. An attendance list of those present is attached as Appendix "A".
3. Mitch Vininsky of KSV Restructuring Inc. ("KSV"), the Proposal Trustee, called the Meeting to order at 2:00 p.m., announced the presence of a quorum and that the meeting was duly constituted.
4. Mr. Vininsky informed the Meeting that he would act as Chair pursuant to Section 51(3) of the *Bankruptcy and Insolvency Act* ("BIA") and Murtaza Tallat of KSV would act as the Recording Secretary. Mr. Vininsky introduced the other representatives of the Proposal Trustee (Bobby Kofman), Robin Schwill of Davies Ward Phillips & Vineberg LLP ("Davies"), the Proposal Trustee's counsel, Dave Mann, representative of the Companies, Harry Fogul, of Aird & Berlis LLP, the Companies' counsel, Cliff McCracken, representative of Concord Properties Developments Corp. (the "Sponsor"), and David Gruber and Jesse Mighton of Bennett Jones LLP, the Sponsor's counsel.
5. Mr. Vininsky advised that the estate of YG LP and Residences have been procedurally and substantively consolidated pursuant to a May 14th Order of the Ontario Superior Court of Justice.
6. The Chair advised that the Recording Secretary would make the following documents available should any creditors wish to review them:
 - the Proposal, as amended (the "Amended Proposal");
 - Notice of Meeting of Creditors;
 - Trustee's Report to Creditors ("Report");
 - Proofs of Claim, as filed; and
 - Affidavit of Service relating to the Proposal.

Review of Report and Proposal

7. The Chair reviewed the Report, which includes background on:
 - the Companies and their development of the real properties municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto (the "Real Property"); and

- the Amended Proposal, noting that the principal purpose of the proceedings is to create a stabilized environment to allow the Companies to present a proposal that provides creditors with a recovery greater than they would receive in a bankruptcy or an alternative insolvency process.
8. The Chair advised that the Sponsor has agreed to fund the distributions contemplated by the Amended Proposal. In consideration for the payments contemplated under the Amended Proposal, if the Amended Proposal is implemented, the Sponsor or another Concord-affiliate will become the owner of the Real Property and developer of the mixed-use office, retail and residential condominium development known as Yonge Street Living Residences (the "YSL Project") and that its intention is to resume construction expeditiously.
 9. The Chair provided background on the Amended Proposal, noting that the overall purpose of the Amended Proposal is to:
 - provide for payment in full of the Secured Claims, as defined in the Amended Proposal; and
 - make a distribution of up to 58% of the amounts owing to each Affected Creditor assuming that the Affected Claims do not exceed \$65 million. If claims exceed \$65 million, creditors will receive their pro-rata portion of \$37.7 million.
 10. The Chair advised of a further amendment to the Amended Proposal regarding the scope of the Releases set out in Section 7.01 of the Amended Proposal. The amendment limits claims against the Released Parties to claims related to the Companies and the YSL Project. The Chair read the language in the portions of the Release which were amended and advised that the Amended Proposal was posted to the Proposal Trustee's website prior to the Meeting. The Chair experienced technical difficulties sharing his screen with the attendees, which prevented the attendees from viewing the changes to the Release during the Meeting as described orally by the Chair.
 11. The Chair noted that the Proposal Trustee provided its views in Section 6 of the Report as to why the Amended Proposal is better than bankruptcy or an alternative insolvency process, in which case there may be no recoveries for unsecured creditors. The Proposal Trustee's view is based on a report prepared by Finnegan-Marshall Inc. ("FM") dated May 26, 2021 (the "FM Report"), a prominent cost real estate development consultant, which considered the projected revenue and expenses associated with the completion of the YSL Project under "as is"¹ and "resell"² scenarios. The Proposal Trustee believes these are the most likely scenarios if the Amended Proposal is not accepted.

¹ Meaning the purchase price that a purchaser would pay for the Real Property in a sale process if all existing Condo Purchase Agreements were assumed by the purchaser (excluding the 56 Condo Purchase Agreements that were disclaimed).

² Meaning the purchase price that a purchaser would pay for the Real Property in a sale process if all existing Condo Purchase Agreements were disclaimed and all of the units marketed for sale, on the assumption that the purchaser can obtain a higher price per square foot by re-selling the condominium units based on current market prices.

12. The Chair advised that following the issuance of the FM Report, the Proposal Trustee provided FM with documentation in respect of three prospective transactions received in 2020 for the YSL Project. FM advised the Proposal Trustee that its review of those documents did not change its conclusions in its Report.
13. The Chair advised that Timbercreek Mortgage Servicing Inc., the senior mortgagee in these proceedings, has a pending receivership application in the event that the Amended Proposal is not accepted at the Meeting or approved by the Court.
14. The Chair reported that three Cresford-related entities have filed claims in these proceedings totalling \$38 million. The Chair advised that the Proposal Trustee is still reviewing these claims. Related parties are only entitled to vote against the Amended Proposal. The Chair advised that the related party claims had been marked as disputed and accordingly their vote, if cast, would not be included in the outcome of the vote, subject to a determination by the Court.
15. The Chair advised that in addition to the related party claims, certain other claims were contingent, unliquidated and too speculative to value with the relevant claimants disputing this determination and, accordingly, were marked as disputed for the purpose of voting on the Amended Proposal. The Chair shared his screen so that all attendees could see the register of disputed claims. The register of disputed claims is attached as Appendix "B". The disputed claims were permitted to vote on that basis pending final determination of the objection by the Court.
16. Mr. Schwill noted that, from his discussion with respective counsel, Ms. Maria Athanasoulis would be voting to reject the Amended Proposal whereas the other individuals noted above would be voting in favour of the Amended Proposal.
17. The Chair advised that Thornton Grout Finnigan LLP ("TGF"), counsel to 2576725 Ontario Inc., Yonge SL Investment Limited Partnership, 2124093 Ontario Inc., E&B Investment Corporation, SixOne Investment Ltd., Taihe International Group Inc., and 2576725 Ontario Inc., each of which is a Limited Partner of YG LP (the "LPs"), have several objections to the Amended Proposal that they would like recorded in these minutes (the "TGF Objections").
18. The Chair invited Mr. Schwill, counsel to the Proposal Trustee, to speak to the TGF Objections. Mr. Schwill advised that, as the LPs are not creditors of the Companies, they are not entitled to participate or vote at the Meeting. However, given the LPs' involvement in these proposal proceedings, the Proposal Trustee invited the LPs to attend as observers and agreed to read the TGF Objections into the minutes. Mr. Schwill then read the objections raised by the LPs in the TGF Objections:
 - *"First, we refer to the Proposal Trustee's Report to creditors, section 4.9. We object to there being a secret deal between Concord and any unsecured creditors. It is against public policy for there to be a secret bargain that violates the equality between creditors inherent to a proposal.*

- *Second, we object that the CBRE appraisal dated April 30, 2021, was not made available to creditors. We also object that, for the purpose of establishing the land value of the YSL Project lands, the appraisal disregards any costs incurred to date and assumes, at the request of Concord, that the property is vacant and unimproved, particularly given the acknowledgement in the appraisal that excavation at the property has commenced and other project costs have been incurred.*
- *Third, we object to the scope of the release contained in the Amended Proposal, which is much too broad. It should not extend to parties related to the debtors, nor to their directors or officers, etc. Those entities and persons have not contributed anything to the proposal and there is no basis for them to enjoy the benefit of a release.”*

19. The Chair requested questions from the floor. No questions were asked.

Vote to Accept the Proposal

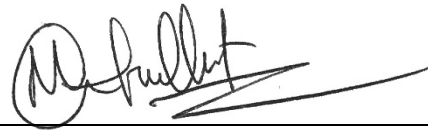
20. Mr. McCracken, holding proxies from several creditors, made a motion to table the Amended Proposal and the Chair accepted the motion.
21. The Chair reported that it had received 46 voting letters representing a voting value of \$18,533,339, excluding the disputed claims. The Chair reported that all 46 voting letters were in favour of the Amended Proposal. The Proposal Trustee asked if there were any creditors in attendance that had not submitted a voting letter and wished to cast their vote at the Meeting, to which there was no response.
22. The Chair announced the voting results. The Proposal was unanimously accepted by the creditors voting on the Amended Proposal, not including the disputed claims. Accordingly, the Chair declared that the vote on the Amended Proposal had been carried.
23. The Chair advised that of the disputed claims, which were recorded separately, the claim of Ms. Athanasoulis filed in the amount of \$19 million was the only one voting to reject the Amended Proposal. The Proposal Trustee advised that if the claim of Ms. Athanasoulis was included in the vote, the Amended Proposal would not pass.
24. The Chair advised that a motion for Court approval of the Amended Proposal is scheduled for June 23, 2021 at 10:00 a.m. (EST). The Chair advised that a notice of the hearing date was sent to the creditors on June 4, 2021.
25. The Chair advised that certain of the LPs have taken the position that, among other issues, the Partnership's General Partner did not have the authority to file a Proposal for various reasons set out in their court materials, which can be found on the Proposal Trustee's website. The Chair advised that the LP motion will be heard at the same time as the motion to approve the Amended Proposal. If the LPs are successful, it is expected that Timbercreek will seek to have its application for the appointment of a receiver heard at the earliest possible opportunity. As noted, the FM report indicates that in a receivership, unsecured creditors may not have a recovery.

26. There being no further business, the meeting was terminated at 2:30 p.m.

Dated at Toronto, Ontario this 17th day of June, 2021.



Mitch Vininsky, Chair



Murtaza Tallat, Recording Secretary

Appendix “A”

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

FIRST MEETING OF CREDITORS

ATTENDANCE REGISTER

Date: June 15, 2021 at 2:00 pm
Estate File No: 31-2734090

No.	Name (Print)	Representing	Amount of Claim	Remarks
1	Mitch Vininsky	KSV Restructuring Inc., Proposal Trustee	N/A	
2	Murtaza Tallat	KSV Restructuring Inc., Proposal Trustee	N/A	
3	Bobby Kofman	KSV Restructuring Inc., Proposal Trustee		
4	Robin Schwill	Davies Ward Phillips & Vineberg LLP, counsel to KSV Restructuring Inc., Proposal Trustee	N/A	
5	Dave Mann	YG Limited Partnership and YSL Residences Inc.	N/A	
6	Harry Fogul	Aird & Berlis LLP, counsel to YG Limited Partnership and YSL Residences Inc.	N/A	
7	David Gruber	Bennett Jones LLP, counsel to Concord Properties Developments Corp. (the Sponsor)	N/A	
8	Jesse Mighton	Bennett Jones LLP, counsel to Concord Properties Developments Corp. (the Sponsor)	N/A	
9	Jane Dietrich	Casseis Brock & Blackwell LLP, counsel to 2292912 Ontario Inc. and Timbercreek Mortgage Servicing Inc.	N/A	

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

FIRST MEETING OF CREDITORS

ATTENDANCE REGISTER

Date: June 15, 2021 at 2:00 pm
Estate File No: 31-2734090

No.	Name (Print)	Representing	Amount of Claim	Remarks
10	John Kim	Home Standards Brickstone Realty	\$585,858	
11	Maria Athanasoulis	Maria Athanasoulis	\$19,000,000	
12	Mark Dunn	Goodmans LLP, representing Maria Athanasoulis	N/A	
13	Justin Kanji	Osler, Hoskin & Harcourt LLP, counsel to Kohn Pedersen Fox Associated PC Proxy to Kohn Pedersen Fox Associated PC	\$1,962,750	
14	Alexander Soutter	Thornton Grout Finnigan LLP, counsel to 2576725 Ontario Inc., Yonge SL Investment Limited Partnership, 2124093 Ontario Inc., E&B Investment Corporation, SixOne Investment Ltd., Taihe International Group Inc., and 2576725 Ontario Inc., Limited Partners of YG Limited Partnership	N/A	
15	Sapna Thakker	Lax O'Sullivan Lissus Gottlieb LLP, counsel to 2504670 Canada Inc., 8451761 Canada Inc. and Chi Long Inc., each a Limited Partner of YG Limited Partnership	N/A	
16	Bikram Singh	Cityscape Real Estate Ltd.	\$246,998	

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

FIRST MEETING OF CREDITORS

ATTENDANCE REGISTER

Date: June 15, 2021 at 2:00 pm
Estate File No: 31-2734090

No.	Name (Print)	Representing	Amount of Claim	Remarks
17	Joshua Sugar	Sugar Law Group, counsel to R Avis Surveying Inc.	\$47,051	
18	Daniel Naymark	Naymark Law, counsel to David Ryan Millar, Louie Giannakopoulos, Mike Catsiliras, Marco Nacuso and Sarven Cicekian	\$3,709,059	
19	Amrit Singh	2600924 Ontario Inc.	\$67,800	
20	James MacLellan	Borden Ladner Gervais LLP, counsel to Westmount Guarantee Services Inc.	N/A	
21	Meghan Pohl	Aviva Canada	N/A	
22	John Paul Ventrella	Glaholt Bowles LLP, counsel to GFL Infrastructure Group Inc. and Lam & Associates Ltd.	\$4,356,940	
23	Cliff McCracken	Concord Properties Developments Corp. (the Sponsor) and proxy to certain of the Companies' creditors.	\$23,740,268	
24	Christopher Wai	SixOne Investment Ltd., a Limited Partner of YG Limited Partnership	N/A	
25	Yvonne McAnderson	Timbercreek Mortgage Servicing Inc.	N/A	

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

FIRST MEETING OF CREDITORS

ATTENDANCE REGISTER

Date: June 15, 2021 at 2:00 pm
Estate File No: 31-2734090

No.	Name (Print)	Representing	Amount of Claim	Remarks
26	Mark Raska	Jablonsky AST and Partners	\$349,632	
27	Brian Howe	Howe Gastmeier Chapnik	N/A	
28	Lorraine Ng	A Limited Partner of YG Limited Partnership	N/A	
29	[Unnamed Party]	E&B Investment Corporation, a Limited Partner of YG Limited Partnership	N/A	

Appendix “B”

**YG Limited Partnership and YSL Residences Inc.
Disputed Claims Summary
(unaudited; \$C)**

Creditor	Amount filed per Proof of Claim	Value for Voting	Disputed Amount
Maria Athanasoulis	19,000,000.00	-	19,000,000.00
David Ryan Millar	935,246.71	288,333.33	646,913.38
Louie Giannakopoulos	532,115.00	-	532,115.00
Sultan Realty Inc.	699,789.00	-	699,789.00
Mike Catsiliras	841,877.00	125,000.00	716,877.00
Marco Mancuso	517,500.00	-	517,500.00
Jia Yi (Joy) Wang	300,000.00	-	300,000.00
JDL Realty Inc.	48,154.00	20,478.00	27,676.00
Real One Realty Inc.	321,539.99	181,936.00	139,603.99
Home Standards Brickstone Realty	585,858.00	114,566.00	471,292.00
Tradeworld Realty Inc.	82,288.00	67,770.00	14,518.00
Sarven Cicekian	882,320.00	-	882,320.00
Bay Street Group Inc.	87,573.99	45,737.98	41,836.01
Oakleaf Consulting Ltd.	18,992,620.00	-	18,992,620.00
East Downtown Redevelopment Partnership (EDRP)	5,810,053.00	-	5,810,053.00
Cresford (Rosedale) Developments Inc.	13,480,946.00	-	13,480,946.00
HomeLife New World Realty Inc.	1,838,587.45	544,355.99	1,294,231.46
HomeLife Landmark Realty Inc.	3,170,389.62	1,669,032.01	1,501,357.61
Landpower Real Estate Ltd.	4,500,000.00	2,256,548.80	2,243,451.20
Totals	72,626,857.76	5,313,758.11	67,313,099.65

Appendix “O”

CONCORD CONDITIONAL ASSIGNMENT AGREEMENTS		
CLAIMANT NAME	CLAIMANT DESIGNATION	AMOUNT OF CLAIM ALLOWED FOR VOTING PURPOSES
Architects Alliance Stephen Wells Architect Ltd	Lien Claimant	1,009,360.03
Brian Isherwood & Associates Ltd	Lien Claimant	131,668.84
GFL Infrastructure Group Inc	Lien Claimant	4,356,940.17
Investments Hardware Limited	Lien Claimant	15,081.41
Kramer Design Associates Limited	Lien Claimant	74,184.50
Petra Consultants Ltd	Lien Claimant	185,969.30
Priestly Demolition Inc	Lien Claimant	660,122.70
R. Avis Surveying Inc	Lien Claimant	47,051.79
Reco Cleaning Services	Lien Claimant	74,482.26
Royal Excavating & Grading Limited	Lien Claimant	1,758,732.00
Safeline Management Systems	Lien Claimant	8,723.60
Verdi Structures	Lien Claimant	775,180.00
WSP Canada Inc.	Lien Claimant	76,063.71
Heritage Restoration Inc	Lien Claimant	393,005.53
Kohn Pedersen Fox Associates PC	Lien Claimant	1,962,750.00
1st Choice Disposal	General Unsecureds	8,917.00
E.R.A. Architects Inc.	General Unsecureds	46,763.76
Innocon Partnership	General Unsecureds	50,239.22
Jablonsky, Ast and Partners	General Unsecureds	349,631.55
Mulvey & Banani Lighting Inc.	General Unsecureds	17,987.35
Municipal Mechanical Contractors Inc.	General Unsecureds	11,529.14
Myles Burke Architectural Models Inc.	General Unsecureds	53,698.00
Stephenson's Rental Services	General Unsecureds	13,202.22
V.A. Siu Design Consultants	General Unsecureds	96,050.00
You-Go Rental & Sales	General Unsecureds	3,087.91
Bay Street Group Inc	General Unsecureds	45,737.98
RE/MAX Goldenway Realty Inc.	General Unsecureds	125,424.00
Home Standards Brickstone Rea	General Unsecureds	114,566.00
JDL Realty Inc.	General Unsecureds	20,478.00
Century 21 Kennect Realty	General Unsecureds	53,036.00
Living Realty Inc.	General Unsecureds	88,588.00
Master's Choice Realty, Inc.	General Unsecureds	379,298.00
Real One Realty Inc.	General Unsecureds	181,936.00
RE/MAX Realton Realty	General Unsecureds	14,458.00
Sultan Realty Inc.	General Unsecureds	-
RE/MAX Realty Enterprises Inc	General Unsecureds	72,090.00
LandpowerReal Estate Ltd.	General Unsecureds	2,256,548.80
Cityscape Real Estate Ltd.	General Unsecureds	246,998.00
Tradeworld RealtyInc.	General Unsecureds	67,770.00
		15,847,350.77

Appendix “P”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

2504670 CANADA INC., 8451761 CANADA INC.
and CHI LONG INC.

Applicants

and

CRESFORD CAPITAL CORPORATION, YSL RESIDENCES INC, 9615334
CANADA INC., YG LIMITED PARTNERSHIP and DANIEL CASEY

Respondents

CROSS-EXAMINATION BRIEF

June 11, 2021

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Lawyers for the Applicants

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TAB 1

Private & Confidential

May 15, 2020

PJD Properties Inc.

By email – pdovigi@gflenv.com

Dear Mr. Dovigi:

This letter ("**Letter of Intent**") sets out the terms and conditions upon which YSL Residences Inc. and 9615334 Canada Inc. in its capacity as general partner of YG Limited Partnership (collectively, the "**Vendors**") offer to sell to PJD Properties Inc. or one of its affiliates ("**Purchaser**") the condominium development ("**YSL**"), as described in Exhibit A (the "**Purchased Assets**"). The proposed sale by the Vendor of the Purchased Assets is referred to in this Letter of Intent as the "**Transaction**" and the closing date of the Transaction is referred to as the "**Closing**".

Except as set forth in Sections 7 and 8 of this Letter of Intent, a binding agreement for the purchase of the Purchased Assets will only arise upon joint execution and delivery of a definitive purchase agreement (the "**Definitive Agreement**"). Upon receipt of a copy of this Letter of Intent executed by the Vendors and the Shareholder, the Purchaser will immediately proceed to complete its due diligence review of the Purchased Assets in accordance with Section 3 of this Letter of Intent.

While the parties anticipate that the matters set forth in this Letter of Intent will form the basis for Definitive Agreement to be entered into by the parties, the parties acknowledge that further negotiations and the conduct by Purchaser of its due diligence review in accordance with Section 3 of this Letter of Intent may result in issues being raised that require the matters described in this Letter of Intent to be supplemented, amended or qualified on agreement of the parties, acting reasonably. The Purchaser acknowledges that the Vendor will not entertain and shall not be required to consider any further amendments to the terms of this Letter of Intent that involve any reduction in the Purchase Price. Any subsequent disagreement as to the Purchase Price stated in this Letter of Intent shall result in the termination of this Offer and the termination of any obligation to negotiate a Definitive Agreement.

The principal terms and conditions of this Letter of Intent are set forth below. All dollar amounts referred to in this Letter of Intent are in Canadian dollars unless otherwise specified.

1. Purchase Price

Subject to the conditions outlined in this Letter of Intent, Purchaser proposes to purchase the Purchased Assets for the purchase price set out in Exhibit A, with adjustments calculated in accordance with Exhibit A, and otherwise adjusted in accordance with the usual adjustments applicable to such a transaction. (the "**Purchase Price**").

The parties will work to structure the Transaction in a tax-efficient manner, including whether the Transaction is to be structured as an equity purchase or a sale of real estate assets and related contracts.

The Purchase Price assumes that the Vendors are responsible for, and will indemnify Purchaser from, the usual liabilities applicable to similar transactions. The Purchaser shall be responsible for and will indemnify the Vendor from any and all (i) project payables, all of which are to be assumed by the Purchaser pursuant to Exhibit A and B; and (ii) any debt to be assumed by the Purchaser pursuant to

Exhibit A; the Claim issued by Maria Athanasoulis filed under court file number CV-20-00634836-0000 and the Counterclaim of the Defendants in that action shall be dismissed on a without cost basis.

The Purchased Assets shall be conveyed to Purchaser free and clear of all encumbrances and rights of others, other than in connection with the debt, mortgages, notes, capital leases, guarantees, and indebtedness as described in Exhibit A (the "**Indebtedness**"). For clarification, any construction liens for materials or services supplied to the project as at the Closing Date shall be included in the payables listed in Schedule "B" and shall be paid out by the Purchaser on Closing in addition to the Purchase Price.

The Vendors and Shareholder are responsible for and will pay their own legal, accounting and other transaction fees and expenses incurred by them in connection with the Transaction.

2. Conditions to Closing

The Closing would be conditional upon Purchaser being satisfied with, or waiving, each of the following:

- (a) completion by Purchaser of its due diligence review of the Purchased Assets in accordance with Section 3 below;
- (b) each of the Vendors, the Shareholder and the other shareholders of the Vendors entering into confidentiality agreements in a form satisfactory to Purchaser, providing for a 3-year confidentiality period calculated from Closing and otherwise on mutually acceptable terms;
- (c) the Vendors or the Shareholder obtaining all required regulatory consents to the completion of the Transaction, as described in Exhibit A, and/or the transfer of any required permits, so that Purchaser would be in a position to continue to operate the Purchased Assets after Closing in substantially the same manner as conducted prior to the Closing subject to the acknowledgement of the parties that the Tarion enrollment of the Vendor is not assignable and the Purchaser shall be required to enroll with Tarion as vendor and builder in order to continue with the existing agreements of purchase and sale;
- (d) the assignment of all trademarks, logos, licenses, etc. relating to the Purchased Assets to Purchaser, excluding any trademarks, logos, licenses, etc. associated with the Cresford brand; and
- (e) the approval of the Purchaser's investment committee.

3. Due Diligence.

Purchaser acknowledges that it is purchasing the Purchased Assets on an as-is and where-is basis, and would expect to complete its business, environmental, legal, accounting and other third party due diligence on or before May 30, 2020, with a target Closing of thirty (30) days from completion of such due diligence period.

During the Exclusive Period (as defined below), the Vendors will:

- (a) upon reasonable notice, grant to Purchaser, and to its officers, employees, legal counsel, auditors and other authorized representatives (collectively, the "**Purchaser Representatives**") the right to inspect the assets, properties, books and records of the Purchased Assets (including the conduct of such environmental due diligence as Purchaser may consider necessary or desirable) and to consult with the officers, senior management, legal counsel, accountants and other authorized representatives of the Vendors (collectively the "Vendors' Representatives") concerning the Purchased Assets; and
- (b) direct the Vendors' Representatives to provide information to Purchaser as reasonably requested.

This timeframe assumes that Purchaser and the Purchaser Representatives are provided with full and timely access to the Purchased Assets' books, records, properties, personnel, and other data and information relating to the Purchased Assets as reasonably requested by any of them for the purposes of evaluating and effectuating the Transaction. This timeframe also assumes full and timely cooperation by the Vendors, the Shareholder and Vendors' Representatives. To the extent Purchaser does not receive such access and full and timely cooperation, the timeframe outlined above would be extended appropriately.

Purchaser will be under no obligation to continue with its due diligence investigations or with negotiations for a Definitive Agreement, or to enter into a Definitive Agreement if, at any time, the results of its diligence review are not satisfactory to it in its sole discretion.

4. Operations Pending Closing

Prior to the Closing, and to the extent reasonably possible in current financial, economic and global circumstances related to the COVID-19 coronavirus pandemic, the Vendors will (i) continue to operate the Purchased Assets with a representative designated by the Purchaser having active role in day to day decisions and otherwise in the ordinary course of business and consistent with prior practice and will not dispose of or acquire any assets other than in the ordinary course of business; and (ii) enter into contracts or commitments in connection with the Purchased Assets as reasonably requested by Purchaser. Without limiting the generality of the foregoing, the Vendors will not enter into any commitment to acquire any asset that is part of the Purchased Assets with an individual purchase price of \$50,000 or more without the prior written consent of Purchaser. In addition, from and after the date hereof throughout the Exclusive Period, the Vendors will notify Purchaser in the event that the Vendors intend to bid on or enter into or amend any contract or commitment in connection with the Purchased Assets with an aggregate value of \$50,000 or more.

5. Exclusive Negotiations

In order to induce Purchaser to expend the time and resources necessary to complete its due diligence review, for a period expiring on the 30th day May, 2020 (the "**Exclusive Period**"), no Vendor, nor any officer, director, employee, consultant affiliate advisor, agent or representative of any Vendor or the Shareholder will (i) solicit, initiate, or encourage any inquiries, proposals, or offers from any corporation, partnership, person, entity or group (a "**Third Party**") other than Purchaser or an affiliate of Purchaser respecting any leasing arrangement, merger, consolidation business combination, recapitalization sale of any assets or sale of any equity or debt securities or any similar transaction related to the Purchased Assets (a "**Third Party Acquisition**"), (ii) provide any information to or respond to any questions of any Third Party respecting the Purchased Assets in response to any inquiry concerning, or in order to facilitate, any Third Party Acquisition or (iii) engage in any negotiations or discussions with or enter into any agreement, understanding or undertaking with any Third Party concerning any Third Party Acquisition (and shall discontinue any current or pending discussions). Upon receipt of any information request that could result in a Third Party Acquisition or the receipt of any proposal respecting a Third Party Acquisition, the occurrence of such request or proposal and its contents shall promptly be communicated in writing to Patrick Dovigi at pdovigi@gflenv.com.

Notwithstanding the foregoing, if at any time during the Exclusive Period, Purchaser determines that it will not be proceeding with the Transaction, it will forthwith notify the Vendors at the address noted on the first page of this Letter of Intent and the provisions of this Section 5 will thereafter have no further force or effect.

Each of the parties will pay its own legal, accounting and other transaction fees in connection with the Transaction.

6. Definitive Agreement

The parties will proceed in good faith resolve the structure of the Transaction and proceed with the negotiation of the terms and conditions of a Definitive Agreement and related agreements, which shall be delivered to the Vendors at the conclusion of the Exclusivity Period. The Definitive Agreement will embody the terms and conditions of this Letter of Intent and additional representations, warranties, covenants, conditions and indemnities negotiated between the parties, all of which are subject to the mutual agreement of the parties. Purchaser will prepare the first draft of the Definitive Agreement.

7. Confidentiality

Except as required by law, Purchaser's potential purchase of the Purchased Assets and the term and conditions of this Letter of Intent, including the Purchase Price (the "**Purchase Information**") are confidential and shall not be disclosed by the Vendors or the Shareholder to any person or entity except to the those of the Vendors' Representatives that need to know the Purchase Information in connection with the negotiation or completion of the Transaction. This Letter of Intent and the status of any negotiations between the parties shall constitute confidential information and be governed by the Confidentiality Agreement dated October 16, 2019 between Purchaser, the Vendors and the Shareholder, as may be amended from time to time (the "**Confidentiality Agreement**"). The Vendors and the Shareholder acknowledge and agree that Purchaser may have discussions with, and receive and disclose Confidential Information (as defined in the Confidentiality Agreement), with the lenders for the Purchased Assets, provided that the Vendor is fully informed in advance as to such discussions and communications between the Purchaser and the Lender.

8. Intent of the Parties and Governing Law

This Letter of Intent supersedes all prior expressions of interest, discussions agreements or undertakings of the parties relating to the Transaction, other than the Confidentiality Agreement which will remain in full force and effect in accordance with its terms. This Letter of Intent shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

This Letter of Intent is an expression of intent only and is not intended to create legally binding obligations of the parties. Notwithstanding the foregoing, Sections 4, 5, 7 and 8 of this Letter of Intent shall constitute binding and enforceable obligations of the parties hereto. The provisions of Sections 7 and 8 shall survive the expiration of the Exclusive Period.

9. Expiry

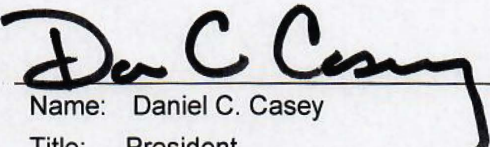
This letter of intent will be open for signature by the Purchaser until 6:00 pm (EDT) on May , 2020, unless the time for such signature is extended in writing by Purchaser.

Please indicate your acceptance of this letter of intent by signing and returning one copy to the attention of the undersigned. A facsimile or electronic copy of this Letter of Intent will be treated for all purposes as an original and a copy of this Letter of Intent executed in counterparts will be treated as one and same document for all purposes.

We look forward to working with you on completing this Transaction.

Sincerely,

**YSL Residences Inc. and 9615334 Canada Inc.
in its capacity as general partner of YG
Limited Partnership (collectively, the
"Vendors")**
Daniel C. Casey (the "Shareholder")

By: 
Name: Daniel C. Casey
Title: President

Agreed to this 19th day of May, 2020.

PJD PROPERTIES INC.

By: 
Name: Patrick Dovigi
Title: President

EXHIBIT A**YSL**

Municipal Addresses: 363-391 Yonge Street and 3 Gerrard Street East
 Status: Excavation underway
 Ownership: YSL Residences Inc. and 9615334 Canada Inc. in its capacity as general partner of YG Limited Partnership.

Current Lenders
 First Mortgage: Computershare Trust Company of Canada (Timbercreek)

Deposit Insurer: Westmount Guarantee Services Inc.
 Investors: Various (\$34.8M comprised of 8 investors)
 Note: Assets exclude 357 ½ to 357A Yonge Street

Financial Terms:

1. Purchaser to pay TWO HUNDRED AND NINETY MILLION DOLLARS (\$290,000,000.00) to Vendors to purchase the lands, with \$5,000,000.00 due at signing of the Definitive Agreement and the remainder due at Closing;
2. Purchaser to have the right to discuss with Timbercreek the assumption of the existing first mortgage (current drawn balance of \$100,000,000.00) on Closing; If not assumed, to be paid out of the sale proceeds on Closing. If the Purchaser assumes the mortgage the Purchaser shall get credited for the outstanding amount of the mortgage on Closing.
3. Purchaser to replace any existing letter of credit facility posted with the City of Toronto on Closing.
4. Purchaser to assume all Condominium Purchase and Sale Agreements and liability under the Westmount deposit insurance facility for purchaser deposits (\$109,000,000.00). The amount outstanding under the Westmount deposit insurance facility shall be credit to the Purchaser on Closing subject to approval of Westmount, failing which the amount outstanding under the Westmount facility shall be discharged and paid out on Closing from the proceeds of sale.
5. Purchaser to take assignment of all construction contracts, consultant agreements, all current drawings, permits, city agreements, and any other material agreements or documents required to take over the project and Vendor to use best efforts to obtain consent to such assignments where required.
6. Purchaser to be responsible for and to pay all accounts payable under the Project budget, the construction budget and the sales and marketing budget for the Project as set out in Exhibit B (which amounts are to be updated as at Closing) and to indemnify the Vendors and Shareholder with respect to the same on Closing. Such indemnity shall survive the Closing of the transaction.
7. Investor equity loans in the amount of \$34,800,000.00 to be paid out and discharged from proceeds of sale. In the alternative, the investor equity loans may be assumed by the Purchaser subject to consent of the investors, including consent of the investors to release the Vendors and Shareholder for all liability thereunder, and in that event shall be credited to the Purchaser on Closing.

Exhibit B
20-YG Limited Partnership
A/P Accounts Payable/Claims
Summary Aged Payables List
as of March 31/20
Aged by Invoiced Date

Code	Supplier Name	Net A/P	Current	31-60Days	61-90Days	Over90Days	Holdback
2600924	2600924 Ontario Inc.	67,800.00	0	67,800.00	0	0	0
1STCHO	1st Choice Disposal	8,916.81	426.3	832.05	1,749.94	5,908.52	0
AECPAR	AEC Paralegal Corporation	593.25	0	0	0	593.25	0
AIMHOM	Aim Home Realty Inc	15,018.01	0	0	0	15,018.01	0
AIRBER	Aird & Berlis LLP	15,781.60	8,651.07	7,130.53	0	0	0
ALTGRO	Altus Group Limited	20,959.70	542.12	2,422.98	0	17,994.60	0
ALUINC	AlumaSafway, Inc	46,505.15	0	28,210.45	0	18,294.70	0
ARCALL	Architects Alliance	1,008,914.62	46,505.90	146,076.70	146,168.69	670,163.33	0
BAAGRO	Baaron Group Inc.	20,397.91	0	1,582.00	0	18,815.91	0
BACONS	BA Consulting Group Ltd.	6,844.99	2,178.08	2,895.63	0	1,771.28	0
BAYSTR	Bay Street Group Inc	45,737.98	0	0	0	45,737.98	0
BENJON	Bennett Jones LLP	44,825.62	0	243.3	4,439.49	40,142.83	0
BLAMCM	Blaney McMurtry LLP	100,056.60	0	8,142.96	0	91,913.64	0
BLICOU	Blizzard Courier Service Ltd.	335.5	0	0	0	335.5	0
BVDGRO	BVDA Group Ltd.	1,130.00	0	0	0	1,130.00	0
CANCAN	Canon Canada Inc.	37.9	0	37.9	0	0	0
CBSCAP	CBSC Capital Inc.	1,574.50	0	838.87	0	735.63	0
CITDOO	Citywide Door & Hardware Inc.	1,130.00	0	0	0	1,130.00	0
CITPER	The Treasurer, City of Toront	500	0	500	0	0	0
CITREA	Cityscape Real Estate Ltd.	246,998.63	0	0	0	246,998.63	0
CLAREA	Homelife Classic Realty Inc	12,478.00	0	0	0	12,478.00	0
CONPLU	Re/Max Condo Plus Corp	16,358.00	0	0	0	16,358.00	0
DALLES	Dale & Lessmann LLP	982.38	982.38	0	0	0	0
DEKCORP	Dekla Corporation	0	0	0	0	0	25,000.00
ENBGAS	Enbridge Gas Inc.	0.01	0	0	0	0.01	0
ENTCOR	Entuitive Corporation	5,508.75	0	0	0	5,508.75	0
ERAARC	E.R.A. Architects Inc.	43,455.57	0	0	0	43,455.57	0
FEDWIR	Federal Wireless Communicatio	4,291.74	0	0	0	4,291.74	0
FORHIL	Forest Hill Real Estate Inc	30,876.00	0	0	0	30,876.00	0
FOSINT	Foster Interactive Inc.	1,627.20	0	0	813.6	813.6	0
GFLINE	GFL Infrastructure Goup Inc.	3,663,177.53	296,561.83	0	513,400.92	2,853,214.78	445,803.10
HERRES	Heritage Restoration Inc	393,005.53	0	0	0	393,005.53	0
HOMFRO	HomeLife Frontier Realty Inc.	25,376.00	0	0	0	25,376.00	0
HOMLAN	HomeLife Landmark Realty Inc.	1,669,032.01	0	0	0	1,669,032.01	0
HOMSTA	Home Standards Brickstone Rea	90,068.00	0	0	0	90,068.00	0
HOWGAS	Howe Gastmeier Chapnik Limite	668.11	0	0	0	668.11	0

HUNASS	Hunter & Associates Ltd.	2,923.88	0	0	0	2,923.88	0
HYDMIS	Toronto Hydro-Electric System	44,097.88	0	0	0	44,097.88	0
INNPAR	Innocon Partnership	50,239.12	0	0	1,296.34	48,942.78	0
INVHAR	Investments Hardware Limited	14,471.85	0	257.3	4,161.60	10,052.95	0
ISHERW	Isherwood	107,416.33	18,659.01	24,789.71	0	63,967.61	0
JABAST	Jablonsky, Ast and Partners	349,631.55	0	3,851.55	11,300.00	334,480.00	0
JANROS	JanetRosenberg&Studio Inc.	13,152.35	0	3,030.94	0	10,121.41	0
JDLREA	JDL Realty Inc.	20,478.00	0	0	0	20,478.00	0
JENHUG	Jensen Hughes Consulting Cana	34,317.01	18,002.14	0	0	16,314.87	0
KELWIL	Keller Williams Referred	23,036.00	0	0	0	23,036.00	0
KENREA	Century 21 Kennect Realty	53,036.00	0	0	0	53,036.00	0
KINQUA	Century 21 King's Quay Real E	37,594.00	0	0	0	37,594.00	0
KOHPED	Kohn Pedersen Fox Associates	1,836,000.00	0	0	0	1,836,000.00	0
KRMDES	Kramer Design Associates Limi	74,184.50	0	0	0	74,184.50	0
LAMASS	Lam & Associates Ltd.	129,925.39	0	31,194.40	39,103.39	59,627.60	0
LANREA	LandpowerReal Estate Ltd.	2,256,548.80	17,018.00	0	37,578.00	2,201,952.80	0
LEAEDG	Century 21 Leading Edge Realt	10,878.00	0	0	0	10,878.00	0
LERBAT	Lerch Bates	11,900.00	0	0	0	11,900.00	0
LIVPAT	Live Patrol Inc.	11,187.00	1,864.50	1,864.50	1,864.50	5,593.50	0
LIVREA	Living Realty Inc.	88,588.00	0	88,588.00	0	0	0
MASCHO	Master's Choice Realty, Inc.	379,298.00	0	0	0	379,298.00	0
MCIPER	McIntosh Perry	218.09	0	0	0	218.09	0
MICBRO	Michael Bros. Excavating	1,582,858.80	38,442.60	307,540.80	653,524.20	583,351.20	155,640.00
MONSTE	Montana Steele	73,927.81	477.81	14,690.00	14,690.00	44,070.00	0
MULBAN	Mulvey & Banani Lighting Inc.	29,978.91	0	1,582.00	5,311.00	23,085.91	0
MUNMEC	Municipal Mechanical Contract	11,303.14	11,303.14	0	0	0	0
MYLBUR	Myles Burke	35,798.40	0	17,899.20	0	17,899.20	0
NAFCON	Naf-Muk Contracting Inc	2,439.67	0	0	0	2,439.67	0
NEWCON	Royal LePage - New Concept	85,770.01	15,018.01	0	0	70,752.00	0
NEWWOR	HomeLife New World Realty Inc	544,355.99	0	0	283,570.00	260,785.99	0
NORAME	North American Sign Company I	2,825.00	0	0	0	2,825.00	0
ODADET	The Odan/Detech Group Inc.	5,831.20	2,214.80	1,237.35	830.55	1,548.50	0
OTICAN	Otis Canada Inc.	4,912,110.00	0	0	0	4,912,110.00	483,000.00
PETCON	PETRA Consultants Ltd.	178,856.40	0	83,168.00	0	95,688.40	0
PMSVEN	PM Sheetmetal & Ventilation	26,442.00	0	0	0	26,442.00	2,600.00
POWREA	Powerland Realty, Brokerage	10,678.00	0	0	0	10,678.00	0
PRIDEM	Priestly Demolition Inc.	374,609.80	0	0	0	374,609.80	0
RAVSUR	R. Avis Surveying Inc.	53,757.52	0	8,311.15	18,758.58	26,687.79	0
REAENT	RE/MAX Realty Enterprises Inc	72,090.00	0	0	0	72,090.00	0
REAONE	Real One Realty Inc.	181,936.00	0	0	91,768.00	90,168.00	0
REAREA	RE/MAX Realtron Realty Inc.	28,117.97	0	0	0	28,117.97	0
RECCLE	Reco Cleaning Services	62,376.57	0	10,664.94	0	51,711.63	0
REPLIM	Reprodux Limited	578.39	24.23	227.59	326.57	0	0
RIGATH	Right At Home Realty Inc.	10,678.00	0	0	0	10,678.00	0
ROYELI	Royal Elite Realty Inc., Broke	16,198.00	0	0	0	16,198.00	0

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SAFMAN	Safeline Management Systems I	8,723.60	0	2,576.40	813.6	5,333.60	0
SEBSTE	Sebba Steel Construction Ltd.	86,075.49	0	12,147.50	0	73,927.99	0
SIGREA	Royal LePage - Signature Real	14,678.00	0	0	0	14,678.00	0
SPLCON	WSP Canada Inc.	74,029.14	6,630.28	14,127.26	2,055.47	51,216.13	0
STACON	Stantec Consulting Ltd.	1,463.26	0	0	0	1,463.26	0
STEREN	Stephenson's Rental Services	4,678.43	4,678.43	0	0	0	0
STRAGG	Strada Aggregates	27,075.99	11,780.66	0	0	15,295.33	0
THODOR	Thompson Dorfman Sweatman LLP	6,475.77	0	0	0	6,475.77	0
TRAFIR	Trace Fire Protection Inc.	-30	0	0	0	-30	0
TRAREA	Tradeworld RealtyInc.	67,770.00	0	0	0	67,770.00	0
ULTREA	ReMax Ultimate Realty Inc.	16,718.00	0	0	0	16,718.00	0
VASDES	V.A. Siu Design Consultants	96,050.00	0	0	0	96,050.00	0
VERSTR	Verdi Structures Inc	718,680.00	718,680.00	0	0	0	50,000.00
WESGUA	Westmount Guarantee Services	444,155.00	0	0	222,955.00	221,200.00	0
YOUREN	You-Go Rental & Sales	2,808.71	411.32	476.39	548.05	1,372.95	0
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Total Report

	23,032,954.32	1,221,052.61	894,938.35	2,057,027.49	18,859,935.87	1,162,043.10
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Less: Payments

Westmount	-444,155.00
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Add:

Accruals

Tarion enrolment	1,510,000.00
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Tie-back commitment	1,875,000.00
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Holdbacks

	1,162,043.00
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27,135,842.32

TAB 2

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT made the 14th day of July, 2020.

BETWEEN:

YSL RESIDENCES INC.

(the "Vendor")

OF THE FIRST PART;

- and -

EMPIRE (WATER WAVE) INC.

("Empire")

OF THE SECOND PART;

- and -

YG LIMITED PARTNERSHIP

(the "Beneficial Owner")

OF THE THIRD PART.

WHEREAS:

- A. The Vendor is the legal and registered owner of the Property;
- B. The Beneficial Owner is the beneficial owner of the Property and holds 100% of the beneficial ownership of the Property;
- C. The Parties have agreed to enter into an arrangement respecting the Project on the Property that includes entering into a limited partnership pursuant to a Limited Partnership Agreement.

**ARTICLE 1
INTERPRETATION**

1.1 Definitions

In this Agreement, the following terms shall have the following respective meanings:

"Affiliate" of any specified Person means any other Persons directly or indirectly controlled by or under the direct or indirect common control with such specified Person;



"Agreement" means the agreement arising from the execution hereof by the Vendor, the Beneficial Owner and Empire, together with all schedules hereto and all instruments supplemental hereto or in any amendment or confirmation hereof;

"Applicable Laws" means, with respect to any Person, property, transaction or event, all laws, by-laws, rules, regulations, orders, judgements, decrees, decisions or other requirements having the force of law relating to or applicable to such Person, property, transaction or event;

"Assignment of Plans" means an assignment by the Vendor to the Limited Partnership of the Vendor's right title interest in and to all of the Plans;

"Assumed Contracts" has the meaning set out in section 6.3;

"Assumed Property Value" means the fair market value of the Property assumed to be \$250,000,000 for the purposes of this Agreement;

"Broker" means the Vendor's real estate agent and broker, Colliers International;

"Building" means the building to be constructed on the Lands containing the Proposed Condominium;

"Business Day" means any day other than a Saturday, Sunday or any statutory holiday in the Province of Ontario;

"Claims" means any claims, suits, proceedings, liabilities, obligations, losses, damages, penalties, judgments, costs, expenses, fines, disbursements, legal fees on a substantial indemnity basis, interest, demands and actions of any nature or any kind whatsoever;

"Closing" means the completion of the transactions contemplated herein on the Closing Date;

"Closing Capital Payment" means the capital contribution of \$3,000,000 to be made by Empire to the Limited Partnership on Closing as compensation for the Vendor's Prior AP Payments, to be dealt with in the manner described in section 2.3 hereof;

"Closing Date" means the 30th Business Day following the Due Diligence Date;

"Closing Documents" means, collectively, documents and deliveries to be made pursuant to section 6.1 and section 6.2 hereof;

"Condominium Purchaser" means a purchaser of a condominium unit of the Proposed Condominium pursuant to an Existing Agreement of Purchase and Sale;

"Construction Contract Accounts Payable" means any amounts owing or accrued on account of Construction Contracts as at Closing pursuant to section 2.9 hereof;

"Construction Contracts" means, contracts related to the construction of the Building and the supply of building materials with the exception of the Existing Agreements of Purchase and Sale;

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“Construction Financing Advance Date” means the date on which the first advance of construction financing is made with respect to the Project;

“Contracts” means, any contracts entered into by the Vendor with respect to the Proposed Condominium or the Building, including without limitation, Construction Contracts;

“Contracts Accounts Payable” means any amounts owing or accrued on account of Contracts as at Closing including without limitation Construction Contract Accounts Payable as set out in Schedule D;

“Data Room” means the electronic data room populated by the Vendor, assisted by Colliers International;

“Documents for Inspection” means those documents, reports and other data contained in the Data Room;

“Due Diligence Date” means 5:00 p.m. on the 10th Business Day following the waiver of the Vendor’s condition contained in section 4.3;

“Encumbrances” means, in the case of any of the Property, all mortgages, pledges, charges, liens, debentures, trust deeds, assignments by way of security, security interests, conditional sales contracts or other title retention agreements or similar interests or instruments charging, or creating a security interest in, such Property or any part thereof or interest therein, and any agreements, Leases, options, easements, rights of way, restrictions, executions or other encumbrances (including notices or other registrations in respect of any of the foregoing) affecting title to the Property or any part thereof or interest therein;

“Environmental Laws” means all Applicable Laws concerning pollution or protection of the natural environment or otherwise relating to the environment, including Applicable Laws pertaining to (i) reporting, licensing, permitting, investigating and remediating the presence of Hazardous Substances, and (ii) the storage, generation, use, handling, manufacture, processing, transportation, treatment, Release and disposal of Hazardous Substances;

“Execution Date” means the date the Agreement is executed and delivered by both of the Parties hereto;

“Existing Agreements of Purchase and Sale” means all existing Agreements of Purchase and Sale with respect to the purchase of condominium units within the Proposed Condominium, all of which are enumerated in Schedule C annexed hereto, and true copies of which shall be delivered to Empire within 2 Business Days following the Execution Date;

“Governmental Authority” means any government, regulatory authority, governmental department, agency, commission, board, tribunal or court or other law, rule or regulation-making entity having jurisdiction on behalf of any nation, province or other subdivision thereof or any municipality, district or other subdivision thereof;

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"Hazardous Substances" means any substance or material that is prohibited, controlled or regulated by any Governmental Authority pursuant to Environmental Laws, including contaminants, pollutants, dangerous substances, dangerous goods, liquid wastes, industrial wastes, hauled liquid wastes, radioactive wastes, toxic substances, hazardous wastes, hazardous materials or hazardous substances as defined in any Environmental Laws;

"HST" means goods and services tax and/or harmonized sales tax payable pursuant to the *Excise Tax Act* (Canada);

"Included Assets" means assignment of all Architectural Contracts and engineering contracts, trade name, all intellectual property, models including the scale model of the Building, advertising literature, plans and specifications, hoarding, preconstruction matters, sales office contents, any building system including the bracing system created for support of the heritage structure on the Lands, and any specialized crane owned by the Vendor related to the Building being constructed and all other tangible and intangible property relating to the creation of the Building and the Proposed Condominium (excluding the Existing Agreements of Purchase and Sale);

"Initial Project Budget" means an initial budget for the Project initially prepared by Empire and as mutually agreed on between the Parties, each acting in good faith, and which shall include the following assumptions:

- (a) the Assumed Property Value, if unencumbered by the Mortgages, or otherwise encumbered;
- (b) the renewal or replacement of the Timbercreek Mortgage in approximately the same, greater or lesser, principal amount;
- (c) the Contracts Accounts Payable;
- (d) the contribution by Empire or its Affiliate of equity, the exact amount of which will be determined based on funding requirements at time of construction financing, to the Limited Partnership in accordance with the Limited Partnership Agreement;
- (e) Closing Capital Payment of \$3,000,000 by Empire;
- (f) the assumed contribution of \$75,000,000 to the Project by the Beneficial Owner;
- (g) the Replacement Letters of Credit referred to in section 6.2(i);

"Lands" the lands and premises legally described in Schedule A annexed hereto;

"Leases" means any leases, executed offers to lease, agreements to lease, subleases, renewals of leases and other rights or licences granted by or on behalf of the Vendor or any of its predecessors in title which entitle an entity or Person to possess or occupy any portion of the Property;

"Limited Partnership" means a limited partnership to be entered into on Closing pursuant to the Limited Partnership Agreement;

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“Limited Partnership Agreement” means the limited partnership agreement to be entered into by the Parties respecting the Limited Partnership containing the provisions set out in Schedule E annexed hereto;

“Material Agreements” means the Limited Partnership Agreement, the USA, the Project Development and Construction Management Agreement, the Sales and Marketing Agreement, the Advisory Agreement and the Empire Guarantee Agreement (as defined in Schedule E);

“Mortgage Statement” means a mortgage statement from a mortgagee under a Mortgage containing inter alia, the principal amount and interest outstanding under the relevant Mortgage as at the Closing Date together with a statement of defaults, if any, under the Mortgage;

“Mortgages” means the following existing mortgages in favour of:

- (a) Timbercreek Mortgage Servicing Inc. in the principal amount of [**\$100,000,000**] (the **“Timbercreek Mortgage”**);
- (b) Westmount Guarantee Services Inc. in the principal amount of [**\$107,000,000**] (the **“Westmount Mortgage”**);

“Party” means any party to this Agreement, and **“Parties”** has a corresponding meaning;

“Permitted Encumbrances” means those encumbrances described in Schedule C annexed hereto;

“Person” is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity;

“Plans” means all of the architectural plans prepared by architects Alliance and Kohn Pedersen Fox Associates for a proposed building on the Property consisting primarily of a residential condominium;

“Prior AP Payments” means payments previously made by the Vendor in the aggregate amount of \$3,000,000 on account of then outstanding Contracts Accounts Payable;

“Prior Interest Payments” means a total of \$4,800,000 previously paid by the Vendor on account of interest payments respecting the Timbercreek Mortgage, all of which have been paid to date and are current;

“Project” means the construction of the Building and the sale of the condominium units therein (whether to existing Condominium Purchasers or new condominium unit purchasers);

“Project Development and Construction Management Agreement” has the meaning ascribed thereto in Schedule E;

“Property” means the Lands and the Included Assets;



“Proposed Condominium” means the proposed condominium by the Vendor to be constructed on the Lands, as described in the Disclosure Statement, a copy of which is contained in the Data Room;

“Sales and Marketing Agreement” has the meaning ascribed thereto in Schedule E;

“Unassumed Contracts” means those Contracts, which are not Assumed Contracts;

“USA” means the unanimous shareholders’ agreement to be entered into on Closing in accordance with the provisions of Schedule E; and

“Westmount” means Westmount Guarantee Services Inc.

1.2 Extended Meanings

Grammatical variations of any terms defined herein have similar meanings to such defined terms; words importing number include the singular and the plural; words importing gender include the feminine, neuter and masculine genders.

1.3 Headings

The division of this Agreement into separate Articles, sections and Schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.4 Entire Agreement

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and, except as herein stated and in the instruments and documents to be executed and delivered pursuant hereto, contains all of the representations, warranties and agreements of the respective Parties with respect to the subject matter hereof. There are no verbal representations, undertakings or agreements of any kind between the Parties.

1.5 Severability

If any covenant, obligation or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby. Each covenant, obligation and provision of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

1.6 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

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1.7 Knowledge of the Vendor

For the purposes of this Agreement, the expression "Knowledge of the Vendor" means the knowledge of Daniel C. Casey and Ted Dowbiggin, representatives of the Vendor, after having made reasonable inquiries with respect thereto.

1.8 Business Days

Where anything is required to be done under this Agreement on a day that is not a Business Day, then the day for such thing to be done shall be the next following Business Day.

1.9 Time

Time shall be of the essence of this Agreement. Except as expressly set out in this Agreement, the computation of any period of time referred to in this Agreement shall exclude the first day and include the last day of such period. The time limited for performing or completing any matter under this Agreement may be extended or abridged by an agreement in writing by the Parties or by their respective solicitors.

1.10 Vendor and Beneficial Owner

In this Agreement, where reference is made to the "Vendor", such reference shall be deemed to include the Beneficial Owner.

1.11 Schedules

The following schedules are attached to this Agreement and form and integral part hereof:

Schedule A	-	The Lands
Schedule B	-	Permitted Encumbrances
Schedule C	-	List of Existing Agreements of Purchase and Sale
Schedule D	-	List of Contracts Accounts Payable
Schedule E	-	Provisions of the Limited Partnership Agreement and USA

**ARTICLE 2
LIMITED PARTNERSHIP**

2.1 Limited Partnership

On Closing:

- (a) The Beneficial Owner and Empire or its Affiliate shall enter into the Limited Partnership Agreement and the USA;
- (b) The Beneficial Owner shall transfer the Property, the Contracts, the Contract Accounts Payable, the Plans, the Construction Contract Accounts Payable and the Existing Agreements of Purchase and Sale to the Limited Partnership. The transfers shall be made pursuant to an agreement (the "Transfer Agreement"), which may

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be made pursuant to Section 97(2) of the *Income Tax Act*, or such other arrangement as agreed upon between the Parties and their advisors;

- (c) The Beneficial Owner shall receive 75,000,000 Class "A" Units in the Limited Partnership as contemplated in Schedule E;
- (d) Empire or its Affiliate (collectively, the "Empire LP") shall contribute equity as required from time to time as determined by the General Partner of the Limited Partnership up to the Construction Mortgage Advance Date, in each case as capital to the Limited Partnership in exchange for Class "B" Units in the Limited Partnership as contemplated in Schedule E.

2.2 Deposit

- (a) Within 2 Business Days following the Execution Date, Empire shall pay to the Vendor a deposit in the amount of One Million Dollars (\$1,000,000) by wire transfer to the Beneficial Owner's solicitors, in trust (the "Deposit");
- (b) The Deposit shall be held by the Beneficial Owner's solicitors in trust in an interest-bearing account or term deposit, pending completion of this transaction or earlier termination of this Agreement. If the transaction contemplated in this Agreement is not completed for any reason other than the default of Empire, the entire Deposit, together with all accrued interest thereon shall forthwith be returned to Empire. If the transaction contemplated in this Agreement is not completed by reason of the default of Empire, then, the Deposit and any accrued interest thereon shall be forfeited to (and become the property of) the Beneficial Owner and thereupon be paid to the Beneficial Owner as liquidated damages (and not as a penalty) and thereafter Empire shall have no further obligations or liabilities of any nature or kind whatsoever to the Beneficial Owner. The Deposit shall be credited on account of the equity contribution of the Empire LP respecting the Closing Capital Payment on Closing and any accrued interest shall be paid directly to Empire.

2.3 Closing Capital Payment

- (a) On Closing, Empire shall make the Closing Capital Payment of \$3,000,000 to the Limited Partnership in exchange for 3,000,000 Class "B" Units of the Limited Partnership (subject to the credit respecting the Deposit) (as provided in Schedule E).
- (b) Forthwith following Closing, the Limited Partnership shall transfer the \$3,000,000 received in accordance with subparagraph (a) above to the Vendor as compensation for the Prior AP Payments.

2.4 Adjustments

The Vendor and Empire shall adjust the amount due on Closing as set out in section 2.1(d) hereof as of midnight on the day immediately preceding the Closing Date (with the Closing Date itself being for the account of Empire) on account of the following items:

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- (a) realty taxes; and
- (b) utilities.

2.5 Documents for Inspection

The Vendor shall make available to Empire within 2 Business Days from the Execution Date, electronic copies of the Documents for Inspection. In addition, the Vendor shall deliver to Empire, without cost to Empire, on or prior to Closing, reliance letters from the author/consultant of any reports contained within the Documents for Inspection (including without limitation, soil and environmental reports) forming a part of the Documents for Inspection (collectively, the "Reports") addressed to Empire and Empire's lender authorizing Empire and such lender to use and rely on such Reports if so desired (collectively, the "Reliance Letters").

2.6 Authorizations

The Vendor shall deliver to Empire within 2 Business Days from the Execution Date, such authorizations to Authorities as reasonably requested and prepared by Empire, to permit Empire to obtain information from their files (but not including or permitting any authorization to inspect the Property). Empire agrees it will not request any inspection of the Property by Governmental Authorities.

2.7 Inspections

Commencing upon the Execution Date, the Vendor agrees that Empire or its agents, shall have the right to enter the Property in order to conduct tests as may be considered necessary or desirable by Empire, provided that in so doing no damage is done to the Vendor's property. In the event of any damage, Empire agrees to repair any such damage at its own expense, in order to restore the Property to its original state.

2.8 Mortgagee Statements

The Vendor shall obtain mortgagee statements with respect to each of the Mortgages and provide same to Empire within 2 Business Days following the Execution Date.

2.9 Construction Contract Accounts Payable

- (a) The Parties acknowledge and agree that the Limited Partnership shall be responsible for all Contracts Accounts Payable whether for Assumed Contracts or Non-Assumed Contracts. The Contracts Accounts Payable shall be paid at such times as determined by the Project Manager in its absolute discretion. In addition, Empire, with co-operation from the Vendor, may seek to arrange for termination of certain Contracts without penalty, prior or subsequent to Closing;
- (b) In the event that Empire becomes aware of any unpaid Construction Contract Accounts Payable as at Closing not included in Schedule D, Empire shall be entitled to pay such amounts (the "Construction Contract Payments") and apply the amount paid to the capital contribution of Empire LP referred to in section 2.1(d)

DCC 

(other than amounts paid on account of Assumed Contracts Accounts Payable relating to Construction Contracts that are Assumed Contracts).

**ARTICLE 3
REPRESENTATIONS, WARRANTIES AND COVENANTS**

3.1 Representations and Warranties of the Vendor

The Vendor and Beneficial Owner jointly and severally represent and warrant as follows:

(a) Authority

The Vendor is a corporation duly incorporated in the jurisdiction in which it was incorporated and the Beneficial Owner is a limited partnership established in Ontario, and each are existing and in good standing under the laws of Ontario and has the power and capacity to own the Property and, subject to obtaining a Special Resolution of all of the Limited Partners at a duly convened meeting of the Limited Partners or a written resolution in one or more counterparts signed by all Limited Partners, has the power and capacity to dispose of the Property (in the case of the Vendor, on behalf of the Beneficial Owner). All necessary action, approvals and authorizations have been taken or given to authorize the execution and delivery of this Agreement and the performance of the obligations hereunder by the Vendor and the Beneficial Owner.

(b) No Breach of Constating Documents or Laws

Neither the entering into nor the delivery of this Agreement nor the completion by the Vendor of the transactions contemplated hereby will conflict with, or constitute a material default under, or result in a material violation of (i) any of the provisions of the formation documents of the Vendor or the Beneficial Owner or by-laws of the Vendor, or (ii) any Applicable Laws.

(c) Enforceability of Obligations

This Agreement has been validly executed and delivered by the Vendor and the Beneficial Owner and is a valid and legally binding obligation of the Vendor and the Beneficial Owner enforceable against the Vendor and the Beneficial Owner in accordance with its terms.

(d) Title

The Vendor is the legal and registered owner of the Property with good and marketable title thereto, free and clear of all Encumbrances except the Permitted Encumbrances.

(e) Leases

There are no Leases with respect to the Property.

(f) Non-Binding Ryerson Discussions

There are no binding agreements between the Vendor and Ryerson University with respect to the acquisition of any portion of the Property.

(g) Cessation of Work

That all work on the Building and all improvements within the meaning of the *Construction Act*, Ontario ceased on or before April 1, 2020 and will not resume prior to Closing. Any lien rights that have not been preserved or perfected as at the Closing Date will have expired prior to the Closing Date.

(h) Expropriation

Neither the Property, nor any part thereof has been expropriated nor does the Vendor have any knowledge of any proposed expropriation thereof.

(i) Accounts for Work

Except as provided in Schedule D, all accounts for work and services performed or materials placed or furnished upon or in respect of construction at the Property requested by or contracted for by or on behalf of the Vendor including all Claims, construction liens and work orders will have been fully paid by Closing.

(j) Litigation

Except as provided in the Data Room, the Vendor has not received any notice in writing that there is, nor are they aware of, any outstanding proceeding with respect to the Vendor or the Property which could adversely affect the right or ability of the Vendor to complete the Purchase of the Property in accordance with the terms of this Agreement.

(k) No Notice of Environmental Laws Violation

To the best of the Vendor's knowledge and belief, the Property is in compliance with all Environmental Laws. The Vendor has not received written notice of and has not been prosecuted for violation of any Environmental Laws, or received any order or directive requiring action to be taken under Environmental Laws which remains outstanding against it, or against any Person whose liability for same it has retained or assumed by contract or otherwise with respect to the Property and to the best of the knowledge of the directors and officers of the Vendor. In addition, no pending litigation respecting Environmental matters, no outstanding Ministry of Environment and Energy Orders, investigations, charges, or prosecutions regarding Environmental matters exist; and to the knowledge of the directors and officers of the Vendor the Property and adjacent lands have never been used as a waste disposal site, and no Hazardous Materials or contaminants have been stored on the Property.

(l) Delivery Materials

All Documents for Inspection contained in the Data Room are true and complete copies of all documents and materials referred to therein and there are no amendments thereto.

(m) Condominium Act and Documentation

Except as provided in the Data Room, the preparation of the Declaration and Description, Plan of Condominium and all of the Existing Agreements of Purchase and Sale with respect to units in the Proposed Condominium are in strict compliance with the *Condominium Act* and all regulations thereunder and the requirements of Tarion and all of the foregoing documents are included in the Documents for Inspection.

(n) No Collective Bargaining Agreements

The Vendor is not a party to nor is bound by any collective bargaining agreements or any written agreements, certification proceedings, letters of understanding, letters of intent with a trade union or association which may qualify as a trade union by which Empire shall be bound by virtue of acquiring the Property. The Vendor is not currently engaged in any labour negotiations nor is the Vendor aware of any union organization effort by any of the Employees.

(o) Resident of Canada

The Vendor is not a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act (Canada)* and is not acting as agent, trustee or nominee for or on behalf of any other Person who is a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act (Canada)*.

(p) Architectural Contracts

The architectural contracts (the "**Architectural Contracts**") with the architects respecting the Plans and any amounts payable to the architects in connection therewith are fully reflected in Schedule D as part of the Contracts Amounts Payable. The Vendor has the right to assign the Plans and the use thereof to Empire.

(q) Contracts

In addition to Architectural Contracts, all other Contracts in connection with the Proposed Condominium have been included in the Data Room.

(r) Contracts Accounts Payable

Schedule D enumerates all Contracts Accounts Payable and the statements made in section 2.9 of this Agreement are true and accurate.

PCC 

3.2 Representations and Warranties of Empire

Empire represents and warrants as follows:

(a) Authority

Empire is a corporation incorporated under the laws of Ontario and has the power and capacity to own and dispose of the Property. All necessary action, approvals and authorizations have been taken or given to authorize the execution and delivery of this Agreement and the performance of the obligations hereunder by it as Empire.

(b) No Breach of Constatng Documents or Laws

Neither the entering into nor the delivery of this Agreement nor the completion by Empire of the transactions contemplated hereby will conflict with, or constitute a material default under, or result in a material violation of (i) any of the provisions of the formation documents or by-laws of Empire, or (ii) any Applicable Laws.

(c) Enforceability of Obligations

This Agreement has been validly executed and delivered by Empire and is a valid and legally binding obligation of Empire enforceable against Empire in accordance with its terms.

3.3 Indemnity and Survival

(a) The Vendor shall indemnify Empire LP from and against any liabilities, obligations, litigation, or claims not disclosed in the Data Room, Schedule D or the representation and warranties contained in section 3.1;

(b) The representations and warranties contained in section 3.1 and 3.2 shall survive for a period of one year following the Closing Date.

3.4 Covenants Respecting Material Agreements

The Parties shall act in good faith and use reasonable efforts to agree on the form of all of the Material Agreements based on the terms contained in Schedule E, on or before the Due Diligence Date.

Empire shall provide drafts of each of the Material Agreements, in each case as a basis for discussion and negotiation as soon as reasonably possibly following the Execution Date and in any event not later than 5 Business Days from the Execution Date.

In the event that any provision of any of the Material Agreements have not been resolved by the Closing Date, the Limited Partnership shall have the right to extend the Date of Closing for periods of 30 days (not exceeding 120 days) pending resolution of any matter in dispute with respect to resolving any of the Material Agreements. Any such extended date shall thereafter be referred to as the "Date of Closing".

**ARTICLE 4
CONDITIONS****4.1 Purchaser's Conditions**

This Agreement is conditional, which conditions have been inserted for the sole benefit of Empire and which Empire alone may waive, on the following:

- (a) by the Due Diligence Date, Empire has conducted whatever searches, inspections, analysis and investigations Empire, in its sole and absolute discretion, deems advisable including, without limitation, the Permitted Encumbrances, zoning, soil tests, environmental matters, Documents for Inspection and the economic and financial feasibility of the Property and is satisfied, in its sole and absolute discretion with the results of all such searches, inspections and investigations;
- (b) the representations and warranties of the Vendor contained in section 3.1, being true in all material respects on and as of the Closing Date with the same effect as if those representations and warranties had been made on and as of the Closing Date;
- (c) all of the covenants and agreements of the Vendor to be performed on or before the Closing Date pursuant to this Agreement having been duly performed in all material respects.

4.2 Satisfaction of Purchaser's Conditions

In the event that the conditions set out in section 4.1 are not satisfied or waived in writing by Empire on or before the Due Diligence Date with respect to subparagraph (a) and on or before Closing with respect to subparagraphs (b) and (c) (collectively the "**Condition Date**"), Empire may, in its sole discretion, terminate this Agreement by notice in writing to the Vendor, whereupon this Agreement shall be terminated and neither Party shall have any further obligation or liability to the other. The conditions set forth in section 4.1 are for the sole benefit of Empire and may be waived in whole or in part by Empire by notice in writing to the Vendor on or before the relevant Condition Date. In the event Empire does not send notice in writing to the Vendor that a condition has been fulfilled on or before the relevant Condition Date, such condition shall be deemed not to be waived or fulfilled.

4.3 Vendor's Conditions

This Agreement is conditional until 5:00 p.m. on July 17, 2020 upon the Vendor obtaining a special resolution of all of the Limited Partners of the Vendor at a duly convened meeting of Limited Partners, or at any adjournment thereof, called in accordance with the terms of the governing amended and restated limited partnership agreement governing the Vendor and its limited partners, or a written resolution in one or more counterparts, signed by all Limited Partners. In the event that a Special Resolution has not been obtained within the Vendor's Conditional Period, this agreement shall be at an end and the Deposit shall be returned to Empire.

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4.4 Risk and Damage

- (a) Other than as may be herein otherwise expressly provided, all buildings on the Property shall be and remain, until completion, at the risk of the Vendor. Pending completion, the Vendor shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interest may appear and in the event of substantial damage, Empire shall take the proceeds of any insurance and complete the purchase; and
- (b) No insurance shall be transferred on the Closing Date.

4.5 Submitting Applications

Upon Empire waiving the Due Diligence Condition contained in section 4.1(a) above, provided that Empire gives the Vendor advance notice of not less than 5 Business Days and obtains the Vendor's written consent, which consent shall not be unreasonably withheld or delayed Empire on behalf of the Vendor, acting as its agent, shall have the authority to submit applications, at Empire's sole cost and expense, to various Governmental Authorities in order to further develop and improve the Property. Empire agrees to indemnify and save the Vendor harmless from and against any and all costs and expenses, including legal fees and disbursements on a solicitor and his own client basis, and from and against any and all claims, demands, actions, causes of action, liability, damages and losses arising out of or from any of the matters referred to above, including, without limitation, any applications submitted or made by Empire on behalf of the Vendor as its agent or otherwise to any Governmental Authority.

ARTICLE 5 TITLE

5.1 Title Search

Empire shall be allowed until 10 days prior to the Closing Date (the "Requisition Date") to investigate the title to the Property, to satisfy itself that the title to the Property is free and clear of all encumbrances except for the Permitted Encumbrances, and to submit any valid objections to title. If within that time any valid objection to title is made in writing to the Vendor, which the Vendor shall be unwilling or unable to remove or satisfy and which Empire will not waive, then, at the option of Empire exercisable by written notice to the Vendor, this Agreement shall, notwithstanding any intermediate acts or negotiations in respect of such objection or requisition, be automatically terminated and the Parties shall be automatically released from all obligations and liabilities hereunder. Except for any valid objection to title so made on or before the Requisition Date and except for any objection going to the root of title, Empire shall be deemed to have accepted the title to the Property. The Vendor shall discharge from Title on Closing any Encumbrance that is not a Permitted Encumbrance at its expense, failing which Empire shall be entitled to pay the amount thereof and deduct such payment from the amount otherwise payable on account of the Balance Due on Closing.

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**ARTICLE 6
CLOSING DOCUMENTS**

6.1 Vendor's Closing Documents

On Closing, the Vendor shall prepare and execute or cause to be executed and shall deliver or cause to be delivered to Empire the following:

- (a) the Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of the Vendor. If requested by Empire, the Vendor covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by clauses 50(21a) (a) and (b) of the *Planning Act*, 1990;
- (b) a certificate of the Vendor certifying that it is not a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada) and it is not acting as agent, trustee or nominee for or on behalf of any other Person who is a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada);
- (c) a certificate of the Vendor certifying that the representations and warranties of the Vendor contained in section 3.1 are true and accurate as of the Closing Date in all material respects;
- (d) a statement of Adjustments to be delivered at least 2 Business Days before Closing;
- (e) an undertaking by the Vendor to readjust the Adjustments;
- (f) the Assignment of the Plans;
- (g) the Assignment of Assumption of Contracts;
- (h) a Mortgage Statement from each of the Mortgagees;
- (i) the Reliance Letters;
- (j) the Transfer Agreement of the Property to the Limited Partnership;
- (k) the Limited Partnership Agreement and the USA;
- (l) the Advisory Agreement and resolution of the remaining Material Agreements; and
- (m) such other documents which are required pursuant to this Agreement and which Empire has reasonably requested on or before Closing to give effect to the transaction contemplated herein.

All such documentation shall be in form and substance acceptable to Empire and the Vendor, each acting reasonably and in good faith.



6.2 Empire LP Closing Documents

On Closing, the Limited Partnership or the Empire LP, as the case may be, shall execute or cause to be executed and shall deliver or cause to be delivered to the Vendor the following:

- (a) the Assignment of Plans;
- (b) the Assignment and Assumption of Contracts;
- (c) an HST Undertaking and Indemnity of Empire;
- (d) an undertaking by the Limited Partnership to readjust the Adjustments;
- (e) evidence of HST registration as provided for in section 7.3 of this Agreement;
- (f) the Transfer Agreement, the Limited Partnership Agreement and the USA;
- (g) the Advisory Agreement and the remaining Material Contracts signed by the relevant parties;
- (h) such other documents which are required pursuant to this Agreement and which the Vendor have reasonably requested on or before Closing to give effect to the transaction contemplated herein; and
- (i) Copies of Letters of Credit in favour of the City of Toronto (the "City") (the "**Replacement Letters of Credit**") in amounts equal to the Letters of Credit currently posted by the Vendor that secure obligations of the Vendor under Permitted Encumbrances with the City, together with Empire's undertaking to deliver the Replacement Letters of Credit to the City immediately following Closing in order to secure the release to the Vendor by the City of the Letters of Credit posted by the Vendor.

All such documentation shall be in form and substance acceptable to Empire and the Vendor, each acting reasonably and in good faith.

6.3 Assumed Contracts

Empire shall provide written notice to the Vendor which of the Contracts Empire wishes to assume (the "**Assumed Contracts**") on or before the Due Diligence Date. On Closing, the Vendor shall assign to the Limited Partnership all of the Assumed Contracts which assignment agreement shall provide that the Limited Partnership is responsible for all obligations and those Contracts Accounts Payable set out in Schedule D and any liabilities disclosed in the Data Room respecting the Assumed Contracts whether arising before or after Closing (the "**Assignment and Assumption of Contracts**").



6.4 Employees

- (a) Within 2 Business Days following the Execution Date, the Vendor shall deliver to Empire a current list of all employees of the Vendor relating to the Building and Proposed Condominium, if any (the “**Employees**”) together with relevant details of employment including length of service, compensation and position (the “**Employees’ List**”);
- (b) On or before the Due Diligence Date, Empire shall provide written notice to the Vendor which of the employees of the Vendor included in the Employees’ List Empire desires to retain (the “**Retained Employees**”);
- (c) On Closing, Empire shall retain the Retained Employees on the same terms as provided in the Employees’ List;
- (d) On Closing, the Vendor shall terminate the employment of all of the Employees that are not Retained Employees and the Vendor shall be responsible for all statutory and common law obligations owing to such Employees prior to or as a result of such termination.

ARTICLE 7 CLOSING ARRANGEMENTS

7.1 Closing Arrangements

The Closing of the purchase and sale, which is contemplated herein, shall be completed commencing at 3:00 o’clock in the afternoon (local time) on the Closing Date or at such other time as the Parties may mutually agree. The Closing shall take place at the offices of Empire’s solicitors or at such other place as the Parties may mutually agree.

7.2 Terms of Tender

The documents and other instruments to be delivered by the Vendor to Empire’s solicitors in accordance with section 6.1 hereof and to be delivered by Empire to the Vendor’s solicitors in accordance with section 6.2 hereof may be delivered in trust on such reasonable trust conditions as would customarily be imposed in a similar transaction in Ontario.

7.3 Taxes and Fees

On Closing, the Limited Partnership shall either remit to the Vendor all HST in respect of the sale of the Property or self-assess for the eligible HST and deliver prior to closing to the Vendor a notarial copy of its HST registration certificate and a declaration and indemnity stating that the Limited Partnership is registered under Subdivision d of Division V of Part IX of the ETA for the collection and remittance of HST. The Limited Partnership shall indemnify and save harmless the Vendor from any HST penalty, interest or other amounts which may be payable by or assessed against the Vendor under the ETA as a result of or in connection with the Vendors’ failure to collect and remit any HST applicable on the sale and conveyance of the Property by the Vendor.



7.4 DRA

If electronic registration ("E-Reg") is mandatory in the Land Titles Office in which the Property is registered, the following provisions shall prevail, namely:

- (a) Empire's solicitor and the Vendor's solicitor shall each be obliged to be authorized E-Reg users and in good standing with the Law Society of Upper Canada, and are hereby authorized by the Parties hereto to enter into a document registration agreement in the form adopted by the Joint LSUC-CBAO Committee on Electronic Registration of Title Documents on September 19, 2000 or any replacement thereof (the "DRA"), establishing the procedures and timing for completing this transaction, which DRA shall be exchanged between the Vendor's solicitor and Empire's solicitor prior to the Closing Date.
- (b) The delivery and exchange of all closing deliveries hereunder and the release thereof to the Parties hereto shall be governed by the DRA, pursuant to which each solicitor receiving any closing deliveries will be required to hold same in escrow, and will not be entitled to release same except in strict accordance with the provisions of the DRA.

ARTICLE 8 MISCELLANEOUS

8.1 Time

Time shall be of the essence of this Agreement and the transactions contemplated herein.

8.2 Tender

Any Notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement may be given or delivered and accepted or received by Empire's solicitors on behalf of Empire and by the Vendor's solicitors on behalf of the Vendor and any tender of Closing Documents and the balance payable on Closing may be made upon the Vendor's solicitors and Empire's solicitors, as the case may be.

8.3 Notice

Any notice, direction or other communication given regarding the matters contemplated by this Agreement (each a "Notice") must be in writing, sent by personal delivery, electronic mail, courier or facsimile and addressed:

- (a) to the Vendor at:

c/o Cresford Developments
Head Office
59 Hayden Street, Suite 200
Toronto, ON M4Y 0E7

Attention: David Mann, Chief Financial Officer
Email:
Facsimile:

with a copy to:

Nelligan, O'Brien, Payne LLP
50-300 O'Connor Street
Ottawa, ON K1P 6L2

Attention: Debbie Bellinger
Email: debbie.bellinger@nelliganlaw.ca
Facsimile: 1-613-238-2098

(b) to Empire at:

125 Villarboit Crescent
Vaughan, ON L4K 4K2

Attention: Daniel G. Guizzetti
Email: dgguzzetti@empirecommunities.com
Facsimile: 905-307-8103

with a copy to:

125 Villarboit Crescent
Vaughan, ON L4K 4K2

Attention: Morton G. Gross
Email: mgross@empirecommunities.com
Facsimile: 905-307-8103

A Notice is deemed to be given and received (i) if sent by personal delivery, electronic mail or same-day courier, on the date of delivery if it is a Business Day and the delivery was made prior to 5:00 p.m. (Toronto time) and otherwise on the next Business Day, (ii) if sent by overnight courier, on the next Business Day if the delivery was made prior to 5:00 p.m. (local time in place of receipt) on such Business Day and otherwise on the next Business Day, or (iii) if sent by facsimile or email, on the Business Day of confirmation of transmission by the originating facsimile if such confirmation of transmission indicates that such facsimile was received prior to 5:00 p.m. (Toronto time) on a Business Day and otherwise on the next Business Day, or in the case of email, the same Business Day when such notice is sent. A Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a Party's address that is not specifically changed in a Notice will be assumed not to be changed.

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8.4 Further Assurances

Each of the Parties hereto shall execute and deliver all such further documents and do such other things as the other Party may reasonably request in order to give full effect to this Agreement.

8.5 Assignment

Empire shall have the right at any time following the waiver of the condition in section 4.1(a) hereof of assigning the Agreement to any Affiliate or related person(s) or corporation(s), firm or partnership of person(s), and/or corporation(s) which includes Empire or an Affiliate of Empire and upon such assignment and written notice thereof to the Vendor, Empire shall be relieved of any and all obligations herein and the Vendor shall accept such assignee(s) in place and stead of Empire as if the assignee(s) were the original Purchaser herein in the first instance and upon the aforesaid assignee executing and delivering to the Vendor an agreement assuming all of the right and obligations of Empire under this Agreement in form and substance acceptable to the Vendor, acting reasonably, the aforesaid assignee(s) shall have the full right to enforce this Agreement as though it were the original Purchaser herein.

8.6 Agent or Broker

The Parties acknowledge and agree that the Broker is the sole agent that effected this transaction and the Limited Partnership shall be fully responsible for agreed upon fees with the Broker of \$250,000 and payments to the Broker in connection with this transaction.

8.7 Confidentiality

The Parties agree that this Agreement and transaction contemplated by this Agreement and any information provided by any Party to the other with respect to the Property will remain confidential between the Parties.

8.8 Exclusivity

The Vendor represents and warrants that it has not entered into and shall not prior to Closing, enter into any other agreement to sell the whole or any portion of the Property nor has it entered into any "joint venture" or other similar arrangement respecting the Property or granted an option to purchase or right of first refusal and shall not effect any of the foregoing during the existence of this Agreement.

8.9 Counterparts

This Agreement may be executed in counterparts and when each Party has executed a counterpart, each of such counterparts shall be deemed to be an original and all of such counterparts, when taken together, shall constitute one and the same agreement. This Agreement may also be executed by facsimile or email/PDF and in counterparts as hereinbefore provided in this section 8.6, provided that the Parties shall thereafter proceed in a diligent manner to deliver to the others original copies of this Agreement.

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8.10 Waiver

No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided.

8.11 Subdivision Control Legislation

This Agreement and the transactions reflected herein are subject to compliance with Section 50 of the *Planning Act* (Ontario).

8.12 Offer and Acceptance

This offer by Empire is open for acceptance by the Vendor until July 17, 2020 at 5:00 p.m. after which time, if not accepted, this Offer shall be null and void and the deposit shall be returned to Empire without interest or deduction.

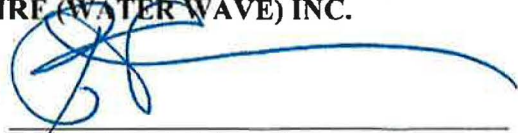
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IN WITNESS WHEREOF this Agreement has been executed as of the date hereof by the Vendor and Purchaser under the hands of their respective proper signing officers duly authorized in that behalf.

EMPIRE (WATERWAVE) INC.

Per:



Name: Daniel Guizzetti
Title: President

I have authority to bind the corporation.

YSL RESIDENCES INC.

Per:




Name:
Title:

I have authority to bind the corporation.

**YG LIMITED PARTNERSHIP, by its
General Partner, 9615334 CANADA INC.**

Per:



Name:
Title:

I have authority to bind the corporation and the corporation has the authority to bind the limited partnership.

ndc 

SCHEDULE A

THE LANDS

363 Yonge Street and 3 Gerrard Street East, Toronto

PIN 21101-0049(LT)

PT LT 31 E/S YONGE ST PL 22A TORONTO AS IN EP126440; TORONTO, CITY OF TORONTO

367 Yonge Street, Toronto

21101-0048(LT)

369 Yonge Street, Toronto

21101-0047(LT)

373 Yonge Street, Toronto

21101-0046(LT)

377 Yonge Street, Toronto

21101-0045(LT)

379 Yonge Street, Toronto

21101-0044(LT)

381 Yonge Street, Toronto

21101-0043(LT)

385 Yonge Street, Toronto

21101-0042(LT)



SCHEDULE B

PERMITTED ENCUMBRANCES

A. GENERAL

- (1) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility;
- (2) any minor easements for the supply of domestic utility or telephone services to the Property or adjacent properties;
- (3) any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present use of the Property;
- (4) any unregistered liens, or other encumbrances of any nature claimed by or held by Her Majesty the Queen in the Right of Canada or the Province of Ontario or any agency or authority under or pursuant to any applicable legislation, statute or regulation; and
- (5) all reservation, limitations, provisos, and conditions expressed in the original grant of title of the lands and premises comprising the Property from the Crown.

B. SPECIFIC

PIN 21101-0049(LT)

- (1) Instrument No. 63BA598 dated January 31, 1975, being the *Boundaries Act Plan*.
- (2) Instrument No. AT4648039 registered, August 4, 2017, being a Charge in the principal amount of \$100,000,000 between Computershare Trust Company of Canada, as Chargee, and 2502295 Ontario Inc., as Chargor.
- (3) Instrument No. AT4648040, registered August 4, 2017, being a Notice of Assignment of Rents – General between Computershare Trust Company of Canada and 2502295 Ontario Inc.
- (4) Instrument No. AT4981830, registered October 15, 2018, being an Application to Change Name-Owners from 2502295 Ontario Inc. to YSL Residence Inc.
- (5) Instrument No. AT5018709, registered November 29, 2018, being a Charge in the principal amount of \$75,000,000 between Westmount Guarantee Services Inc., as Chargee, and YSL Residence Inc., as Chargor.
- (6) Instrument No. AT5117887, registered April 23, 2019 being a Notice of Notice of an Amending Agreement dated April 10, 2019, between YSL Residences Inc. and Westmount Guarantee Services Inc. This Instrument amends the Agreement dated November 29, 2018 registered as Instrument No. AT5018709.

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- (7) Instrument No. AT5142530, registered May 24, 2019, being a Notice of a Heritage Easement Agreement dated April 16, 2019 between YSL Residences Inc. and the City of Toronto.
- (8) Instrument No. AT5142531 registered May 24, 2019, being a Postponement of Interest between Computershare Company of Canada and City of Toronto. Instrument No. AT4648039 is postponed to Instrument No. AT5142530.
- (9) Instrument No. AT5142532 registered May 24, 2019, being a Postponement of Postponement of Interest between Westmount Guarantee Services Inc. and City of Toronto. Instrument No. AT5018709 is postponed to Instrument No. AT5142530.
- (10) Instrument No. AT5157421 registered June 11, 2019, being a By-Law regarding the designation of the property at 363-365 Yonge Street as being of cultural heritage value or interest.
- (11) Instrument No. AT5246455, registered September 25, 2019, being a Notice of an Agreement dated September 13, 2019 between YSL Residences Inc. and The Corporation of the City of Toronto with respect to the Section 37 of the *Planning Act*.
- (12) Instrument No. AT5246456, registered September 25, 2019, being a Postponement of Interest between Computershare Company of Canada and City of Toronto. Instruments No. AT4648039 and AT4648040 are postponed to Instrument No. AT5246455.
- (13) Instrument No. AT5246457, registered September 25, 2019, being a Postponement of being a Postponement of Postponement of Interest between Westmount Guarantee Services Inc. and City of Toronto. Instruments No. AT5018709 and AT5117887 are postponed to Instrument No. AT5246455.
- (14) Instrument No. AT5247886, registered September 26, 2019, being a Notice of Amending Agreement dated September 25, 2019, between YSL Residences Inc. and Westmount Guarantee Services Inc. This Instrument amends the Agreement dated November 29, 2018 registered as Instrument No. AT5018709.



SCHEDULE C

LIST OF EXISTING AGREEMENTS OF PURCHASE AND SALE

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SCHEDULE D

LIST OF CONTRACTS ACCOUNTS PAYABLE

20 - TG Limited Partnership
 AP - Accounts Payable
 Summary Aged Payables List
 As of Jun30/20

Code	Supplier Name	Net A/P	Current	31-60Days	61-90Days	Over90Days	Holdback
2600924	2600924 Ontario Inc.	67,800.00	0	0	0	67,800.00	0
1JTCDO	1st Choice Disposal	8,916.81	0	0	0	8,916.81	0
AECPR	AEC Paralegal Corporation	593.25	0	0	0	593.25	0
AIMHOM	Aim Home Realty Inc	15,018.01	0	0	0	15,018.01	0
ATRBER	Aird & Berlis LLP	15,791.60	0	0	0	15,791.60	0
ALTGR	Altus Group Limited	20,959.70	0	0	0	20,959.70	0
ALUINC	AlumaSafway, Inc	46,505.15	0	0	0	46,505.15	0
AQUTEC	Aqua Tech Dewatering Company	4,125.40	0	4,125.40	0	0	0
ARCALL	Architects Alliance	1,008,914.62	0	0	0	1,008,914.62	0
BARGR	Baron Group Inc.	20,357.91	0	0	0	20,357.91	0
BACONS	BA Consulting Group Ltd.	7,918.50	0	511.32	562.11	6,844.99	0
BAYSTR	Bay Street Group Inc	45,737.98	0	0	0	45,737.98	0
BECTX	Beck Taxi	2,007.72	0	0	0	2,007.72	0
BEL908	Bell Canada	456.27	456.27	0	0	0	0
BENJON	Bennett Jones LLP	44,825.62	0	0	0	44,825.62	0
BLANCM	Blaney McMurtry LLP	100,056.60	0	0	0	100,056.60	0
BVDGR	BVDA Group Ltd.	1,130.00	0	0	0	1,130.00	0
CBSCAP	CBSC Capital Inc.	1,574.50	0	0	0	1,574.50	0
CITDOO	CityWide Door & Hardware Inc.	1,130.00	0	0	0	1,130.00	0
CITPER	The Treasurer, City of Toronto	1,074,926.00	0	334,976.00	334,976.00	404,974.00	0
CITREA	Cityscape Real Estate Ltd.	246,998.63	0	0	0	246,998.63	0
CLAREA	HomeLife Classic Realty Inc	12,478.00	0	0	0	12,478.00	0
CONELU	Re/Max Condo Plus Corp	16,358.00	0	0	0	16,358.00	0
DALLE	Dale & Lessmann LLP	982.38	0	0	0	982.38	0
DEKCORP	Dekia Corporation	0	0	0	0	0	25,000.00
ENTCOR	Entuive Corporation	5,508.75	0	0	0	5,508.75	0
ERAARC	E.R.A. Architects Inc.	46,611.21	0	0	0	46,611.21	0
FEDWIR	Federal Wireless Communicatio	4,291.74	0	0	0	4,291.74	0
FORHIL	Forest Hill Real Estate Inc	30,876.00	0	0	0	30,876.00	0
POSTINT	Poster Interactive Inc.	1,627.20	0	0	0	1,627.20	0
FOUSEA	Four Seasons Hotel Toronto	97,938.35	0	0	0	97,938.35	0
GFLINF	GFL Infrastructure Goup Inc.	3,663,177.53	0	0	0	3,663,177.53	445,803.10
HERRES	Heritage Restoration Inc	393,005.53	0	0	0	393,005.53	0
HOMFRO	HomeLife Frontier Realty Inc.	25,376.00	0	0	0	25,376.00	0
HOMLAN	HomeLife Landmark Realty Inc.	1,669,032.01	0	0	0	1,669,032.01	0
HOMSTA	Home Standards Brickstone Rea	114,566.00	0	0	14,492.00	90,066.00	0
HONGAS	Howe Gastmeier Chapnik Limite	15,342.79	0	0	0	15,342.79	0
HUNASS	Hunter & Associates Ltd.	2,923.89	0	0	0	2,923.89	0
HYDMIS	Toronto Hydro-Electric System	44,097.98	0	0	0	44,097.98	0
INNOPAR	Innocon Partnership	50,239.12	0	0	0	50,239.12	0
INVEHAR	Investments Hardware Limited	15,090.77	0	0	0	15,090.77	0
ISHERW	Isherwood	131,668.84	0	0	0	131,668.84	0
JABAST	Jablonsky, Ast and Partners	349,631.55	0	0	0	349,631.55	0
JANROS	JanetRosenberg&Studio Inc.	16,690.38	0	0	0	16,690.38	0
JDLREA	JDL Realty Inc.	20,478.00	0	0	0	20,478.00	0
JENHUG	Jensen Hughes Consulting Cana	53,898.61	0	0	19,571.19	34,317.01	0
KELWIL	Keller Williams Referred	23,036.00	0	0	0	23,036.00	0
KENREA	Century 21 Kennet Realty	53,036.00	0	0	0	53,036.00	0
KINQUA	Century 21 King's Quay Real E	37,594.00	0	0	0	37,594.00	0
KOHPEP	Kohn Pedersen Fox Associates	1,962,750.00	0	0	0	1,962,750.00	0
KRMPES	Kramer Design Associates Limi	74,184.50	0	0	0	74,184.50	0
LAMASS	Lam & Associates Ltd.	129,925.39	0	0	0	129,925.39	0
LANREA	LandpowerReal Estate Ltd.	2,256,548.90	17,919.00	0	0	2,239,530.80	0
LEAEDG	Century 21 Leading Edge Realt	10,878.00	0	0	0	10,878.00	0
LERBAT	Lerch Bates	11,500.00	0	0	0	11,500.00	0
LIVPAT	Live Patrol Inc.	11,167.00	1,364.50	4,884.50	0	7,458.00	0
LIVREA	Living Realty Inc.	98,588.00	0	0	0	98,588.00	0
MASCHO	Master's Choice Realty, Inc.	379,298.00	0	0	0	379,298.00	0
MCIPER	McIntosh Perry	218.09	0	0	0	218.09	0
MICBRO	Michael Bros. Excavating	1,582,358.80	0	0	0	1,582,358.80	155,640.00
MONTSTE	Montana Steele	73,927.91	0	0	0	73,927.91	0
MULBAN	Mulvey & Banani Lighting Inc.	29,979.91	0	0	0	29,979.91	0
MURMEC	Municipal Mechanical Contract	11,303.14	0	0	0	11,303.14	0
MYLBUR	Myles Burke	53,697.60	0	0	0	53,697.60	0

Handwritten signature

20 - YG Limited Partnership
 AP - Accounts Payable
 Summary Aged Payables List
 As of Jun30/20

Code	Supplier Name	Net A/P	Current	31-60Days	61-90Days	Over90Days	Holdback
NAPCON	Naf-Mak Contracting Inc	2,439.67	0	0	0	2,439.67	0
NEWCON	Royal LePage - New Concept	85,770.01	0	0	0	85,770.01	0
NEWWOR	HomeLife New World Realty Inc	544,355.99	0	0	0	544,355.99	0
NORAME	North American Sign Company I	2,825.00	0	0	0	2,825.00	0
ODADET	The Odan/Detech Group Inc.	6,384.90	0	0	553.7	5,831.20	0
OTICAN	Otis Canada Inc.	4,912,110.00	0	0	0	4,912,110.00	483,000.00
PETCON	PETRA Consultants Ltd.	185,969.30	0	7,112.00	0	178,856.40	0
PMSVEN	PM Sheetmetal & Ventilation	26,442.00	0	0	0	26,442.00	2,600.00
POWREA	Powerland Realty, Brokerage	10,678.00	0	0	0	10,678.00	0
PRIDEM	Priestly Demolition Inc.	374,609.80	0	0	0	374,609.80	0
PRIWAT	PricewaterhouseCoopers LLP	19,266.50	0	0	0	19,266.50	0
RAPEQU	Rapid Equipment Rental Limite	4,520.00	0	0	0	4,520.00	0
RAVSUR	R. Avis Surveying Inc.	53,757.52	0	0	0	53,757.52	0
REAENT	RE/MAX Realty Enterprises Inc	72,090.00	0	0	0	72,090.00	0
REARONE	Real One Realty Inc.	181,936.00	0	0	0	181,936.00	0
REAREA	RE/MAX Realtron Realty Inc.	28,117.97	0	0	0	28,117.97	0
RECCLE	Reco Cleaning Services	62,376.57	0	0	0	62,376.57	0
REPLIM	Reprodux Limited	724.18	113	0	0	611.18	0
RIGATH	Right At Home Realty Inc.	10,678.00	0	0	0	10,678.00	0
ROYELI	Royal Elite Realty Inc.,Broke	16,198.00	0	0	0	16,198.00	0
SAPMAN	Safeline Management Systems I	8,723.60	0	0	0	8,723.60	0
SEBSTE	Sebba Steel Construction Ltd.	86,075.49	0	0	0	86,075.49	0
SIGREA	Royal LePage - Signature Real	14,678.00	0	0	0	14,678.00	0
SOBENG	Soberman Engineering Inc	1,271.25	0	0	0	1,271.25	0
SPLCON	WSP Canada Inc.	76,063.14	0	0	2,034.00	74,029.14	0
STACON	Stantec Consulting Ltd.	4,112.14	0	0	0	4,112.14	0
STEREN	Stephenson's Rental Services	7,949.99	817.89	1,635.78	817.89	4,678.43	0
STRAGG	Strada Aggregates	27,075.99	0	0	0	27,075.99	0
TRAREA	Tradeworld RealtyInc.	67,770.00	0	0	0	67,770.00	0
ULTREA	ReMax Ultimate Realty Inc.	16,718.00	0	0	0	16,718.00	0
VASDES	V.A. Siu Design Consultants	96,050.00	0	0	0	96,050.00	0
VERSTR	Verdi Structures Inc	718,680.00	0	0	0	718,680.00	50,000.00
WESGUA	Westmount Guarantee Services	229,017.00	229,017.00	0	0	0	0
YOUREN	You-Go Rental & Sales	2,808.71	0	0	0	2,808.71	0
Total Report		24,266,807.55	249,286.66	350,225.91	383,013.37	23,284,281.61	1,162,043.10

Add: Accruals

Tariion enrollment fee 1,510,000.00

Y. Muelienbach - tieback and encroachment 1,875,000.00

Holdbacks payable 1,162,043.10

28,813,850.65

SCHEDULE E

LIMITED PARTNERSHIP AGREEMENT ("LPA") AND OTHER MATERIAL AGREEMENTS

I. LPA

- (1) The LPA shall contain 2 classes of Units, Class "A" Units and Class "B" Units.
- (2) The Class "A" Units shall be issued for \$1.00 for each Unit and have no preference payment.
- (3) 75,000,000 Class "A" Units shall be issued to the Beneficial Owner on the completion of the transfer of the Property to the Limited Partnership (the "LP").
- (4) The Class "B" Units shall have an annual 15% cumulative preference entitlement.
- (5) On Closing, 3,000,000 Class "B" Units will be issued to Empire LP in consideration of the payment of the Closing Capital Payment.
- (6) In addition, as may be agreed upon between Empire LP and the Vendor, Empire LP shall provide up to an additional \$10,000,000 in exchange for Class "B" Units (the "**additional Class "B" Units**"), the funds for which shall be utilized by the Vendor to acquire the limited partnership interests of certain of the existing investors of the Vendor in the Beneficial Owner. In such event, the number of Class "A" Units of the Vendor shall be reduced by the amount of the additional Class "B" Units (the "**Reduced Class "A" Units**").
- (7) Following Closing, Class "B" Units will be issued to Empire LP from time to time in consideration of capital contributions to the LP up to the Construction Financing Advance Date.
- (8) Subject to paragraph (9) below, if it is determined that more equity is required for the LP following the Construction Financing Advance Date, Empire LP will provide such equity in exchange for additional Class "B" Units in the LP.
- (9) It may be decided to obtain mezzanine financing in lieu of additional equity or to obtain further funds in addition to the additional equity.
- (10) The LP shall either extend the Timbercreek Mortgage (in approximately the same, greater or lesser amount), or arrange a new first construction mortgage in approximately a similar, greater or lesser amount.
- (11) The LPA shall contain a "waterfall" clause providing that Net Cash Flow (after payment of expenditures, including the fees payable to Empire's Affiliates for the agreements referred to in paragraphs II(1), II(3), the guarantee fee in paragraph II(4) below and the then existing mortgages) shall be payable in the following priority:



- (i) unpaid preference payments on the Class "B" Units to Empire (including the additional Class "B" Units);
 - (ii) repayment of capital contributed by Empire, represented by the Class "B" Units (including the additional Class "B" Units);
 - (iii) repayment of \$75,000,000 to the Beneficial Owner, represented by the Class "A" Units (minus an amount representing the Reduced Class "A" Units if any);
 - (iv) the balance will be distributed to Empire LP and the Beneficial Owner in the same ratio as the total amount of Class "B" Units (including Units for additional capital contributions to cover shortfalls and the additional Class "B" Units) bears to the 75,000,000 Class "A" Units (minus the Reduced Class "A" Units if any) of the Beneficial Owner provided that the ratio to which Empire LP shall be entitled shall not be less than 35% and the ratio to which the Beneficial Owner shall be entitled shall not exceed 65%.
- (12) All decisions respecting the Project shall be made by Empire or its Affiliate either:
- (i) as Development and Construction Manager, including by way of example, all planning matters pursuant to the *Planning Act* (Ontario), all matters relating to alteration of Plans and construction drawings, and all matters relating to construction of the Project;
 - (ii) as Sales and Marketing Manager, including by way of example, all matters relating to the marketing and sales of the condominium units;
 - (iii) all other decisions shall be made by Empire or its Affiliate as sole shareholder and nominee of directors and officers of the General Partner, including by way of example, all financial decisions, as shall be provided in the USA.

II. OTHER MATERIAL AGREEMENTS

- (1) The LP shall enter into a Development and Construction Management Agreement with ECMI LP, an Affiliate of Empire (the "**Project Manager**") for a fee of 1.25% of revenue from the Project and 4.5% of the construction hard costs.
- (2) On Closing, the Project Manager shall enter into the Advisory Contract ("**CAS**"), containing the following terms:

Casey, through a corporation to be named (the "**Advisor**") shall be contracted by the Project Manager to provide advice to the Project Manager and shall be entitled to receive \$25,000 per month as a fee during the period commencing on the Closing and ending on the registration of the condominium and the sale of the last unit until the Advisor has received a maximum of \$4,800,000. To the extent that the Advisor has received less than \$4,800,000 (the "**Differential**") as at registration of the condominium and the sale of the last unit, the Differential shall be paid to the Advisor by the Project Manager immediately following payment of item I(11)(iii) in the waterfall referred to in paragraph (11) of the provisions respecting the LPA above.

- (3) The LP shall enter into a Sales and Marketing Agreement with an Affiliate of Empire providing for a commission of 1.5% of the gross purchase price (exclusive of HST) of each of the Units plus 1.5% of the gross price for changes, upgrades, locker units, parking stalls and bicycle storage.
- (4) In the event that a guarantee of financing shall be required, Empire or its Affiliate will provide the guarantee to the full extent required by the Lender (including any required "cost overrun guarantee") for a fee of 4% annually on 65% of the amount guaranteed (the "Guarantee Agreement").

WCC 

TAB 3

**SUMMARY OF PRINCIPAL FINANCING TERMS AND CONDITIONS FOR
363-391 YONGE STREET AND 3 GERRARD STREET EAST IN TORONTO, ONTARIO
(the “Property”)**

November 12, 2020

Set forth below in this term sheet (the “**Term Sheet**”) is a summary of the principal terms and conditions for the Loan (as defined in Section 3 below). The terms and conditions outlined below have been developed solely to illustrate a basis of providing financing for the Borrowers. These terms and conditions are for discussion purposes only and do not, at this time, represent an offer of commitment to provide financing. A formal commitment would require a satisfactory due diligence review and authorization of the proposal by the Lender and shall not be established unless and until the parties execute and deliver definitive loan documentation.

1. Borrowers

- (1) YG Limited Partnership, a limited partnership formed under the laws of the Province of Manitoba and YSL Residences Inc., a corporation incorporated under the laws of Ontario (collectively, the “**Borrowers**”). The Borrowers’ liability for the Loan (as defined in Section 3 below) and all other fees, costs, obligations, liabilities and indebtedness incurred in connection with the Loan shall be joint and several.

2. Lender

- (1) Concord Properties Developments Corp. or an affiliate (the “**Lender**”).

3. Facility

- (1) Up to CDN\$100,000,000 (the “**Commitment Amount**”) committed, non-revolving mezzanine loan (the “**Loan**”).

4. Purpose

- (1) To provide financing for a new mixed-use of office, retail and residential development at 363-391 Yonge Street and 3 Gerrard Street East in Toronto, Ontario (the “**Project**”).

5. Drawdown

- (1) Each advance will be pursuant to a draw request acceptable to the Lender and supported by documentation in form and substance satisfactory to the Lender and its counsel.

6. Repayment

- (1) The Loan shall be repayable on demand made in writing by the Lender.

7. Interest Rate

- (1) Interest on advances of the Loan will accrue in Canadian dollars at the rate of 15% per annum, compounded monthly. Interest on advances of the Loan shall be calculated on the basis of the actual number of days elapsed in a 365-day year (or a 366-day year in a leap year), and payable upon repayment of the principal balance of the Loan.

8. Standby Fee

- (1) The Borrowers shall pay a standby fee on the unused portion of the Loan equal to 10% per annum, compounded monthly. The standby fee shall be calculated on the basis of the actual number of days elapsed in a 365-day year (or a 366-day year in a leap year), and payable upon repayment of the principal balance of the Loan.

9. Commitment Fee

- (1) The Borrowers shall pay to the Lender a commitment fee equal to 5% of the Commitment Amount, provided that such commitment fee shall be reduced to 2.5% of the Commitment Amount of the Loan if the Property is sold prior to commencement of construction of the Project. In consideration of the Lender's time, effort and expense of making this Term Sheet available and its commitment to the Project and the Borrowers, the commitment fee shall be fully earned upon execution of the Credit Agreement (whether or not any advances are made thereunder). The full amount of the commitment fee (5%) shall be payable from the initial advance of the Loan.

10. Project Management

- (1) The Borrowers shall appoint an affiliate of the Lender as the "**Project Manager**" for the Project pursuant to a separate agreement (the "**Project Management Agreement**"). The Project shall be branded as a "**Concord Adex Project**". The Project Manager shall manage all aspects of development, pre-sale and leasing, construction, registration and after-sales service relating to the Project.
- (2) The Project Manager shall be paid a fee for the services described in Section 10(1) in the amount and by way of installments to be determined.
- (3) On completion of the Project, the Project Manager shall be paid an additional fee equal to 60% of the Net Proceeds of the Project. The "**Net Proceeds**" of the Project shall be the profit generated by the Project after payment of (a) all Project expenses, costs, fees; (b) the repayment of the Construction Loan (as defined in Section 13(1)(i) below); (c) cash security that may be required by the Deposit Surety Lender (as defined in Section 13(1)(j) below); (d) the Loan; and, (e) appropriate cash reserves to fund warranty obligations.
- (4) For clarity, the first [**\$180**] million of Net Proceeds shall be paid to the Project Manager and the Borrower on a 50/50 basis. Net Proceeds in excess of [**\$180**] million shall be paid to the Project Manager until the ratio of 60/40 has been achieved and, thereafter, on a 60/40 basis.

11. Financing by Other Lenders

- (1) In the event that the Lender or the Borrowers are able to secure mezzanine type financing for the Project from other lenders (the "**Third Party Mezz Financing**") on terms or conditions more favourable than the terms and conditions hereof, the Borrowers shall be permitted to obtain such financing, provided that (a) the amount of the Third Party Mezz Financing shall reduce the Commitment Amount on a dollar-for-dollar basis; and (b) the Lender shall be entitled to a fee equal to the difference between the costs of the Loan provided hereunder and the costs of the Third Party Mezz Financing (with the difference in "costs" being calculated based on all fees, interests and other amounts owing under or in connection the Loan and the Third Party Mezz Financing). Such fee shall be calculated and paid to the Lender prior to the determination of Net Proceeds.

12. Loan and Security Documentation

- (1) The Borrowers shall provide the usual and customary credit and security documents for transactions of this type, together with such other security as the Lender may consider necessary or advisable in the circumstances, having regard to the transaction and the results of the due diligence. The security shall be in form and substance satisfactory to the Lender and its counsel and shall include, without limitation, the following (collectively, the “**Loan Documents**”):
- (a) credit agreement incorporating the terms and conditions outlined herein, general terms and conditions and usual and customary terms and conditions for loans of this type, which the Lender considers necessary or advisable in the circumstances (the “**Credit Agreement**”);
 - (b) site-specific general security agreement from the Borrowers providing the Lender with a security interest over all of its tangible and intangible assets, whether now owned or hereafter acquired, subject to permitted encumbrances to be agreed;
 - (c) assignments of material contracts, permits, agreements, licences, management agreements, including Project plans, specifications, permits, architectural, engineering and fixed-price contracts, to the extent required by the Lender;
 - (d) a third-ranking collateral charge/mortgage (ranking only subordinate to the charges/mortgages granted to secure the Construction Loan (as defined in Section 13(1)(i) below) and amounts owing in connection with the Deposit Insurance (as defined in Section 13(1)(j) below)) in the amount of CAD\$250,000,000 registered against title to the Property, together with a satisfactory title opinion or title insurance and certificates, declarations and documents required in connection therewith;
 - (e) a third-ranking beneficial charge/mortgage granted by the Limited Partnership;
 - (f) general assignment of rents and leases registered over the Property against title in the applicable land title office and under the *Personal Property Security Act*;
 - (g) assignment of builder’s risk insurance for full insurable value of the Project with loss payable to the Lender as mortgagee, as its interest may appear;
 - (h) the Lender shall be named as mortgagee and loss payee as its interest may appear on property insurance policies and as an additional insured on liability insurance policies;
 - (i) an environmental indemnity;
 - (j) an intercreditor agreement among the Lender, the lender providing the Construction Loan (defined below), the insurer providing the Deposit Insurance, and the Borrower in a form acceptable to the Lender;
 - (k) letter of opinion from the Borrowers’ solicitor regarding Loan Documents and addressing all customary matters;
 - (l) the Project Management Agreement; and
 - (m) such other security as the Lender may reasonably request or as advised by counsel.

13. Conditions Precedent to First Advance

- (1) Usual and customary for a transaction of this nature, each in form and substance satisfactory to the Lender and its counsel, including but not limited to:
 - (a) all Loan Documents shall have been executed and delivered to the Lender, and registered with the appropriate government authorities;
 - (b) all liens, charges/mortgages, security or other encumbrances to be granted to the Lender shall have been perfected under all applicable laws and shall rank in the priority contemplated hereunder;
 - (c) the Lender shall have been provided with evidence satisfactory to its legal counsel that the proposed use of the Property is permitted (e.g., zoning by-law, site plan agreement, building permit);
 - (d) the Lender shall have been provided with a satisfactory environmental audit of the Property prepared by an environmental consultant approved by the Lender, with results acceptable to the Lender in its sole discretion, and with such audit subject to a transmittal letter allowing the Lender to rely on the audit;
 - (e) the Lender is to provided with a satisfactory construction budget and schedule for the Project;
 - (f) the Lender is to be provided with an Accredited Appraiser Canadian Institute appraisal of the Property that has been deemed acceptable by the Lender in its sole discretion, and includes a subject to a transmittal letter allowing the Lender to rely on the appraisal;
 - (g) the Lender is to be provided with evidence of liability insurance and builder's risk insurance;
 - (h) the Lender will have completed a satisfactory site inspection of the Project.
 - (i) the Borrowers will have entered into a binding agreement for a construction loan (the "**Construction Loan**") on terms and conditions acceptable to the Lender;
 - (j) the Borrowers have entered into credit facilities with a surety company (the "**Deposit Surety Lender**") on terms acceptable to the Lender to facilitate the advance of purchasers' deposits to fund Project costs;
 - (k) an affiliate of the Lender has become the sole shareholder of 9615334 Canada Inc. and shall have appointed all of the officers and directors of 9615334 Canada Inc.; and
 - (l) such other conditions as the Lender may reasonably request or as advised by counsel.

14. Representations and Warranties

- (1) The Loan Documents shall include usual and customary representations and warranties for a transaction of this nature including but not limited to: organization and qualification, subsidiaries, authorization and validity of the Loan Documents, use of proceeds, financial reports, no material adverse change, full disclosure, intellectual property, governmental authority and licensing, title to

properties and assets, no material litigation, payment of taxes, governmental approvals, transactions with affiliates, compliance with laws (including environmental), no violation of agreements, solvency, no broker's fees, and absence of default or Event of Default. Representations and warranties shall be deemed to be repeated on each advance of the Loan.

15. Events of Default

- (1) The Loan Documents shall include usual and customary events of default for transactions of this nature, together with such other events of default as the Lender may consider to be necessary or advisable in the circumstances, subject to cure periods, materiality exceptions and qualifications to be agreed (each an “**Event of Default**”). Events of Default shall include but not be limited to the following:
 - (a) failure to pay when due any principal, interest fees or other amounts owing under the Loan Documents;
 - (b) failure to comply with financial covenants, positive covenants, negative covenants, reporting requirements or other covenants under any of the Loan Documents;
 - (c) inaccuracy of representations and warranties when made;
 - (d) cross-default to other funded debt (including the Construction Loan and the Deposit Insurance) and to the Project Management Agreement and all other agreements with the Lender and its affiliates;
 - (e) any Loan Document ceasing to be enforceable, any item of security ceasing to constitute a security interest or the nature and with the priority contemplated under the Loan Documents or the validity or enforceability of any Loan Document being disputed by the Borrower;
 - (f) termination of any material contract unless replaced on terms satisfactory to the Lender within thirty days;
 - (g) unsatisfied judgements in excess of \$100,000;
 - (h) material adverse change;
 - (i) insolvency, or commencement of voluntary or involuntary insolvency proceedings;
 - (j) appointment of a receiver; or
 - (k) change of control or ownership.

16. Expenses and Indemnification

- (1) The Borrowers shall pay:
 - (a) all reasonable costs and expenses of the Lender incurred in connection with the preparation, due diligence (including third party expenses), execution, amendment, delivery, administration of the Loan and the Loan Documents, including the reasonable fees, disbursements and other charges of counsel to the Lender, the foregoing, whether or not the transactions contemplated herein are completed; and

- (b) all out-of-pocket expenses of the Lender, including the fees, disbursements and other charges of counsel to the Lender in connection with any default or event of default or the enforcement of the Loan Documents, including in connection with workouts or restructurings.
- (2) The Borrowers agree to indemnify and hold harmless the Lender (and its affiliates and their respective officers, directors, employees, advisors and agents) from and against any loss, liability, cost or expense, including the reasonable fees, disbursements and other charges of counsel to the indemnified parties and, if a conflict of interest exists, one additional counsel to the affected indemnified parties, incurred in connection with the financing contemplated hereby or the use of proceeds of the Loan, except to the extent they result from such person's gross negligence or willful misconduct.

17. Taxes, Yield Protection and Increased Costs

- (1) All loan repayments and prepayments will be made free and clear of any taxes, withholdings or other deductions. The Borrowers will reimburse the Lender for any costs incurred by the Lender in performing its obligations under the Loan Documents resulting from any change in law, including, without limitation, any reserve or special deposit requirements or any tax or capital requirements or any change in the compliance of the Lender therewith that has the effect of increasing the cost of funding to the Lender or reducing its effective rate of return on capital.

18. Expiry Date

- (1) This Term sheet is available for acceptance until 5:00 p.m. on November 13, 2020, after which the Lender will be under no obligation to proceed with a due diligence review or authorization of the Loan and, if these steps are completed to the Lender's satisfaction, to negotiate definitive loan documentation to establish a formal commitment of the Lender.

19. Closing Date

- (1) The transactions contemplated in this Term Sheet, including the negotiation, execution and delivery of the Loan Documents, the establishment of all security required by the Credit Agreement and the satisfaction of all conditions precedent shall be completed on or before December 31, 2020, or such other date as may be agreed by the Lender in its sole discretion.

20. Governing Law

- (1) Province of Ontario and the laws of Canada applicable in such province.

21. Counterparts and Email

- (1) This Term Sheet may be executed in counterparts and transmitted by email, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

[Signature Page to follow]

**CONCORD PROPERTIES DEVELOPMENTS
CORP.**

By: 
Name: Cliff McCracken
Title: Authorized Signing Officer

**YG LIMITED PARTNERSHIP by its general
partner, 9615334 CANADA INC.**

By: _____
Name:
Title:

YSL RESIDENCES INC.

By: _____
Name:
Title:

**CONCORD PROPERTIES
DEVELOPMENTS CORP.**

By: _____
Name: Cliff McCracken
Title: Authorized Signing Officer

**YG LIMITED PARTNERSHIP by its
general partner, 9615334 CANADA INC.**

By: *Daniel Casey*
Name: *Daniel Casey*
Title: *president*

YSL RESIDENCES INC.

By: *Daniel Casey*
Name: *Daniel Casey*
Title: *president*

TAB 4

From: [Harry Fogul](#)
To: [Sapna Thakker](#); [Shaun Laubman](#); [Matt Gottlieb](#); [Alexander Soutter](#)
Subject: FW: Term Sheet - Concord loan to YG Limited Partnership
Date: March-25-21 2:31:40 PM
Attachments: [Term Sheet - Concord loan to YG Limited Partnership \(Fu\(42387126.1\).pdf\)](#)

As we previously advised you the lender that Concord was negotiating with to provide construction financing for the YSL Project did not want any Cresford entity to have an ownership interest in the project. Accordingly, the Term Sheet that was signed with Concord last November is no longer viable. In light of this fact, the e-mail below was sent to Concord's Counsel this morning.

Harry Fogul
Aird & Berlis LLP

T 416.865.7773
E hfogul@airdberlis.com

This email is intended only for the individual or entity named in the message. Please let us know if you have received this email in error. If you did receive this email in error, the information in this email may be confidential and must not be disclosed to anyone.

From: Harry Fogul
Sent: March 25, 2021 10:22 AM
To: Andrew Webster <awebster@airdberlis.com>; Trevor Crowley <tcrowley@airdberlis.com>; 'David Gruber' <GruberD@bennettjones.com>
Subject: Term Sheet - Concord loan to YG Limited Partnership

In light of the position being taken by the lender (who Concord had approached for construction financing) that it would not provide any construction financing if any Cresford entity maintained an ownership interest in the YG Limited Partnership , the Term Sheet dated November 20, 2020 , copy attached, can no longer be carried out and it is therefore null and void.

Harry Fogul
Aird & Berlis LLP

T 416.865.7773
E hfogul@airdberlis.com

This email is intended only for the individual or entity named in the message. Please let us know if you have received this email in error. If you did receive this email in error, the information in this email may be confidential and must not be disclosed to anyone.

TAB 5

From: [Harry Fogul](#)
To: [Sapna Thakker](#)
Cc: [Matt Gottlieb](#); [Shaun Laubman](#); [Alexander Soutter \(asoutter@tgf.ca\)](#)
Subject: RE: Update - YSL Residence
Date: April-12-21 4:20:27 PM
Attachments: [image001.jpg](#)

Discussions with Concord have been ongoing since the end of last week with no conclusion as yet. Timbercreek is aware of these discussions but there has been no formal extension.

Harry Fogul
Aird & Berlis LLP

T 416.865.7773
E hfogul@airdberlis.com

This email is intended only for the individual or entity named in the message. Please let us know if you have received this email in error.
If you did receive this email in error, the information in this email may be confidential and must not be disclosed to anyone.

From: Sapna Thakker
Sent: April 12, 2021 3:10 PM
To: Harry Fogul
Cc: Matt Gottlieb ; Shaun Laubman
Subject: Update - YSL Residence

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Hi Harry,

Do you have an update for us with respect to the discussions with either Concord/Timbercreek? Was there any follow-up from the events of last week?

Thanks,
Sapna

Sapna Thakker
Direct 416 642 3132
Cell 437 213 3408
sthakker@lolg.ca

Lax O'Sullivan Lisus Gottlieb LLP
Suite 2750, 145 King St W
Toronto ON M5H 1J8 Canada
T 416 598 1744 F 416 598 3730

1137

www.lolg.ca



This e-mail message is confidential, may be privileged and is intended for the exclusive use of the addressee. Any other person is strictly prohibited from disclosing, distributing or reproducing it. If the addressee cannot be reached or is unknown to you, please inform us immediately by telephone at 416 598 1744 at our expense and delete this e-mail message and destroy all copies. Thank you.

TAB 6



Corporate Profile / Profil corporatif

Date and time of Corporate Profile (YYYY-MM-DD)	2021-06-09 8:50 AM	(AAAA-MM-JJ) Date et heure du Profil corporatif
--	--------------------	--

CORPORATE INFORMATION		RENSEIGNEMENTS CORPORATIFS
Corporate name	Dénomination	
	9615334 Canada Inc.	
Corporation number	961533-4	Numéro de société ou d'organisation
Business number	785322728RC0001	Numéro d'entreprise
Governing legislation	Régime législatif	
	<i>Canada Business Corporations Act (CBCA) - 2016-02-03</i> <i>Loi canadienne sur les sociétés par actions (LCSA) - 2016-02-03</i>	
Status	Statut	
	Active	
	Active	

REGISTERED OFFICE ADDRESS	ADRESSE DU SIÈGE
	59 Hayden Street, 2nd Floor Toronto ON M4Y 0E7 Canada

ANNUAL FILINGS	DÉPÔTS ANNUELS
Anniversary date (MM-DD)	02-03 (MM-JJ) Date anniversaire
Filing period (MM-DD)	02-03 to/au 04-03 (MM-JJ) Période de dépôt
Status of annual filings	Statut des dépôts annuels
	Filed 2021 Déposé
	Filed 2020 Déposé
	Filed 2019 Déposé
Date of last annual meeting (YYYY-MM-DD)	2019-06-30 (AAAA-MM-JJ) Date de la dernière assemblée annuelle
Type	Type
	Non-distributing corporation with 50 or fewer shareholders
	Société n'ayant pas fait appel au public et comptant 50 actionnaires ou moins

DIRECTORS		ADMINISTRATEURS
Minimum number	1	Nombre minimal
Maximum number	5	Nombre maximal
Current number	1	Nombre actuel
DANIEL C. CASEY	141 RIVERVIEW DRIVE, TORONTO ON M4N 3C6, Canada	

CORPORATE HISTORY		HISTORIQUE CORPORATIF
Corporate name history (YYYY-MM-DD)		(AAAA-MM-JJ) Historique de la dénomination
2016-02-03 to present / à maintenant	9615334 Canada Inc.	
Certificates issued (YYYY-MM-DD)		(AAAA-MM-JJ) Certificats émis
Certificate of Incorporation	2016-02-03	Certificat de constitution en société
Certificate of Amendment	2016-02-11	Certificat de modification
Amendment details: Province or Territory of Registered Office		Renseignements concernant les modifications aux statuts : Province ou territoire du siège social
Amendments details are only available for amendments effected after 2010-03-20. Some certificates issued prior to 2000 may not be listed.		Seuls les renseignements concernant les modifications effectuées après 2010-03-20 sont disponibles. Certains certificats émis avant 2000 pourraient ne pas être listés.
Documents filed (YYYY-MM-DD)		(AAAA-MM-JJ) Documents déposés

The Corporate Profile sets out the most recent information filed with and accepted by Corporations Canada as of the date and time set out on the Profile.	Le Profil corporatif fait état des renseignements fournis et acceptés par Corporations Canada à la date et à l'heure indiquées dans le profil.
--	---

TAB 7

Request ID: 026274643
 Transaction ID: 79557672
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2021/06/09
 Time Report Produced: 08:28:15
 Page: 1

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
2027336	CRESFORD CAPITAL CORPORATION	2003/05/29
		Jurisdiction
		ONTARIO
		Former Jurisdiction
		NOT APPLICABLE
Corporation Type	Corporation Status	
ONTARIO BUSINESS CORP.	ACTIVE	
Registered Office Address		Date Amalgamated
59 HAYDEN STREET 2ND FLOOR TORONTO ONTARIO CANADA M4Y 0E7		NOT APPLICABLE
		Amalgamation Ind.
		NOT APPLICABLE
		New Amal. Number
		NOT APPLICABLE
		Notice Date
		NOT APPLICABLE
		Letter Date
		NOT APPLICABLE
Mailing Address		Revival Date
59 HAYDEN STREET 2ND FLOOR TORONTO ONTARIO CANADA M4Y 0E7		NOT APPLICABLE
		Continuation Date
		NOT APPLICABLE
		Transferred Out Date
		NOT APPLICABLE
		Cancel/Inactive Date
		NOT APPLICABLE
		EP Licence Eff.Date
		NOT APPLICABLE
		EP Licence Term.Date
		NOT APPLICABLE
		Date Commenced in Ontario
		NOT APPLICABLE
		Date Ceased in Ontario
		NOT APPLICABLE
		Number of Directors
		Minimum
		Maximum
		00001
		00010
		Date Commenced in Ontario
		NOT APPLICABLE
		Date Ceased in Ontario
		NOT APPLICABLE
Activity Classification		
NOT AVAILABLE		

Request ID: 026274643
 Transaction ID: 79557672
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2021/06/09
 Time Report Produced: 08:28:15
 Page: 2

CORPORATION PROFILE REPORT

Ontario Corp Number

2027336

Corporation Name

CRESFORD CAPITAL CORPORATION

Corporate Name History

CRESFORD CAPITAL CORPORATION

Effective Date

2003/05/29

Current Business Name(s) Exist:

NO

Expired Business Name(s) Exist:

YES - SEARCH REQUIRED FOR DETAILS

Administrator:

Name (Individual / Corporation)

DANIEL
 C.
 CASEY

Address

141 RIVERVIEW DRIVE

TORONTO
 ONTARIO
 CANADA M4N 3C6

Date Began

2003/05/29

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Request ID: 026274643
Transaction ID: 79557672
Category ID: UNE

Province of Ontario
Ministry of Government Services

Date Report Produced: 2021/06/09
Time Report Produced: 08:28:15
Page: 3

CORPORATION PROFILE REPORT

Ontario Corp Number

2027336

Corporation Name

CRESFORD CAPITAL CORPORATION

Administrator:**Name (Individual / Corporation)**

DANIEL
C.
CASEY

Address

141 RIVERVIEW DRIVE

TORONTO
ONTARIO
CANADA M4N 3C6

Date Began

2003/05/29

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

PRESIDENT

Resident Canadian

Y

Administrator:**Name (Individual / Corporation)**

TED
DOWBIGGIN

Address

121 SUMMERHILL AVENUE

TORONTO
ONTARIO
CANADA M4T 1B1

Date Began

2003/05/29

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

SECRETARY

Resident Canadian

Request ID: 026274643
Transaction ID: 79557672
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2021/06/09
Time Report Produced: 08:28:15
Page: 4

CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

2027336

CRESFORD CAPITAL CORPORATION

Last Document Recorded

Act/Code	Description	Form	Date
CIA	CHANGE NOTICE	1	2019/08/02

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

TAB 8

Request ID: 026274648
 Transaction ID: 79557682
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2021/06/09
 Time Report Produced: 08:28:31
 Page: 1

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
2502295	YSL RESIDENCES INC.	2016/01/28
		Jurisdiction
		ONTARIO
		Former Jurisdiction
		NOT APPLICABLE
Corporation Type	Corporation Status	
ONTARIO BUSINESS CORP.	ACTIVE	
Registered Office Address		Date Amalgamated
59 HAYDEN STREET 2ND FLOOR TORONTO ONTARIO CANADA M4Y 0E7		NOT APPLICABLE
		Amalgamation Ind.
		NOT APPLICABLE
		New Amal. Number
		NOT APPLICABLE
		Notice Date
		NOT APPLICABLE
		Letter Date
		NOT APPLICABLE
Mailing Address		Revival Date
59 HAYDEN STREET 2ND FLOOR TORONTO ONTARIO CANADA M4Y 0E7		NOT APPLICABLE
		Continuation Date
		NOT APPLICABLE
		Transferred Out Date
		NOT APPLICABLE
		Cancel/Inactive Date
		NOT APPLICABLE
		EP Licence Eff.Date
		NOT APPLICABLE
		EP Licence Term.Date
		NOT APPLICABLE
		Date Commenced in Ontario
		NOT APPLICABLE
		Date Ceased in Ontario
		NOT APPLICABLE
		Number of Directors
		Minimum
		Maximum
		00001
		00010
		Date Commenced in Ontario
		NOT APPLICABLE
		Date Ceased in Ontario
		NOT APPLICABLE
Activity Classification		
NOT AVAILABLE		

Request ID: 026274648
Transaction ID: 79557682
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2021/06/09
Time Report Produced: 08:28:31
Page: 2

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
2502295	YSL RESIDENCES INC.

Corporate Name History	Effective Date
YSL RESIDENCES INC.	2018/10/03
2502295 ONTARIO INC.	2016/01/28

Current Business Name(s) Exist:	NO
Expired Business Name(s) Exist:	NO

Administrator: Name (Individual / Corporation)	Address
DANIEL C. CASEY	141 RIVERVIEW DRIVE TORONTO ONTARIO CANADA M4N 3C6

Date Began	First Director	
2016/01/28	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
DIRECTOR		Y

Request ID: 026274648
Transaction ID: 79557682
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2021/06/09
Time Report Produced: 08:28:31
Page: 3

CORPORATION PROFILE REPORT

Ontario Corp Number

2502295

Corporation Name

YSL RESIDENCES INC.

Administrator:**Name (Individual / Corporation)**

DANIEL
C.
CASEY

Address

141 RIVERVIEW DRIVE

TORONTO
ONTARIO
CANADA M4N 3C6

Date Began

2017/08/04

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

PRESIDENT

Resident Canadian

Y

Request ID: 026274648
Transaction ID: 79557682
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2021/06/09
Time Report Produced: 08:28:31
Page: 4

CORPORATION PROFILE REPORT

Ontario Corp Number

2502295

Corporation Name

YSL RESIDENCES INC.

Last Document Recorded

Act/Code Description

Form

Date

CIA CHANGE NOTICE

1

2020/01/20 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

TAB 9

Request ID: F/00001/142
 Transaction ID: 79563620
 Category ID: UN/E

Province of Ontario
 Ministry of Government Services

Date Report Produced: 2021/06/09
 Time Report Produced: 11:42:56
 Page: 1

LIMITED PARTNERSHIPS REPORT EXPIRED RECORD

Firm name registered under the *Limited Partnerships Act*

YG LIMITED PARTNERSHIP

Business Identification Number

260160361

Business Type

LIMITED PARTNERSHIP

Mailing Address

59 HAYDEN ST
 No. 200
 TORONTO
 ONTARIO
 CANADA, M4Y 0E7

General Nature of Business

REAL ESTATE INVESTMENT

Declaration Date

2016/02/12

Renewal Date

NOT APPLICABLE

Last Document Filed

CHANGE

Last Document Filed Date

2020/03/24

Former Names

NOT APPLICABLE

Address of Principal Place of Business in Ontario

59 HAYDEN ST
 No. 200
 TORONTO
 ONTARIO
 CANADA, M4Y 0E7

Jurisdiction of Formation

MANITOBA

Expiry Date

2021/02/11

Change Date(s)

2020/03/24

Dissolution/Withdrawal Date

NOT APPLICABLE

Current Partnership Business Names Exist:

NO

Expired Partnership Business Names Exist:

NO

Date of Name Change

Request ID: F/00001/142
Transaction ID: 79563620
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2021/06/09
Time Report Produced: 11:42:56
Page: 2

LIMITED PARTNERSHIPS REPORT EXPIRED RECORD

Firm name registered under the *Limited Partnerships Act*

YG LIMITED PARTNERSHIP

Business Identification Number

260160361

Business Type

LIMITED PARTNERSHIP

Information Regarding General Partner(s)

Name (Individual/Corporation/Other)

9615334 CANADA INC.

Corporate Number: 1951089

Address

59 HAYDEN ST

No. 200
TORONTO
ONTARIO
CANADA, M4Y 0E7

Name of Signatory

CASEY, DANIEL C.

Power of Attorney

NO

Former Limited Partnership Names will only be displayed for Declarations registered on or after April 1, 1994.

This Report sets out expired registration information recorded in the Ontario Business Information System as of the expiration date.

2504670 CANADA INC. et al.
Applicants

-and-
Respondents

CRESFORD CAPITAL CORPORATION et al.

Court File No. CV-21-006661386-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

CROSS-EXAMINATION BRIEF

LAX O'SULLIVAN LISUS GOTTLIEB LLP
Suite 2750, 145 King Street West
Toronto ON M5H 1J8

Matthew P. Gottlieb LSO#: 32268B
mgottlieb@lolg.ca
Tel: 416 644 5353

Shaun Laubman LSO#: 51068B
slaubman@lolg.ca
Tel: 416 360 8481

Sapna Thakker LSO#: 68601U
sthakker@lolg.ca
Tel: 416 642 3132

Lawyers for the Applicants

Appendix “Q”

Murtaza Tallat

From: Niall Finnegan <niall@finneganmarshall.com>
Sent: June 12, 2021 8:55 PM
To: Mitch Vininsky
Cc: Murtaza Tallat; Bobby Kofman
Subject: FW: FM Report
Attachments: 2021 06 11 - Cross-Examination Brief.PDF

Mitch – I was not provided with any of the documents noted below for GFI/Empire or Concord. I have reviewed them now and advise that nothing within these documents changes my analysis or conclusions.

Thanks Niall

NIALL FINNEGAN
FINNEGAN-MARSHALL INC.
W: [416-929-0006 ext. 101](tel:416-929-0006) M: [416-270-9109](tel:416-270-9109)

From: Mitch Vininsky <mvininsky@ksvadvisory.com>
Sent: June 12, 2021 5:08 PM
To: Niall Finnegan <niall@finneganmarshall.com>
Cc: Bobby Kofman <bkofman@ksvadvisory.com>; Murtaza Tallat <mtallat@ksvadvisory.com>
Subject: FM Report

One group of the limited partners inquired if you had been provided with an LOI from GFL, an APS from Empire and a term sheet from Concord (all attached) as part of your review. We think the answer is not but please confirm.

If you were not provided with these when you prepared your report then can you review them and advise if the information in these three documents alters your analysis and your conclusions on the on the value of the project? For your reference, we were advised by Cresford that “the GFL/LOI proceeded to the provision of due diligence information by the General Partner and then no response from GFL. The Empire APS was terminated because the Limited Partners would not accept the return of their capital plus 12.25% interest to closing as they wanted the return of double their capital as provided in the YG Limited Partnership Agreement, which was to be paid from profits at the end of the project. The Concord original deal did not proceed as Otera Capital Inc. who was going to provide the construction financing would not proceed unless Concord became the owner of the YSL Project”.

Feel free to call me if you want to discuss this or the other request.



Mitch Vininsky
Managing Director

T 416.932.6013
M 416.254.4912
W www.ksvadvisory.com

12



**Fourth Report to Court of
KSV Restructuring Inc. as Proposal
Trustee of YG Limited Partnership and
YSL Residences Inc.**

July 15, 2021

Contents		Page
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1.1	Purposes of this Report	2
1.2	Currency	2
1.3	Definitions	3
1.4	Restrictions	3
2.0	Background	3
3.0	Creditors	4
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3.2	Conditional Claims	6
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3.4	Related Party Claims.....	7
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4.1	Further Revisions – Third Amended Proposal V2	10
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6.0	Conclusion and Recommendation	11

Appendices

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Interim Decision dated July 2, 2021	A
Third Amended Proposal.....	B
Equity Offer.....	C
Third Report of the Proposal Trustee (without appendices).....	D
Email from the Proposal Trustee’s counsel to counsel for the Consenting Lienholders.....	E
Schedule of Potential Distributions to Affected Creditors	F
Third Amended Proposal V2	G
Blackline Comparison of the Third Amended Proposal to the Third Amended Proposal V2.....	H

COURT FILE NO.: 31-2734090

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

FOURTH REPORT TO COURT OF
KSV RESTRUCTURING INC. AS PROPOSAL TRUSTEE

JULY 15, 2021

1.0 Introduction

1. This report (“Report”) is filed by KSV Restructuring Inc. (“KSV”) in its capacity as proposal trustee (the “Proposal Trustee”) in connection with Notices of Intention to Make a Proposal (“NOIs”) filed on April 30, 2021 (the “Filing Date”) by YG Limited Partnership (the “Partnership”) and YSL Residences Inc. (“Residences”, and together with the Partnership, the “Companies”), pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”).
2. On May 14, 2021, the Ontario Superior Court of Justice (Commercial List) (the “Court”) issued an order (the “Consolidation Order”) procedurally and substantively consolidating the NOI proceedings of the Partnership and Residences (the “NOI Proceedings”) for the purpose of simplifying the administration of the NOI Proceedings, including the filing of a joint proposal and convening a single meeting of creditors.
3. The principal purpose of these proceedings is to create a stabilized environment to allow the Companies to present a proposal that provides creditors with a recovery greater than they would receive in a bankruptcy or alternative insolvency process.
4. On May 27, 2021, the Companies filed a proposal with the Official Receiver in accordance with Section 62(1) of the BIA (the “Proposal”). A Certificate of Filing a Proposal (the “Certificate”) was issued by the Office of the Superintendent of Bankruptcy (Canada) (“OSB”) on May 28, 2021. On June 3, 2021, the Companies filed an amended proposal to include Conditional Claims (as defined therein) and make other clarifications to the Proposal (the “First Amended Proposal”). On June 15, 2021, the Companies filed another amendment to the First Amended Proposal, which narrowed the scope of the releases in the First Amended Proposal (the “Second Amended Proposal”).

5. Pursuant to a meeting of creditors held on June 15, 2021 (the “Creditors’ Meeting”), the creditors voted to accept the Second Amended Proposal. The Companies sought Court approval of the Second Amended Proposal at a Court hearing scheduled at 10:00 a.m. on June 23, 2021.
6. Pursuant to the Reasons for Interim Decision of the Court made on June 29, 2021, as amended on July 2, 2021 (the “Interim Decision”), the Court did not approve the Second Amended Proposal in the form that it was presented. The Court hearing for the approval of the Second Amended Proposal, if amended in light of the Interim Decision, was scheduled for 10:00 a.m. on July 9, 2021 to allow the Companies time to address the Court’s findings in the Interim Decision and, should they wish, to present a further amended proposal for the Court’s consideration. A copy of the Interim Decision is provided in Appendix “A”.
7. At approximately 8:00 a.m. on July 9, 2021, Concord Properties Developments Corp., the sponsor of the proposals filed in these proceedings (the “Sponsor”), served a further amended proposal (the “Third Amended Proposal”) and an offer (the “Equity Offer”) of distributions to be made outside of the Third Amended Proposal by the Sponsor to any equityholders of the Partnership (the “Equityholders”) willing to accept such Offer. Copies of the Third Amended Proposal and the Equity Offer are provided in Appendices “B” and “C”, respectively.
8. Pursuant to Section 3.03 of the Second Amended Proposal and the Third Amended Proposal, the Companies require the consent of the Proposal Trustee to file the Third Amended Proposal. The Proposal Trustee did not have the time it required to review the Third Amended Proposal prior to the July 9, 2021 hearing. Accordingly, the Court granted a further adjournment to July 16, 2021 to provide time for the Proposal Trustee to consider the Third Amended Proposal and for the Proposal Trustee to present a recommendation to the Court.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Companies;
 - b) summarize the key differences among the Second Amended Proposal, the Third Amended Proposal and a further revised Third Amended Proposal (the “Third Amended Proposal V2”);
 - c) summarize the Equity Offer; and
 - d) provide the Proposal Trustee’s recommendation to the Court that it approve the Third Amended Proposal V2.

1.2 Currency

1. All currency references in this Report are to Canadian dollars.

1.3 Definitions

1. Capitalized terms not defined in the Report have the meanings provided to them in the Third Amended Proposal.

1.4 Restrictions

1. In preparing this Report, the Proposal Trustee has relied upon unaudited financial information prepared by the Companies' representatives, the Companies' books and records and discussions with representatives of the Companies, the Sponsor and Concord Adex Inc. ("Concord"), an entity related to the Sponsor.
2. The Proposal Trustee has not performed an audit or other verification of the financial and other information provided to it. An examination of the Companies' financial forecasts as outlined in the Chartered Professional Accountants of Canada Handbook has not been performed. Future oriented financial information relied upon in this Report is based on the Companies' and Concord's assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Proposal Trustee expresses no opinion or other form of assurance with respect to the accuracy of any financial information relied upon by the Proposal Trustee in its preparation of this Report.
3. Any sale, restructuring and/or realization process for the YSL Project (as defined in Section 2.1 below) could be affected by the Covid-19 pandemic and the effect of the pandemic on any such process cannot be predicted or projected at this time.

2.0 Background

1. Information regarding, among other things, the Companies, the real estate project being developed by the Companies known as Yonge Street Living Residences (the "YSL Project"), the history of this proceeding, applications by certain of the Partnership's limited partners (the "LPs") and the prior proposals filed in this proceeding is included in the Proposal Trustee's reports to Court and other materials filed with the Court and is therefore not repeated herein.
2. Court materials filed in these proceedings are available on the Proposal Trustee's website at <https://www.ksvadvisory.com/insolvency-cases/case/yq-limited-partnership>.

3.0 Creditors

1. A summary of the Companies' liabilities based on its books and records as of the date the Proposal was filed, with interest projected on secured creditor claims to June 30, 2021, was included in the Proposal Trustee's Third Report to Court dated June 18, 2021 (the "Third Report"). A copy of the Third Report, without appendices, is provided in Appendix "D". For convenience, that summary is presented below.

(\$000) Creditors	Amounts
Secured Creditors/Mortgagees	
Timbercreek	106,799
Westmount	112,446
2576725 Ontario	30,865
City of Toronto – property taxes	729
Total Secured Creditors	250,839
Other Creditors and Related Party Creditors	
Construction Lien Claimants	11,865
Third party unsecured creditors	13,043
Related Party Creditors	38,274
Other Creditors and Related Party Creditors	63,182
Total	314,021

2. A summary of the claims filed in these proceedings as of the date of this Report is provided below¹.

Creditor		Amount (\$000)
Affected Creditor Claims		
Construction Lien Claims	1	11,579
Potential broker claims	2	13,198
Contingent Claims	3	22,058
Third party unsecured claims - other	4	7,013
Related Party Claims	5	38,284
Total Affected Creditor Claims, before adjustments		92,132
Less: Construction Lien Claims	1	(11,579)
Less: Related Party Claims	5	(38,284)
Total Affected Creditor Claims		42,269

Notes

1. Discussed further in Section 3.1 below.
2. Represents broker claims, a portion of which were filed as Conditional Claims (approximately \$1 million), as discussed further in Section 3.2 below, and a portion of which appear to be recorded in the Companies' books and records (approximately \$4.85 million).
3. Represents the claims filed by Maria Athanasoulis and five employees represented by Naymark Law. Contingent Claims are discussed further in Section 3.3 below.
4. Represents all other unsecured claims filed by third party creditors, including Convenience Creditor Claims (\$128,000) and certain Conditional Claims (approximately \$1.1 million).
5. Discussed further in Section 3.4 below.

¹ Certain of the claims filed remain subject to further review and determination by the Proposal Trustee.

3.1 Construction Lien Claims

1. The claims received as of the date of this Report include approximately \$11.6 million from Construction Lien Creditors. As described in Section 4.10 of the Third Report, Concord advised the Proposal Trustee that certain of the Companies' creditors, including nearly all of the Construction Lien Creditors, had conditionally agreed to assign their claims to the Sponsor or to an affiliate of the Sponsor (the "Claim Assignment Agreement") in the context of the Second Amended Proposal. Concord further advised that one of the conditions of the Claim Assignment Agreement is that a Construction Lien Creditor that has entered into a Claim Assignment Agreement with the Sponsor (a "Consenting Lienholder") shall file its Claim as an Affected Creditor Claim under the Second Amended Proposal, as opposed to being treated as a Construction Lien Claim, which is an Unaffected Claim under the Second Amended Proposal. All but three of the creditors with construction lien claims had entered into Claim Assignment Agreements prior to the Creditors' Meeting.
2. Pursuant to the Interim Decision, the Court rejected the proposed treatment of Construction Lien Claims as Affected Creditor Claims. As a result, Section 5.01 (c) of the Third Amended Proposal was revised to provide as follows:

"The Proposal Sponsor shall effect payments to Consenting Lienholders outside of the Proposal in accordance with the terms of applicable agreements between such Consenting Lienholders and the Proposal Sponsor and shall, upon request, provide the Proposal Trustee with proof of such payments."
3. The Proposal Trustee expressed a concern that, under the Third Amended Proposal: a) Consenting Lienholders could, depending on the terms of their Claim Assignment Agreement, recover less than Affected Creditors² if Affected Creditor Claims are less than the Affected Creditor Cash Pool; and b) Consenting Lienholders were being bound by the Claim Assignment Agreement whereas there was no similar requirement for unsecured creditors also subject to Claim Assignment Agreements. Accordingly, the Proposal Trustee's counsel wrote to counsel representing the Consenting Lienholders to determine their position on the Third Amended Proposal. A copy of the email from the Proposal Trustee's counsel to counsel for the Consenting Lienholders is provided in Appendix "E". As of the date of this Report: Counsel representing 12 of the 15 Consenting Lienholders responded and confirmed their support for the Third Amended Proposal; three Consenting Lienholders did not respond and no Consenting Lienholder is opposed.
4. Subsequent to such correspondence, the Companies and the Sponsor agreed to, among other things, revise the Third Amended Proposal to treat all Construction Lien Claims as Unaffected Claims, the implication being that payments to Consenting Lienholders and Non-Consenting Lienholders will be made outside of the Third Amended Proposal V2 in accordance with the applicable Claims Assignment Agreements, as applicable, or otherwise dealt with in accordance with applicable laws.

² Being general unsecured creditors.

3.2 Conditional Claims

1. Conditional Claims include, but are not limited to, any Claim of an Affected Creditor that is not a Proven Claim as at the Filing Date because one or more conditions precedent to establish such Affected Creditor's entitlement to payment by the Companies had not been completed in accordance with any applicable contractual terms as at the Filing Date, and such Affected Creditor has indicated in its proof of claim that the Claim should be treated as a Conditional Claim. This provision is primarily intended to deal with real estate brokers who are potentially owed commissions from the Companies for the sale of condominium units, but for which the terms entitling them to payment have not yet been satisfied by such brokers.
2. Pursuant to the Second Amended Proposal, Conditional Creditors had until 5:00 pm (Toronto Time) on September 13, 2021³ (the "Conditional Claim Completion Deadline") to complete or otherwise satisfy all outstanding pre-conditions to payment in accordance with the terms of the applicable agreement between such Affected Creditor and the Companies (the "Conditional Claim Conditions") and provide proof of such completion to the Proposal Trustee.
3. As of the date of this Report, the Proposal Trustee has received 11 claims in the aggregate amount of \$2.1 million which meet the definition of Conditional Claims. All of these claims were filed by real estate brokers in respect of unpaid commissions on condominium sales where one or more conditions precedent remain outstanding (such as proof of financing or payment of deposits). If these brokers are unable to satisfy the Conditional Claim Conditions, the quantum of the total Affected Creditor Claims will decrease. Certain brokers filed claims without indicating in their proof of claim that the Claim should be treated as a Conditional Claim. The Proposal Trustee may treat those Claims as Conditional Claims if it determines that they should have been filed on that basis.

3.3 Contingent Claims

1. Contingent Claims totalling \$22.1 million were filed by former employees of the Cresford Group of Companies ("Cresford"), affiliates of the Companies. The employees have advanced claims alleging that the Companies are a common employer in respect of, *inter alia*, wrongful dismissal, unpaid bonuses, commissions and profit sharing.
2. Maria Athanasoulis, Cresford's former President and Chief Operating Officer filed the most significant claim. Ms. Athanasoulis' claim is in the amount of \$19 million and is related to a Statement of Claim she filed on January 21, 2020 against the Companies, other Cresford affiliates and Dan Casey, the founder of Cresford (the "Athanasoulis Claim"). The Athanasoulis Claim is in respect of, among other things, allegations of:
 - a) wrongful dismissal, in the amount of \$1 million; and

³ As set out in Section 4.1 of this Report, this date has been extended to September 27, 2021.

- b) damages in the amount of \$18 million for breach of an oral agreement that the owner of each Cresford project, including the YSL Project, would pay Ms. Athanasoulis 20% of the profits earned on each project (the “Profit Sharing Agreement”).
3. In addition to the claim filed by Ms. Athanasoulis, five employees, each of whom is represented by Naymark Law (“Naymark”), filed claims totaling \$3.1 million⁴ (the “Cresford Employee Claims”). These claims were treated as Contingent Claims in unliquidated amounts although there was some basis for valuing certain of these Contingent Claims for voting purposes at the Creditors’ Meeting.
4. For reasons described in Section 4.4 of the Third Report, the Proposal Trustee found the Athanasoulis Claim to be too speculative to be admitted for voting purposes. The Proposal Trustee partially allowed two of the five Cresford Employee Claims to be admitted for voting purposes, in the aggregate amount of \$413,000. Pursuant to the Interim Decision, the Court agreed with the Proposal Trustee’s treatment of these claims for Voting Purposes at the Creditors’ Meeting.

3.4 Related Party Claims

1. Cresford (Rosedale) Developments Inc. (“Cresford Rosedale”), East Downtown Redevelopment Partnership (“EDRP”) and Oakleaf Consulting Ltd. (“Oakleaf” and together with Cresford Rosedale and EDRP, the “Related Party Creditors”) are entities within the Cresford Group that are related to the Companies. The Companies’ books and records reflect that the Related Party Creditors are presently owed approximately \$38.3 million in respect of amounts that they have collectively advanced to the Companies or expenses that they funded on the Companies’ behalf (the “Related Party Claims”).
2. The LPs, and Goodmans LLP on behalf of Ms. Athanasoulis, raised concerns regarding the Related Party Claims, including that the amounts owing to the Related Party Creditors should be treated as equity.
3. In Section 4.5 of the Third Report, the Proposal Trustee provided a summary of its due diligence performed on the Related Party Claims, advised that it had not completed its review of the Related Party Claims and marked the claims disputed for voting purposes at the Meeting.
4. Pursuant to the Interim Decision, the Court concluded that “the related party advances must be considered as equity claims for the purpose of this motion at least. Virtually all indicators reviewed point towards equity and there is little to no evidence leaning the other way.”.
5. In light of the findings in the Interim Decision, the Third Amended Proposal and the Third Amended Proposal V2 provide that the Related Party Claims are deemed to be Equity Claims and are therefore not included as Affected Creditor Claims, as discussed further below in Section 4.

⁴ The Cresford Employee Claims revised their aggregate claim amounts from \$3.7 million to \$3.1 million on June 21, 2021.

4.0 The Third Amended Proposal

1. The Companies and the Sponsor drafted the Third Amended Proposal to address the issues set out in the Interim Decision. These issues include, among other things, the treatment and classification of creditors holding liens registered against title to the YSL Project, the claims of the Related Party Creditors and the mechanics relating to the funds to be made available to satisfy Affected Creditor Claims.
2. A table comparing the material changes in the Third Amended Proposal versus the Second Amended Proposal is presented below.

Proposal Term	Second Amended Proposal	Third Amended Proposal
Cash pool for Affected Creditors	<p><u>Proposal Fund Amount:</u> represents a cash pool for the lesser of:</p> <p>i) the amount necessary to pay each Affected Creditor 58% of the face value of its claim; and</p> <p>ii) an amount sufficient to pay each Affected Creditor its pro rata share of \$37.7 million.</p> <p><u>Residual:</u> any residual amount in the Proposal Fund in respect of the reserve for Disputed Claims after final distributions to Affected Creditors is to be returned to the Sponsor.</p>	<p><u>Affected Creditor Cash Pool:</u> represents a cash pool in the amount of \$30.9 million to be distributed pro rata to Affected Creditors with Affected Creditor Claims.</p> <p><u>Residual:</u> in the event that any residual amount remains in the Affected Creditor Cash Pool following the final distributions to Affected Creditors, such residual funds shall be directed to the Companies' accounts to be dealt with outside of the Third Amended Proposal.</p>
Distributions Cap	The distribution to Affected Creditors is capped at 58¢ on the dollar value of their claims to a maximum claim amount of \$65 million. Accordingly, if claims exceed \$65 million, Affected Creditors could receive less than 58¢.	No cap on the distributions to the Affected Creditors to the maximum of the Affected Creditor Cash Pool. Affected Creditors will receive full recovery on their claims if the total Affected Creditor Claims do not exceed \$30.9 million ⁵ .
Construction Lien Creditors	Included as Affected Creditors, to the extent that they filed proofs of claim on that basis.	Subject to their Claim Assignment Agreements and paid outside of the proposal, as discussed above in Section 3.1.

⁵ No interest is payable on Affected Claims as would be the case in a bankruptcy situation pursuant to Section 143 of the BIA if all proven claims were being paid in full, assuming such monies would be available in a bankruptcy.

Proposal Term	Second Amended Proposal	Third Amended Proposal
Related Party Creditors	To the extent that they were determined to be debt, such amounts were to be included as Affected Creditors.	Treated as Equity Claims and entitled to proceeds in two ways: (i) 12.5% under the Equity Offer (if accepted, with such proceeds being independent of the Third Amended Proposal) and (ii) from the residual funds if any, from the Affected Creditor Cash Pool, subject to priorities as among the Equityholders.
Proposal Implementation Date	June 30, 2021	The day that is seven days following the issuance of the Approval Order, or such other date prior to July 31, 2021.
Releases of Equity Claims	All Equity Claims shall be fully, finally and irrevocably and forever compromised, released, discharged, cancelled, extinguished and barred for no consideration on the Proposal Implementation Date.	All Equity Claims shall be fully, finally and irrevocably and forever compromised, released, discharged, cancelled, extinguished and barred <u>as against the Property⁶</u> on the Proposal Implementation Date.

- As presented in the table above, the Third Amended Proposal provides an opportunity for Affected Creditors to receive a full recovery on their Affected Creditor Claims if the total Affected Creditor Claims are under \$30.9 million, whereas the Second Amended Proposal provides for a maximum recovery of 58¢ on the dollar, which would be lower if total Affected Creditor Claims exceed \$65 million.
- A summary of potential distributions to Affected Creditors, prior to the adjudication of the Affected Claims, including the Contingent Claims and Conditional Claims, each as described above, is presented below. A detailed schedule is provided in Appendix "F".

Third Amended Proposal V2 Distributions Summary – Illustrative		(\$'000)	
Affected Creditor Cash Pool		30,900	
		High	Low
Total Affected Creditor Claims	1	43,348	11,866
Dividend percentage for Affected Creditors		71%	100%
Potential distribution to Equityholders		-	19,034

⁶ Defined as "the real property owned by the Company and municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario".

4.1 Further Revisions – Third Amended Proposal V2

1. Based on the Proposal Trustee’s review of the Third Amended Proposal and discussions with the Companies and the Sponsor, the Companies agreed to further revise the Third Amended Proposal, as reflected in the Third Amended Proposal V2, in respect of, among other things:
 - a) Treating all Construction Lien Claims⁷ as Unaffected Claims, as set out above in Section 3.1;
 - b) Extending the Conditional Claim Completion Deadline from September 13, 2021 to September 27, 2021; and
 - c) Providing that residual funds, if any, would be held by the Proposal Trustee “pending receipt of a duly issued direction from all of the holders of Class A Preferred Units of YG LP, or otherwise by order of the Court”.
2. An unsigned copy of the Third Amended Proposal V2 is provided as Appendix “G”. A blackline comparing the Third Amended Proposal to the Third Amended Proposal V2 is provided as Appendix “H”.

5.0 Equity Offer

1. The Sponsor made an offer to the Equityholders to acquire the units they hold, conditional on Court approval of the Third Amended Proposal and completion of definitive agreements, to be prepared. Key terms of the Equity Offer are summarized below:
 - a) Offeror: Concord Properties Developments Corp. (the Sponsor).
 - b) Offeree: all limited partners of the Partnership as well as the Related Parties Creditors, which amounts were deemed to be equity pursuant to the Interim Decision. The Equity Offer is made separately to each Equityholder, and acceptance is not conditional on the number of Equityholders accepting.
 - c) Purchased Asset: in order to monetize tax attributes, the Sponsor offers to buy from each Equityholder the shares of a holding company (each, a "Holdco"), organized to hold that Equityholder's interest in the Partnership. The Holdco shall contain no other assets or liabilities other than the applicable Equityholder's interest in the Partnership.
 - d) Purchase Price: 12.5% of the value of each Holdco’s net equity interest in the Partnership after accounting for recoveries and distributions, if any, to each Equityholder from the Affected Creditor Cash Pool residual funds returned to the Companies under the Third Amended Proposal. The Related Party Claims will be treated as equity for this purpose.

⁷ Including Consenting Lienholders and Non-Consenting Lienholders.

- e) Conditions: the Equity Offer is conditional upon the Third Amended Proposal being approved by the Court.
 - f) Definitive Documentation: the terms as set out in the Equity Offer are indicative in nature and are subject to finalization in all respects pursuant to one of more definitive documents (the “Definitive Documentation”) to be entered into should the Third Amended Proposal be approved by the Court. If the Third Amended Proposal is approved by the Court, the Sponsor and the Equityholders shall work diligently to finalize the Definitive Documentation within seven business days from the date of the approval.
2. The Equity Offer is being made directly to the Equityholders by the Sponsor. To the extent it is accepted by any of the Equityholders, the funding for and payments made pursuant to the Equity Offer will be made outside of the Third Amended Proposal and therefore will not be administered by the Proposal Trustee or subject to its oversight.
 3. The Proposal Trustee understands that there may be tax benefits for the Sponsor if it acquires the Equityholders’ interests in the Partnership.
 4. The Proposal Trustee notes that, pursuant to the Equity Offer, Cresford-related entities have the prospect of recovering up to \$6.6 million from the Sponsor pursuant to the Equity Offer. This is calculated as follows: 12.5% x (\$15 million (re Cresford’s capital) + \$38.3 million (Related Party Claims)). Such recovery, in percentage terms, is equivalent to the potential recovery for the LPs before any payments the LPs receive from the Residual Funds, if any. These payments will be made to Equityholders even if unsecured creditors do not receive full recoveries on their claims. The Proposal Trustee does not view the Equity Offer as contravening the BIA as these payments are being made outside the Third Amended Proposal by the Sponsor, a third party, and these payments are not a term or condition of the Third Amended Proposal. The Sponsor advises it is making these payments, at least in part, to take advantage of certain tax attributes of the Equityholders.
 5. The Proposal Trustee has been advised by the Sponsor that none of the Equityholders have accepted the Offer at the time of service of this Report.

6.0 Conclusion and Recommendation

1. The Proposal Trustee recommends that the Court issue an order approving the Third Amended Proposal V2 for the following reasons:
 - a) the Second Amended Proposal was unanimously accepted by creditors entitled to vote at the Meeting;
 - b) the Third Amended Proposal V2 contains material improvements to the Second Amended Proposal as summarized in Section 4 of this Report, including amendments that, in the Proposal Trustee's view, address the concerns raised in the Interim Decision;

- c) the Proposal Trustee recommended approval of the Second Amended Proposal for the reasons set out in the Third Report;
 - d) substantially all Consenting Lienholders have advised the Proposal Trustee that they continue to support the Third Amended Proposal notwithstanding they may not receive payment in full, Affected Creditors may receive payment in full and there may be recoveries for Equityholders;
 - e) any payments made to Equityholders pursuant to the Offer would be made by the Sponsor outside of the Third Amended Proposal V2 and would not be available to creditors under the Third Amended Proposal V2;
 - f) acceptance and implementation of the Third Amended Proposal V2 is likely to result in a significantly superior result for creditors than a bankruptcy of the Companies; and
 - g) the Proposal Trustee is of the view that the Companies and the Proposal Sponsor have acted in good faith in advancing the Third Amended Proposal and the Third Amended Proposal V2 in light of the concerns raised in the Interim Decision and feedback from the Proposal Trustee.
2. Based on the foregoing, the Proposal Trustee respectfully recommends that the Court make an order approving the Third Amended Proposal V2.

* * *

All of which is respectfully submitted,



**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YG LIMITED PARTNERSHIP AND
YSL RESIDENCES INC.,
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”

CITATION: YG Limited Partnership and YSL Residences (Re), 2021 ONSC 4178
COURT FILE NOS.: CV-21-00655373-00CL/BK-21-02734090-0031,
CV-21-00661386-00CL & CV-21-00661530-00CL
DATE: 20210629

**SUPERIOR COURT OF JUSTICE – ONTARIO
(COMMERCIAL LIST)**

RE: IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED

AND:

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A
PROPOSAL OF YG LIMITED PARTNERSHIP AND YSL RESIDENCES

APPLICATION UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED

AND RE: 2504670 CANADA INC., 8451761 CANADA INC. and CHI LONG INC.,
Applicants

AND

CRESFORD CAPITAL CORPORATION, YSL RESIDENCES INC,
9615334 CANADA INC., YG LIMITED PARTNERSHIP and DANIEL
CASEY, Respondents

AND RE: 2583019 ONTARIO INCORPORATED AS GENERAL PARTNER OF
YONGESL INVESTMENT LIMITED PARTNERSHIP, 2124093 ONTARIO
INC., SIXONE INVESTMENT LTD., E&B INVESTMENT CORPORATION
and TAIHE INTERNATIONAL GROUP INC., Applicants

AND

9615334 CANADA INC. AS GENERAL PARTNER OF YG LIMITED
PARTNERSHIP and YSL RESIDENCES INC., Respondents

BEFORE: S.F. Dunphy J.

COUNSEL: *Harry Fogul and Miranda Spence*, for YG Limited Partnership and YSL
Residences Inc.

Shaun Laubman and Sapna Thakker, for 2504670 Canada Inc., 8451761
Canada Inc., and Chi Long Inc.

Alexander Soutter, for YongeSL Investment Limited Partnership, 2124093 Ontario Inc., SixOne Investment Ltd., E&B Investment Corporation, and TaiHe International Group Inc.

David Gruber, Jesse Mighton, and Benjamin Reedijk, for Concord Properties Developments Corp. and its affiliates

Jane Dietrich and Michael Wunder, for 2292912 Ontario Inc. and Timbercreek Mortgage Servicing Inc.

Robin B. Schwill, for KSV Restructuring Inc. in its capacity as the proposal trustee

Roger Gillot and Justin Kanji, for Kohn Pedersen Fox Associates PC

Reuben S. Botnick, for Royal Excavating & Grading Limited COB as Michael Bros. Excavation

Daniel Naymark and Jamie Gibson, for Sarven Cicekian, Mike Catsiliras, Ryan Millar and Marco Mancuso

Brendan Bowles and John Paul Ventrella, for GFL Infrastructure Group Inc.

Mark Dunn and Carlie Fox, for Maria Athanasoulis

George Benchetrit, for 2576725 Ontario Inc.

Joshua B. Sugar, for R. Avis Surveying Inc.

Paul Conrod, for Restoration Hardware Inc.

James MacLellan and Jonathan Rosenstein, for Westmount Guarantee Services Inc.

Albert Engle, for Priestly Demolition Inc.

HEARD at Toronto: June 23, 2021

AMENDED REASONS FOR INTERIM DECISION

Note: these reasons were amended on July 2, 2021 as more fully described in the in the concluding paragraphs hereof.

[1] The debtors are seeking approval of a bankruptcy proposal that has obtained the near unanimous approval of those affected creditors who cast a vote. Two groups of limited partnership unitholders have challenged the actions of the General Partner of the debtor YG Limited Partnership for much of the past year and urge me to annul the bankruptcy entirely or to reject the proposal and, if need be, to allow a Receiver or Trustee in bankruptcy to canvass the market fairly and objectively. Another unsecured creditor urges me to disregard much of the appraisal evidence tendered because she has been excluded from examining it and the result is a record that casts grave doubt as to whether fair value for stakeholders is being realized by this process.

[2] For the reasons that follow, I have decided that I will not approve the Proposal in the form it has been presented to me. The Proposal is yet able to be amended pursuant to art. 3.01 thereof and it is possible that an amendment may be formulated to address the concerns raised by the findings I outline below before a final decision on the fate of the Proposal is made.

Background facts

[3] A central issue in this case is the value of the “YSL Project” – the property owned by the debtor YSL as bare trustee for the limited partnership (the debtor YG LP) charged with developing it. Valuation is an area on which I must tread lightly in terms of what I can record in writing so as not to impact adversely any potential sale process that may be necessary in future.

[4] What follows is a general description of the capital structure of the debtors and the project sufficient to permit an understanding of the issues. For comparison purposes, it is relevant to consider the size of the project. There is no dispute that the “as if completed” value of the project is above \$1 billion. How much above and based on which assumptions is an issue, but I provide the round figure solely for comparison purposes relative to the debt and equity interests discussed.

[5] The project is fully zoned and permitted for construction of an 85-story retail and condominium complex planned for the corner of Yonge St. and Gerard in downtown Toronto. Substantial pre-sales have been made. Demolition of the old structures and shoring up of the excavation have been largely completed. Unfortunately, things ground to halt in March of 2020 and the project has been stuck in the “hole in the ground” stage ever since.

The project ownership structure

[6] YP GP has a General Partner with nominal capital and a nominal interest in the limited partnership. The “equity” in the partnership effectively resides in the “A” units with approximately \$14.8 million in capital but a capped right to return on that capital equivalent

to interest (12.25% per year rate of return) and the “B” units who alone receive all of the residual profits from the project without limit.

[7] The owner of the “B” units and the General Partner are under common control within the Cresford group of companies as are the parties recorded as payees of the \$38.3 million related party debt to which I shall refer.

The project debt structure

[8] The secured debt – including registered mortgages and construction liens – stands at about \$160 million. The figure for secured debt is slightly misleading. There is just over \$100 million in deposits from condominium pre-sales made for the most part prior to 2019. These are insured by the second secured creditor whose claim would increase dollar for dollar if the relevant purchase agreements were repudiated and the deposits had to be returned. For this reason and to have an “apples to apples” idea of the debt structure, a figure of about \$260 million in secured debt is appropriate.

[9] The third-party unsecured debt that has been identified by the Trustee is in the range of approximately \$20 million plus or minus a few million dollars depending upon reserves allowed for claims yet to be filed or finalized. There are also various litigation claims outstanding the largest of which is from a former officer claiming that the limited partnership was a common employer and seeking, among other things, to enforce oral profit-sharing agreements. I have reviewed the Trustee’s report and in particular the Trustee’s reasoned conclusion that these claims are too contingent to be considered valid for voting purposes. I concur in that assessment. A conservative and prudent assessment of potential total unsecured claims is thus in the range of about \$25 million – a figure advanced with full knowledge that the total of all contingent claims identified could be in the same order of magnitude again. For the purposes of this motion, I find the figures estimated by me above are reasonable – those findings are, of course, without prejudice to the creditors holding such claims proving them in due course.

[10] There is also \$38.3 million in outstanding advances to YG LP recorded on its books from related parties. I have found those claims to be equity claims for all purposes relevant to this hearing for reasons I shall expand upon below.

[11] In round figures, one can thus consider there to be approximately \$260 million of secured debt and about \$20-\$25 million of unsecured debt outstanding. The Proposal assumes all of the former and would pay 58% of the latter when finalized. The “fulcrum” stakeholders in this case are thus the unsecured creditors to the extent of the 42% of their claims that are compromised (\$8.4 to \$10.5 million) plus the “A” limited partners in YG LP (\$14.8 million plus accrued “interest” entitlements) – such figures based upon the estimates and rulings that I have made and explained herein.

Summary of nine findings made

[12] The process of sifting through the mountains of evidence presented to me by the parties has been made exceptionally time-consuming and tedious by reason of the lack of usable electronic indexing in much of the materials filed. Tabs or electronic hyperlinks within compilations of electronically filed documents are non-existent in all but the most recently filed documents and there are many, many thousands of pages of documents presented. The profession is going to need to get on top of this problem as judges cannot and will not in future undertake such gargantuan efforts to sift through a case when a few moments of care and attention at the front end could simplify it to such a great degree.

[13] Time does not permit me to set forth in writing a complete account of my review of the evidence and my conclusions – a written summary of which I was about 75% through before the impossibility of completing it in the form intended within the time available became obvious. I shall instead present below nine conclusions which encapsulate my reasons for finding that the Proposal as it currently stands has failed to satisfy me of the matters required by s. 59(2) of the BIA or the common law test of good faith.

(i) *The McCracken Affidavit is inadmissible*

[14] As is often the case in Commercial Court matters, this case proceeded on a “real time” schedule. In addition to the bankruptcy case that was commenced with an NOI filed on behalf of the debtors on April 30, 2021, there were two applications commenced the day before by two groups of YG LP limited partners seeking, among other things, the removal of the General Partner and various declarations challenging the authority of the General Partner to act on behalf of the partnership in any capacity and alleging breaches of fiduciary duty by the General Partner. The Proposal itself was filed on May 27, 2021 working towards a scheduled June 10, 2021 creditor meeting. On June 1, 2021 I issued directions for the conduct of all three proceedings with a view to having the sanction hearing ready to proceed on June 23, 2021.

[15] The Proposal Sponsor is Concord Properties. Concord is not a party to any of these proceedings although it is central to all three. Concord sponsored the Proposal and is bearing all the costs of it under a Proposal Sponsor Agreement dated April 30, 2021.

[16] The limited partner applicants issued subpoenas to Mr. McCracken – apparently the officer of Concord responsible for this Proposal. On the advice of counsel, Mr. McCracken declined to appear absent an order compelling him to do so. Counsel took the position that leave was required under the Bankruptcy Rules to compel him to appear in the bankruptcy proceeding and declined to produce him.

[17] The position taken was a curious one given my specific direction on June 1 that I was *not* applying the BIA stay to the two applications and that specific aspects of both

applications would be heard and decided together on June 23, 2021 when the fairness hearing was conducted. The case timetable made specific allowances for responding records with respect to the limited partner applications and facts in relation to them. My ruling on June 1, 2021 was in both the civil and bankruptcy proceedings and bore the style of cause of both.

[18] Whether leave was or was not formally required to *compel* Mr. McCracken to appear, his failure has consequences in terms of the fairness of the process leading to the approval motion in front of me. The opponents of the Proposal were deprived of the opportunity to explore aspects of the unfairness or unreasonableness of the Proposal that they had raised. There was insufficient time available in the tight timetable to drop everything and bring a leave application. The position taken ran utterly contrary to the spirit and intent of my ruling on June 1, 2021 at which Concord's counsel appeared *and made submissions*. This is the sort of issue that counsel applying the "three C's" of the Commercial List ought to have agreed to disagree upon and produced the witness without prejudice to objections that might be raised.

[19] It is against the foregoing backdrop that the affidavit of Mr. McCracken – delivered the day prior to the fairness hearing – must be considered.

[20] The affidavit was filed far too late to permit any interested party to respond to it effectively or to cross-examine upon it. None of the subject-matter of the affidavit was new information. The affidavit was entirely devoted to providing responses to various issues seen in written arguments or that arose on the cross-examination of other witnesses.

[21] Concord appeared to consider itself sufficiently at interest to appear through counsel on June 1, 2021 while declining to submit to examination because of its non-party status when preparations for this hearing were in full swing a few days later. Permitting the admission of this affidavit at this juncture would be to sanction unfairness of the highest order. A timetable was worked out for the hearing of this motion – worked out, I might add, at a motion that Concord was present at through counsel. Whether or not Concord had the *right* to insist upon a further motion to compel its attendance during the pre-hearing procedures, it certainly knew that taking that position when there was no time available to challenge it in court would have the practical effect that it did.

[22] Lying in the weeds is a strategy, but it does not confer the right to spring out of them at will. I find the McCracken affidavit to be inadmissible and attach no weight to it.

(ii) *No weight can be attached to the CBR April 2021 Appraisal*

[23] The parties have very hotly debated the valuation evidence that is on the record before me. A portion of that valuation evidence has been sealed. My reason for doing so is straightforward: the approval of the Proposal cannot be taken for granted and it is thus

reasonably foreseeable that the project may have to be sold by a Trustee or Receiver in the near future and the ability of whichever court officer is charged with undertaking that sale to achieve the highest and best price available ought not to be impaired more than the circumstances already have by the disclosure of appraisals that may serve to skew market expectations. A significant portion of such evidence is part of the public record and between the public information and the use of carefully-framed circumlocutions I believe that I can convey my conclusions and reasons for them regarding the valuation evidence with reasonable clarity.

[24] Two of the appraisals before me, both from CBRE, are the most central to the questions I must determine. The first in time is dated August 8, 2019 providing CBRE's opinion of value as at July 30, 2019. This appraisal was prepared for the parent company of the debtors within the Cresford group and is based on the particular assumptions set out therein, including some supplied by Cresford. The second in time, also by CBRE, is dated April 30, 2021 as of March 16, 2021. This latter appraisal was prepared for Concord based on the assumptions set out therein, including some supplied by Concord. I shall not discuss in a public document the actual appraisal amounts in either, focusing instead on the differences between them.

[25] For present purposes, it is sufficient for me to observe that the 2021 CBRE appraisal is lower than the 2019 CBRE appraisal and lower by an amount that is significantly higher than the sum of the compromised amount of unsecured claims under the Proposal plus the total capital of the "B" unitholders in YG LP.

[26] I find that I can attach little weight to the 2021 CBRE appraisal in these circumstances because:

- a. The assumptions given to CBRE by Concord were materially different than those used in the 2019 CBRE appraisal including as to such things as leasable square footage of residential and retail space;
- b. When it formulated the instructions to CBRE, Concord was in the process of attempting to negotiate a Proposal to acquire the property through the bankruptcy process given lack of limited partner consents and was being commissioned at a time when Concord had a clear and obvious interest in having appraisal evidence suggesting that the project was at least partly underwater;
- c. The downward alterations made by Concord to the square footage assumptions used by CBRE are unexplained, untested and appear to be admitted as having been quite preliminary at all events;

- d. Concord did not submit Mr. McCracken to cross-examination to examine in depth the reasons for the significant negative difference between the two instructions given to CBRE on the conflicting appraisals;
- e. The differences between the two have not been reasonably or adequately reconciled. There has been no general downward correction to residential real estate in Toronto that has been brought to the court's attention nor can the difference between the two appraisals reasonably be attributed solely to pandemic-induced alterations to the retail environment.

(iii) *ALL Construction Lien Claims are Unaffected Creditors under the Proposal*

[27] Under the Proposal, Construction Lien Claims are defined as "Unaffected Creditors". The Trustee indicates that the total amount of such claims is \$11.865 million. Of this total, fifteen lien claimants with \$9.19 million in lien claims outstanding entered into assignment agreements with the Proposal Sponsor. As these are non-voting Unaffected Creditors under the Proposal, Concord required them to file claims as Affected Creditors in order to acquire the right to vote and to name a proxy designated by Concord.

[28] There was some controversy about what precisely the lien claimants received in return for agreeing to convert claims that were to be paid \$1.00 per \$1.00 of valid claims under the Proposal into claims receiving no more than \$0.58 per dollar of claim value. The Trustee-reported second-hand information from Concord denying any "side" deals does little to address this concern. Assurances as to the lack of a side deal do not serve the purpose of permitting a reasonable understanding of the main deal. None of them have been disclosed beyond a skeletal summary and Concord declined to permit a representative to be examined prior to the hearing.

[29] It is of course open to the Proposal Sponsor to make any proposal that satisfies the formal requirements of the BIA if the debtor is prepared to adopt it and submit it to the creditors and the creditors are willing to accept it with their eyes open. In this case however the Proposal Sponsor has induced \$9.19 million of otherwise Unaffected Creditors to file claims as something they are not by definition (i.e. Affected Creditors) thereby effectively reducing the size of the cap from \$65 million to \$55.8 million and the maximum pool of funds available to the actual Affected Creditors described by the Proposal from \$37.7 million to \$32.4 million. These are material changes impacting all Affected Creditors that follow from arrangements made by the Proposal Sponsor outside the terms of the Proposal.

[30] The Proposal makes no provision for creditors "downshifting" their claims voluntarily. Lien claims are defined as "Unaffected Claims" and I see no basis for them to be accepted under the Proposal on any other basis particularly where doing so operates to the obvious detriment of the affected class members. This is not a case of a

secured creditor valuing its security and filing an unsecured claim for the shortfall. There are consequences to such a valuation exercise that are absent here.

[31] The “electing” lien claimants have little in common with the actual Affected Creditors who had no election to make. Despite having made the election, assuming there was any basis in the Proposal to make such an election (and it appears to me that there was not), such creditors retained their security intact. Pursuant to art. 9.01 of the Proposal, the Proposal would have “no effect upon Unsecured Creditors” which definition does not cease to apply to them by virtue of a make-shift “election” for which the Proposal makes no provision. They did not agree to surrender their security nor even to value it in the bankruptcy process. They agreed to sell their claims on whatever terms they chose to accept from the Proposal Sponsor secure in the knowledge that if, for any reason, the Proposal does not move forward, their security remains intact and unaffected.

[32] This is an element of unfairness in this that I find particularly disturbing. It is all the more disturbing when I am not at all persuaded that the unsecured creditors face the spectre of near certain annihilation in the event of a bankruptcy or receivership but face the very real prospect of additional and illegitimate dilution of their claim value were I to approve the Proposal as presented with the presence of lien claimants in the Affected Creditor pool.

(iv) *The related party claims must be treated as equity*

[33] A fundamental principle of the BIA is that equity claims are subordinate to debt claims. This principle is voiced in s. 60(1.7) of the BIA that provides quite simply that “[n]o proposal that provides for the payment of an equity claim is to be approved by the court unless the proposal provides that all claims that are not equity claims are to be paid in full before the equity claim is to be paid”. Section 140.1 expresses a similar requirement in respect of dividends more generally. While there is some similarity behind the concept of “equity claims” in Canadian insolvency law and that of “equitable subordination” the two are separate and one and must not be confused with the other: *U.S. Steel Canada Inc. (Re)*, 2016 ONCA 662 (CanLII) at para. 101.

[34] The limited partner applicants submit that the intercompany advances appearing in the general ledger of YG LP should be treated as equity claims within the meaning of the BIA. The debtors on the other hand urge me to pass over this issue entirely arguing that approval of the proposal does not entail approval of any payment of intercompany claims. Such claims will ultimately be determined by the Trustee and if disallowed for any reason will receive no distribution.

[35] I cannot accept the debtors’ argument that I should sweep the equity claims under the carpet to be dealt with another day in another forum. This is so for the following reasons:

- a. The applicant limited partners have no standing to challenge the proof of the related party claims within the bankruptcy process even if their claims against related parties are not themselves released by the Proposal.
- b. On June 1, 2021 I directed that issues raised in the two applications would be dealt with on June 23. A theme in those applications was, among others, the allegation that the General Partner had been seeking to divert substantial payments to Cresford from various investor proposals negotiated by the Cresford group ahead of limited partners, the allegations that representations had been made in the Subscription Documents and elsewhere that Cresford entities would be paid out of distribution after the “A” unit limited partners, that counsel for Cresford had confirmed that the intercompany loans were subordinated to the limited partners, that the General Partner had acted in breach of its fiduciary duties and that the Proposal was not being advanced in good faith; and
- c. The timetable I approved on June 1 specifically contemplated the foregoing aspects of those applications being dealt with on June 23, 2021.

[36] If the related party claims are equity claims under the BIA, then it is also highly likely that the notional purchase price for the project being paid by the Proposal Sponsor under the Proposal must be viewed as being \$22 million less than it might otherwise appear, a fact that is also material to the matters I must consider on this motion.

[37] The allegations of the applicant limited partners in the two outstanding applications challenge the good faith with which the Proposal has been advanced by the General Partner in part on the theory that the Proposal has in fact been advanced to secure payment of the related party claims in priority to the “A” unitholders and without securing their consent.

[38] For the foregoing reasons, I cannot avoid a consideration of whether the related party claims are equity claims. My conclusions on that subject are an integral part of any conclusion I must make on the subject of good faith or the criteria to be considered under s. 59(2) of the BIA.

[39] Are the related party claims identified by the Trustee in this case “equity claims”?

[40] The BIA contains a definition of “equity claims” that is deliberately non-exhaustive. In *Sino-Forest Corporation (Re)*, 2012 ONCA 816 (CanLII) (at para. 44) the Court of Appeal found that the term should be given an expansive meaning to best secure the remedial intentions of Parliament.

[41] Subsequent cases have explored the concept of “equity claim” with a view to fleshing out its parameters. Some of the guidelines that can be distilled from that jurisprudence include the following:

- a. Neither the “intention of the parties” as between non-arm’s length parties nor the formal characterization they apply is conclusive as to the true nature of the transaction: *Tudor Sales Ltd. (Re)*, 2017 BCSC 119 (CanLII) at para. 35 and *Alberta Energy Regulator v Lexin Resources Ltd*, 2018 ABQB 590 (CanLII) at para. 37.
- b. The manner in which the transaction was implemented, and the economic reality of the surrounding circumstances must be examined to determine the true nature of the transaction with the form selected being merely the “point of departure” of the examination: *Lexin* at para. 37.
- c. It is helpful to consider whether the parties to the transaction had a subjective intent to repay principal or interest on the alleged loan from the cash flows of the alleged borrower and, if so, was that expectation reasonable: *Lexin* at para. 41.
- d. It is also helpful to consider the “list of factors” that courts have looked at in such cases – being careful not to apply them in a mechanical way or as a definitive checklist: *Lexin* at paras. 42-43.
- e. Among the factors to examine are:
 - i. the presence or absence of a fixed maturity date and schedule of payments (absence of such terms being a potential indicator of equity);
 - ii. the presence or absence of a fixed rate of interest and interest payments. Again, it is suggested that the absence of a fixed rate of interest and interest payments is a strong indication that the advances were capital contributions rather than loans;
 - iii. the source of repayments. If the expectation of repayment depends solely on the success of the borrower’s business, the cases suggest that the transaction has the appearance of a capital contribution;
 - iv. the security, if any, for advances; and
 - v. the extent to which the advances were used to acquire capital assets. The use of the advance to meet the daily operating needs for the corporation, rather than to purchase capital assets, is arguably indicative of bona fide indebtedness: *Lexin* at paras. 42-43.

[42] The related party claims may be broken down into different buckets for the purposes of this analysis. The first one consists of payments that were made to retire loans taken out for the specific purpose of financing equity interests in YG LP. This

involved loans used to buy out the \$15 million investment of a former limited partner, loans used to finance the Cresford group of companies' \$15 million equity investment in Class B units as well as interest paid on both of these loans some or all of which has been recorded as obligations of YG LP on its books.

[43] Clearly advances made or charged to YG LP for the direct or indirect purpose of financing the purchase of an equity interest in YG LP are likely to the point of certainly to be characterized as equity claims of YG LP for the purposes of insolvency law. The evidence to this point supports the reasonable inference that a very substantial portion of the advances charged to YG LP by non-arm's length parties can be so characterized.

[44] A second category of advances made can only be described as "miscellaneous" comprised of various sporadic payments made by members of the Cresford group of companies that were recorded in the ledger of the limited partnership net of other payments made by the limited partnership to the Cresford group.

[45] The terms of the intercompany advances recorded on the general ledger of the limited partnership share the following characteristics:

- a. They were all non-interest bearing without any defined term or maturity date; and
- b. There are no loan documents evidencing any of them.

[46] Such payments as there were from YG LP on account of these advances were sporadic. The nature of the YG LP project is such that there is no cash flow nor any expectation of cash flow being available to repay the intercompany advances recorded until project completion when deposits and sales proceeds become available. The evidence does not suggest that intercompany advances were primarily short-term bridge advances pending the receipt of project financing that was to be used to repay them.

[47] There is substantial evidence that the related party advances were intended to be subordinated to holders of "A" units of YG LP and are thus equity claims. In the interest of time, I shall only summarize this evidence:

- a. Direct written representations were made to the investors in YG LP "A" units as part of the subscription process that after payment of "project expenses" only "external lenders" debt would be repaid ahead of them and that distributions to "Cresford" – unambiguously referencing the group of companies rather than one entity – would come after repayment of invested capital and the agreed return on investment to the limited partner investors;
- b. Cresford's communications to the limited partners never disclosed the existence of any "debt" owed to Cresford even when portraying "current debt" in various discussions with or disclosures made to them until very

recently (and long after the advances in question were recorded on YG LP's books);

- c. Other Cresford group projects with similar capital structures also made representations that intercompany advances were treated as equity;
- d. There was a direct, written representations made by prior counsel to the General Partner in October 2020 that such intercompany advances were "subsequent in priority" to the YG LP "A" unit investors – that admission has since been retracted without an adequate explanation for why it was an alleged error; and
- e. Cresford's CFO also advised that the YG LP "A" unitholders would be paid in priority to "Cresford" a term used to describe the related group of Cresford companies under common control.

[48] A review of the foregoing factors in light of the jurisprudence leads me to the conclusion that the related party advances must be considered as equity claims for the purposes of this motion at least. Virtually all indicators reviewed point towards equity and there is little to no evidence leaning the other way.

(v) *The implied value of the Proposal is \$22 million less than assumed*

[49] The Proposal operates to reduce the payments made to unsecured creditors if claims are lower than the \$65 million cap. The converse is not the case. Absent the lien claims and the intercompany claims there is no mathematical prospect of the \$65 million cap being operative unless the contingent and late-filed claims are resolved at levels far in excess of any reasonable estimate. This means that the consideration paid by Concord under the Proposal must be considered to be worth \$22 million less than it might have been had the related party claims not been equity claims.

(vi) *The general partner had authority to file the NOI*

[50] The two groups of limited partners have raised three broad categories of objections to the capacity of the general partner to have filed the NOI and sought approval of the Revised Proposal: (i) as a matter of law, all partners including limited partners, must approve filing for bankruptcy; (ii) pursuant to the Limited Partnership Agreement, the general partner lacked the authority to file for bankruptcy; and (iii) the general partner ceased to be general partner prior to the filing. I shall consider each of these in turn.

S. 85(1) of the BIA

[51] Section 85(1) of the BIA provides that it "applies to limited partnerships in like manner as if limited partnerships were ordinary partnerships, and, on all the general

partners of a limited partnership becoming bankrupt, the property of the limited partnership vests in the trustee.”.

[52] The limited partners’ position was that since all partners of a general partnership must authorize a bankruptcy filing and since s. 85(1) of the BIA applies the law in relation to general partnerships to limited partnerships in “like manner”, it follows that an NOI must be authorized by all limited partners in addition to the general partner. In support of this interpretation they cite the case of *Aquaculture component Plant V Limited Partnership (Re)*, 1995 CanLII 9324 (NS SC) where two NOI’s filed on behalf of limited partnerships were annulled on this basis.

[53] While the decision of Hamilton J. in the *Aquaculture* case is entitled to deference, it is not binding upon me. I find that I am unable to agree with its reasoning.

[54] The *Aquaculture* case stands quite alone in the jurisprudence on this topic – alone in the sense that none appear to have followed or disagreed with it as far as the research conducted by the parties has been able to determine. In the 26 years since it was decided, a significant number of limited partnerships have passed through our bankruptcy courts either for proposals or liquidations without apparent objection on this score. That practice of course does not have the effect of altering the law but it is at least a factor to consider given the number of times since then that Parliament has examined the BIA including with the addition of s. 59(4) that authorized changes to the constating documents of a debtor including a limited partnership.

[55] I reach a different conclusion than was reached in *Aquaculture* for the following reasons:

- a. The use of general “in like manner” language in s. 85(1) of the BIA is intended to ensure that the provision is interpreted consistent with the objects of the BIA and not in a manner as to defeat those objects or render the benefits of the BIA largely inaccessible to limited partnerships. The procedure for filing an NOI was intended to offer debtors a swift and relatively low cost means of seeking creditor protection after a secured creditor gives the required ten-day notice of its intention to enforce. Requiring unanimous consent for filing of an NOI would have the practical effect of making the benefits of bankruptcy law unavailable to limited partnerships in practice in a large number of cases. Limited partnerships often have large numbers of limited partners and the time required to convene a meeting and obtain unanimous consent would require more time than secured creditors are required by law to give in the way of notice.
- b. Provincial law generally provides that only general partners may bind a limited partnership (in Manitoba, s. 54(1) of the *The Partnership Act*, CCSM c P30) and the BIA treats partnerships and limited partnerships as a full

“debtor”. The policy behind requiring all *general* partners to authorize a bankruptcy filing is obvious – all are liable without limit for the liabilities of the partnership. The same is not the case with a limited partnership.

- c. Section 59 of *The Partnership Act* also provides that actions or suits in relation to the limited partnership may be brought and conducted by and against the general partners as if there were no limited partners. This too supports the proposition that the consent of limited partners is not required for the filing of an NOI on behalf of the partnership.

[56] I find that s. 85(1) of the BIA did not require the asset of each limited partner to the filing of an NOI.

[57] The limited partners also pointed to provisions of the Limited Partnership Agreement to allege that the General Partner had automatically ceased to be general partner of the partnership by reason of certain actions or that that it lacked the authority to file on behalf of the partnership.

Did the General Partner cease to be a general partner of YG LP at any time?

[58] The Proposal Sponsor Agreement is dated April 30, 2021 and was entered into between Concord as Proposal Sponsor and YG LP acting through the General Partner. It was executed prior to filing the NOI but *after* the two limited partner groups had filed their separate applications seeking, among other things, to remove the General Partner. To the extent it is relevant, there can be no question but that Concord was aware of the terms of the Limited Partnership Agreement at all relevant times when negotiating and entering into the Proposal Sponsor Agreement.

[59] Pursuant to s. 1.1 of the Proposal Sponsor Agreement, YG LP agreed to “use commercially reasonable efforts to effect a financial restructuring of [YG LP] that will result in the acquisition of the Property by the Proposal Sponsor together with [YG LP’s] rights, title and interests in and to such Project-related contracts as may be stipulated”. A draft of a proposal, substantially similar to the Proposal before this court for approval, was appended as a schedule to the Proposal Sponsor Agreement. The agreement was signed by Mr. Daniel Casey on behalf of each of the Cresford companies named as parties including YG LP.

[60] Section 10.14 of the YG LP Limited Partnership Agreement provides that “None of the following actions shall be taken unless it has *first* been approved by Special Resolution: (a) approving or disapproving the sale or exchange of all or substantially all of the business or assets of the Partnership”(emphasis added).

[61] The Proposal contemplated by the Proposal Sponsor Agreement clearly provides for the sale or exchange of all or substantially all of the business or assets of the Partnership. Section 1.1 of the Proposal Sponsor Agreement obliged YG LP to “use

commercially reasonable efforts” to cause this to occur, including by filing the NOI and to requesting court approval of the Proposal. As obliged by the Proposal Sponsor Agreement, YG LP filed an NOI, filed the Proposal and subsequently sought court approval of the Proposal.

[62] Entering into the Proposal Sponsor Agreement constituted the “approval” of YG LP to the sale or exchange of all or substantially all of the business or assets of the Partnership” even if approvals of other parties were also required in order to *complete* the transaction. The prohibition in art. 10.14(a) attaches to the approval of the action and not its completion.

[63] Section 7.1(c) of the Limited Partnership Agreement creates an Event of Default if the General Partner “becomes insolvent ... consents to or acquiesces in the benefit of [the BIA]”. By filing the NOI as a general partner of YG LP, the General Partner necessarily admitted to being insolvent at the time the NOI was filled out. There is no evidence that such state of insolvency arrived suddenly that day. The General Partner has accordingly admitted to the existence of an insolvency default under s. 7.1(c) of the Limited Partnership Agreement at some time prior to filing the NOI failing which no NOI would have been possible. By signing the Proposal Sponsor Agreement and agreeing to file the NOI to advance the Proposal, the General Partner also consented to the receiving the benefit of the BIA proposal provisions.

[64] For all of the foregoing reasons, the signing of the Proposal Sponsor Agreement amounts to an admission of further breaches of the Limited Partnership Agreement.

[65] Do such breaches entail the automatic removal of the authority of the General Partner to act as such at the time the NOI was actually filed? The answer in my view is that none of them have that effect.

[66] Section 11.2 of the Limited Partnership Agreement concerns the removal of the General Partner. Pursuant to s. 11.2(a), the General Partner “may be removed” by a court of competent jurisdiction on certain named grounds. That has not occurred. Section 11.2(b) provides that the General Partner “shall cease to be general partner” if any of the named events occurs. None of the agreement to file an NOI, the state of being insolvent or the signing of the Proposal Sponsor Agreement can be read to be included in the list of events listed in s. 11.2(b). The *aftermath* of the filing of the NOI may well be such a trigger but the answer to that question would require me to contend with the effects of the automatic stay which has not been raised before me.

[67] Accordingly, I find that the NOI filed by the General Partner was not void or subject to any similar infirmity. The foregoing conclusion refers only to the actual filing of the NOI and specifically does not apply to the breaches of the Limited Partnership Agreement consequent upon entering into the Proposal Sponsorship Agreement discussed above.

(vii) *The Proposal was the product of a flawed process and breaches of fiduciary duty by the General Partner*

[68] There are two aspects to this part of the objections raised by the objecting limited partners. First, it is alleged that during the year leading up to the Proposal Sponsor Agreement, the General Partner breached its fiduciary duty to act in the best interests of the partnership by seeking to advance the interests of non-arm's length parties to the detriment of the limited partners while simultaneously frustrating every effort of the limited partners to access the information that the Limited Partnership Agreement and the Manitoba *Partnership Act* gave them the rights to see. Second, it is alleged that negotiating and entering into the Proposal Sponsor Agreement was a breach of fiduciary duties of the General Partner in that this was nothing less than deliberately negotiating and entering into an agreement to breach the Limited Partnership Agreement.

[69] As the sole general partner of YG LP, the General Partner was responsible for the management of the affairs of the limited partnership and was the only one able to bind the partnership. The General Partner owed a fiduciary duty to all of the partners of the firm in discharging that role and pursuant to s. 64 of *The Partnership Act*, is liable to account, both at law and in equity to the limited partners for its management of the firm.

[70] As I have outlined above, entering into the Proposal Sponsor Agreement was a clear violation of s. 10.14 of the Limited Partnership Agreement as it agreed to a process whereby substantially all of the property of the firm would be conveyed to a third party without the assent of the limited partners. The fact that the BIA stay of proceeding may impede or prevent the limited partners from seeking a direct remedy for that breach when the agreement was subsequently put into action by filing the NOI does not detract from the existence of a present breach the moment pen was put to paper. Further, whether the negotiations of the Proposal Sponsor Agreement consumed two weeks or two months, it was a breach of fiduciary duty to plan and then put into execution a deliberate breach of the Limited Partnership Agreement and doing so in the teeth of a pending application to stop the General Partner adds further weight to that conclusion.

[71] The debtors suggested that being in the proximity of insolvency dissolved or altered the fiduciary duties of the general partner owed to the limited partners. It is true that the law recognizes that the interests of creditors assume a greater weight the closer to insolvency the enterprise approaches. None of this dissolves the fiduciary obligations of the General Partner so much as it adds to them. It is at this point that the other aspect of the complaint of the limited partners enters the analysis.

[72] Nothing in what I have written suggests that a general partner cannot file an NOI where doing so appears on all of the facts and in the good faith exercise of the best business judgment of the general partner to be in the best interests of the enterprise as a whole to do so – a judgment that necessarily accounts for the obligations of the firm owed to its creditors.

[73] This filing was different because it came with strings attached: a binding Proposal Sponsor Agreement that granted exclusivity to a single party and obliged the General Partner to pursue one path and one path only to emerge from the process. Those strings did not get attached as a result of a process which itself discharged faithfully the fiduciary duties of the General Partner. Rather they were attached as the culmination of almost a year of battling to keep information away from limited partners that they had a right to access (in most cases at least) and the squandering of an expensively purchased window of restructuring breathing room looking not for the solution best able to discharge all of the obligations of the partnership but rather looking for the investor best able to secure the optimal outcome for the Cresford group of companies generally. In that process the limited partners were an obstacle to be circumvented and bankruptcy provided a possible key.

[74] Good faith in such circumstances is not assumed but must be shown. The evidence presented to me has rather persuasively convinced me that good faith took a back seat to self-interest.

[75] The parties have expended considerable effort in outlining the details of what occurred in that time frame. In the interests of time, I shall summarize the important take-aways from those events:

- a. Until the Proposal Sponsor Agreement and the April 2021 CBRE report prepared for Concord, *all* appraisal evidence showed a profitable project likely to result in full coverage for all of the outstanding third-party debt obligations plus all of the obligations owed to limited partners;
- b. The General Partner presented two potential transactions to the “A” unit limited partners in the second half of 2020 that provided for the full payment of all debt, the payment of approximately \$38 million to non-arm’s length parties related to the General Partner and payment of obligations owed to the limited partners at a discount – the latter of the two proposals emanated from Concord;
- c. The two proposals failed to proceed primarily because the General Partner was unable to provide a satisfactory explanation as to why Cresford related parties were to receive a substantial payment when limited partners were asked to accept a compromise the obligations due to them and limited partners had been assured that Cresford group obligations ranked behind them both when they made their investment and as late as October 2020 in a letter from counsel the debtors; and
- d. The limited partners were in a continual tug-of-war trying to pry information out of the General Partner having had to resort to a court order at the

beginning of this year to obtain access to information that should have been available to them as of right.

[76] Few things are more precious in the restructuring business than time. YG LP was able to “purchase” more than a year of time with the forbearance arrangements that it worked out. That precious time appears to have been devoted solely to finding transactions that offered the greatest level of benefits for the Cresford group of companies. There is no evidence that any canvassing of the market – however constrained the market of developers capable of undertaking the completion of an 85-story mixed use tower in downtown Toronto may be – took place that was not indelibly tainted by the imperative of finding value for the Cresford group of companies rather than for the partnership itself.

(viii) The Affected Creditor vote was unanimous

[77] Despite the fact that I have found that fifteen of the forty-six votes cast in favour of the Proposal ought not to have been considered because they came from Unaffected Creditors, that determination does not impact the conclusion of the Trustee that the required statutory majorities voted in favour of the Proposal. There was but one negative vote cast and the Trustee disallowed that vote as being contingent. I have reviewed the Trustee’s reasons for so ruling and find no fault with them. The removal of fifteen creditors and just over \$9 million in claims does not detract from the fact that thirty-one creditors holding approximately \$9 million in other claims cast votes in favour.

[78] While I am prepared to consider to some degree the impact of the assignment agreements negotiated by Concord (see below), I do not view such agreements as impacting the formal validity of the votes cast.

[79] I find that the Proposal received the required majority of two-thirds in value and over 50% in number of creditors voting in person or by proxy.

(ix) The probative value of most of the Affected Creditor vote is attenuated

[80] In the normal course, the agreement of a broad group of creditors to accept less than 100% of what they are owed is cogent evidence of the fairness and reasonable nature of a proposal. This is so as a matter of common sense and by a very long tradition in our law. It is not an indicator lightly to be ignored.

[81] I must also recognize that whatever doubts the evidence may raise as to the insolvency of the debtors in terms of the realizable value of their assets, there can be little doubt that the liquidity test for insolvency is met. The lien claimants have been unpaid for a year or more without any formal forbearance agreement. The first mortgagee has entered into a forbearance agreements but this expires on June 30, 2021.

[82] There was a window of time to find an out-of-court solution, but it would appear that the debtors have squandered it.

[83] The vote of the Affected Creditors *is* probative of fairness, but I find that its weight is attenuated in this case by the following circumstances:

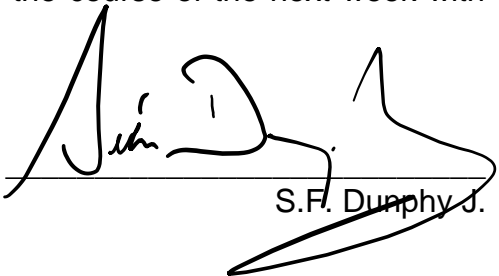
- a. Only a relatively small minority voted who did not also enter into assignment agreements;
- b. The evidence is equivocal about precisely what consideration was received by those who entered into such assignment agreements – a relayed denial of “side-deals” without more adds little to the equation particularly when the deal itself is not disclosed;
- c. Clearly if assigning creditors received or stand to receive more than the value allocated to them under the Proposal, their positive vote says little about the business judgment of the creditors at large to accept the value offered to satisfy their claims but says more about the willingness of the Proposal Sponsor to pay more than has been reflected in the Proposal itself.
- d. This last-in-line class of creditors did not have available to it the range of information produced in connection with this approval motion.

Disposition

[84] I will not approve the Proposal in its present form. I have concluded that, as presented, the Proposal is not reasonable, it is not calculated to benefit the general body of creditors and there are serious issues regarding the good faith with which it has been prepared and presented by the debtors. The debtors and the Proposal Sponsor have the authority under art. 3.06 of the Proposal to amend the Proposal to address the concerns I have raised. It is up to them – with the approval of the Trustee – to do so if they are so inclined.

[85] I am directing the parties to return on Wednesday June 30 at 2:15 pm either to propose amendments to the Proposal that address the concerns I have raised in a substantive way or to address next steps.

[86] These written reasons expand upon the summary reasons I presented orally in a hearing on June 29, 2021. I have released these reasons with relatively little opportunity to proof them and correct typographical errors or minor nits or stylistic glitches. I shall do so over the next week when I have more time available to me and the capacity to call upon my able assistant Ms. Daisy Ng to assist in that effort. Accordingly, I shall be releasing an amended version of these reasons over the course of the next week with such minor and non-substantive corrections.



S.F. Dunphy J.


Date: June 29, 2021

The foregoing is the corrected text of my reasons. Orphaned words have been removed or obvious missing words restored along with corrections of minor errors only. The parties have received a blackline version to compare the changes. Since releasing these reasons, I have adjourned the hearing scheduled for June 30, 2021 at 2:15 until July 9, 2021 at 10:00am. In so doing, I issued the following additional directions:

As KSV Restructuring Inc. ("KSV") will become the bankruptcy trustee and court-appointed receiver on July 9, 2021 if no satisfactory amended proposal is approved at that time, this Court hereby authorizes and directs KSV to undertake the steps towards formulating a sales process that it would be undertaking if it had been appointed the receiver today.

KSV's costs of doing so from July 1, 2021 shall be deemed costs of the receiver upon the granting of a receivership order on July 9, 2021 failing which all such costs will be deemed to be costs of the Proposal Trustee in the proposal proceeding.

Issued: July 2, 2021



S.F. Dunphy J.

Appendix “B”

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE PROPOSAL OF YG LIMITED PARTNERSHIP
AND YSL RESIDENCES INC. PURSUANT TO THE
*BANKRUPTCY AND INSOLVENCY ACT***

AMENDED PROPOSAL #3

WHEREAS, pursuant to Notices of Intention to Make a Proposal dated April 30, 2021, YSL Residences Inc. and YG Limited Partnership (collectively, "YSL" or the "**Company**") initiated proceedings under the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, B-3 as amended (the "**BIA**"), pursuant to Section 50(1) thereof;

AND WHEREAS a creditor proposal was filed in accordance with section 50(2) of the BIA on May 27, 2021 (the "**Original Proposal**");

AND WHEREAS an amendment to the Original Proposal was filed in accordance with section 50(2) of the BIA on June 3, 2021 (the "**First Amended Proposal**");

AND WHEREAS an amendment to the First Amended Proposal was filed in accordance with section 50(2) of the BIA on June 15, 2021 (the "**Second Amended Proposal**");

AND WHEREAS, the Second Amended Proposal was approved by the Requisite Majority of creditors at the Creditors' Meeting held June 15, 2021;

AND WHEREAS, pursuant to the Amended Reasons for Interim Decision issued July 2, 2021 (the "**Interim Decision**"), the Second Amended Proposal was not approved by the Court in the form presented and the Company and the Proposal Sponsor were permitted to amend the Second Amended Proposal to address the issues set out in the Interim Decision;

AND WHEREAS the Company and the Proposal Sponsor wish to amend the Second Amended Proposal on the terms and conditions set out herein with the intention of addressing the issues set out in the Interim Decision;

NOW THEREFORE the Company hereby submits the following third amended proposal under the BIA to its creditors (as amended, the "**Proposal**").

ARTICLE I
DEFINITIONS

1.01 Definitions

In this Proposal:

"**Administrative Fees and Expenses**" means the fees, expenses and disbursements incurred by or on behalf of the Proposal Trustee, the solicitors for the Proposal Trustee, the solicitors of the Company both before and after the Filing Date;

"**Affected Creditor Cash Pool**" means a cash pool in the amount of \$30,900,000 to be comprised of (i) all cash on hand in the Company's accounts as at the Proposal Implementation Date; (ii) any and all amounts refunded to or otherwise received by the Company in connection with the transfer of the YSL Project to the Proposal Sponsor, and (iii) the balance to be provided by the Proposal Sponsor;

"**Affected Creditor Claim**" means a Proven Claim, other than an Unaffected Claim;

"**Affected Creditors**" means all Persons having Affected Creditor Claims, but only with respect to and to the extent of such Affected Creditor Claims;

"**Affected Creditors Class**" means the class consisting of the Affected Creditors established under and for the purposes of this Proposal, including voting in respect thereof;

"**Approval Order**" means an order of the Court, among other things, approving the Proposal;

"**Assumed Contracts**" means, subject to section 8.01(e), those written contracts entered into by or on behalf of the Company in respect of the Project to be identified by the Proposal Sponsor prior to the Proposal Implementation Date, which are to be assumed by the Proposal Sponsor upon Implementation with the consent of the applicable counterparty or otherwise pursuant to an order issued in pursuant to section 84.1 of the BIA;

"**BIA**" has the meaning ascribed to it in the recitals;

"**Business Day**" means a day, other than a Saturday or Sunday, on which banks are generally open for business in Toronto, Ontario;

"**Claim**" means any right or claim of any Person against the Company in connection with any indebtedness, liability, or obligation of any kind whatsoever in existence on the Filing Date (or which has arisen after the Filing Date as a result of the disclaimer or repudiation by the Company on or after the Filing Date of any lease or executory contract), and any interest accrued thereon to and including the Filing Date and costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated,

unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against the Company with respect to any matter, cause or chose in action, but subject to any counterclaim, set-off or right of compensation in favour of the Company which may exist, whether existing at present or commenced in the future, which indebtedness, liability or obligation (A) is based in whole or in part on facts that existed prior to the Filing Date, (B) relates to a period of time prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA;

"**Company**" has the meaning ascribed to it in the recitals;

"**Conditional Claim**" means any Claim of an Affected Creditor that is not a Proven Claim as at the Filing Date because one or more conditions precedent to establish such Affected Creditor's entitlement to payment by the Company had not been completed in accordance with any applicable contractual terms as at the Filing Date, and such Affected Creditor has indicated in its proof of claim that the Claim should be treated as a Conditional Claim;

"**Conditional Claim Completion Deadline**" means 5:00pm (Toronto time) on September 13, 2021;

"**Conditional Claim Condition**" has the meaning ascribed to it in Section 2.03(a);

"**Conditions Precedent**" shall have the meaning given to such term in section 8.01 hereof;

"**Condo Purchase Agreement**" means an agreement of purchase and sale in respect of a residential condominium unit in the Project between the Company and a Condo Purchaser;

"**Condo Purchaser**" means a purchaser of a residential condominium unit in the Project pursuant to a Condo Purchase Agreement;

"**Condo Purchaser Claim**" means any Claim of a Condo Purchaser in respect of its Condo Purchase Agreement;

"**Consenting Lienholder**" means a Construction Lien Creditor that has entered into a claims assignment agreement with the Proposal Sponsor and thereby elected to receive the consideration provided for under such agreement, as listed in Schedule B hereto;

"**Consenting Lienholder Payment Amount**" means an amount equal to the aggregate consideration payable to Consenting Lienholders pursuant to applicable claims assignment agreements between such Consenting Lienholders and the Proposal Sponsor;

"**Construction Lien Claim**" means any Proven Claim in respect of amounts secured by a perfected lien registered against title to the Property and are valid in accordance with the *Construction Act* (Ontario);

"**Construction Lien Creditor**" means a creditor with a Construction Lien Claim;

"**Convenience Creditor**" means an Affected Creditor with a Convenience Creditor Claim;

"**Convenience Creditor Claim**" means (a) any Proven Claims of an Affected Creditor in an amount less than or equal to \$15,000, and (b) any Proven Claim of an Affected Creditor in an amount greater than \$15,000 if the relevant Creditor has made a valid election for the purposes of this Proposal in accordance with this Proposal prior to the Convenience Creditor Election Deadline;

"**Convenience Creditor Consideration**" means, in respect of a Convenience Creditor Claim, the lesser of (a) \$15,000, and (b) the amount of the Proven Claim of such Convenience Creditor;

"**Court**" means the Ontario Superior Court of Justice (Commercial List);

"**Court Approval Date**" means the date upon which the Court makes the Approval Order;

"**Creditors' Meeting**" means the duly convened meeting of the Affected Creditors which took place on June 15, 2021;

"**Cresford**" means, collectively, Cresford (Rosedale) Developments Inc., East Downtown Redevelopment Partnership (EDRP), and Oakleaf Consulting Ltd., which Claims have been determined to be equity claims (as defined in the BIA) pursuant to the Interim Decision;

"**Crown**" means Her Majesty in Right of Canada or of any Province of Canada and their agents;

"**Crown Claims**" means the Claims of the Crown set out in Section 60(1.1) of the BIA outstanding as at the Filing Date against the Company, if any, payment of which will be made in priority to the payment of the Preferred Claims and to distributions in respect of the Ordinary Claims, and specifically excludes any other claims of the Crown;

"**Disputed Claim**" means any Claim which has not been finally resolved as a Proven Claim in accordance with the BIA as at the Proposal Implementation Date;

"**Distributions**" means a distribution of funds made by the Proposal Trustee from the Affected Creditor Cash Pool to Affected Creditors in respect of Affected Creditor Claims, in accordance with Article V;

"**Effective Time**" means 12:00 p.m. (Toronto time) on the Proposal Implementation Date;

"**Equity Claim**" has the meaning ascribed to it in Section 2 of the BIA, and includes, without limitation, the Claims of all limited partners of YG LP and Cresford;

"**Existing Equity**" means the limited partnership units of YG LP and those Equity Claims deemed to be equity pursuant to the Interim Decision;

"**Existing Equityholders**" means the holders of the Existing Equity immediately prior to the Effective Time;

"**Filing Date**" means April 30, 2021, being the date upon which Notices of Intention to Make a Proposal were filed by the Company with the Official Receiver in accordance with the BIA;

"**First Amended Proposal**" has the meaning ascribed to it in the recitals;

"**Governmental Authority**" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (ii) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

"**Implementation**" means the completion and implementation of the transactions contemplated by this Proposal;

"**Implementation Certificate**" has the meaning ascribed to it in Section 8.01(j);

"**Interim Decision**" has the meaning ascribed to it in the recitals;

"**Non-Consenting Lienholders**" means those Construction Lien Creditors that did not enter into a claims assignment agreement with the Proposal Sponsor;

"**Official Receiver**" shall have the meaning ascribed thereto in the BIA;

"**Original Proposal**" has the meaning ascribed to it in the recitals;

"**Outside Date**" means July 31, 2021;

"**Permitted Encumbrances**" means those encumbrances on the Property listed in Schedule "A" hereto;

"**Person**" means any individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority and a natural person in such person's capacity as trustee, executor, administrator or other legal representative;

"**Preferred Claim**" means a Claim enumerated in Section 136(1) of the BIA outstanding as at the Filing Date against the Company, if any, the payment of which will be made in priority to distributions in respect of Affected Creditor Claims;

"**Pro Rata Share**" means the fraction that is equal to (a) the amount of the Proven Claim of an Affected Creditor that is not a Convenience Creditor, divided by (b) the aggregate amount of all Proven Claims held by Affected Creditors who are not Convenience Creditors;

"**Project**" means the mixed-used office, retail and residential condominium development to be constructed on the Property currently consisting of approximately 1,100 residential condominium units and 170 parking units and known as Yonge Street Living Residences;

"**Property**" means the real property owned by the Company and municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario, and legally described by PIN numbers 21101-0042 (LT) to 21101-0049 (LT), inclusive;

"**Proposal**" means this Amended Proposal of the Company, and any amendments, modifications and/or supplements hereto made in accordance with the terms hereof;

"**Proposal Implementation Date**" means the date on which Implementation occurs, which shall occur following the satisfaction of the Conditions Precedent, and no later than the Outside Date;

"**Proposal Sponsor**" means Concord Properties Development Corp.;

"**Proposal Sponsor Agreement**" means that agreement entered into among the Proposal Sponsor and the Company as of April 30, 2021, as amended from time to time;

"**Proposal Trustee**" means KSV Restructuring Inc. in its capacity as trustee in respect of this Proposal, or its duly appointed successor;

"**Proposal Trustee's Website**" means the following website: www.ksvadvisory.com/insolvency-cases/case/yg-limited-partnership;

"**Proven Claim**" means in respect of an Affected Creditor, the amount of a Claim as finally determined in accordance with the provisions of the BIA, provided that the Proven Claim of an Affected Creditor with a Claim in excess of \$15,000 that has elected to be a Convenience Creditor by submitting a Convenience Creditor Election Form shall be valued for voting purposes as \$15,000;

"**Released Claims**" means, collectively, the matters that are subject to release and discharge pursuant to Section 7.01;

"**Released Parties**" means, collectively, (i) the Company, (ii) each affiliate or subsidiary of the Company; (iii) the Proposal Sponsor, (iv) the Proposal Trustee, and (v) subject to section 7.01, each of the foregoing Persons' respective former and current officers, directors, principals, members, affiliates, limited partners, general partners, managed accounts or funds, fund advisors, employees, financial and other advisors, legal counsel, and agents, each in their capacity as such;

"**Required Majority**" means an affirmative vote of a majority in number and two-thirds in value of all Proven Claims in the Affected Creditors Class entitled to vote, who were present and voting at the Creditors' Meeting (whether online, in-person, by proxy or by voting letter) in accordance with the voting procedures established by this Proposal and the BIA;

"**Second Amended Proposal**" has the meaning ascribed to it in the recitals;

"**Secured Claims**" means:

- (a) The Claim of Timbercreek which is secured by, among other things a mortgage, charge, lien or other security validly charging or encumbering the Property;

- (b) The Claim of Westmount, which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (c) The Claim of 2576725 Ontario Inc. which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (d) All Construction Lien Claims but only to the extent of such Construction Lien Claims;

"**Secured Creditor**" means a Person holding a Secured Claim, with respect to, and to the extent of such Secured Claim;

"**Superintendent's Levy**" means the levy payable to the Superintendent of Bankruptcy pursuant to sections 60(4) and 147 of the BIA;

"**Timbercreek**" means, collectively, Timbercreek Mortgage Servicing Inc. and 2292912 Ontario Inc.;

"**Unaffected Claim**" means:

- (a) the Administrative Fees and Expenses;
- (b) the Claim of Timbercreek;
- (c) the Claim of Westmount;
- (d) the Claim of 2576725 Ontario Inc., which is secured by, among other things, an equitable mortgage encumbering the Property;
- (e) any Claim of the City of Toronto;
- (f) all Condo Purchaser Claims;
- (g) all Construction Lien Claims of Non-Consenting Lienholders, but only to the extent such Claims are valid in accordance with the *Construction Act* (Ontario) and have been perfected by the Proposal Implementation Date; and
- (h) such other Claims as the Company and Proposal Sponsor may agree with the consent of the Proposal Trustee;

"**Unaffected Creditor**" means a creditor holding an Unaffected Claim, with respect to and to the extent of such Unaffected Claim;

"**Undeliverable Distributions**" has the meaning ascribed to it in Section 5.04;

"**Westmount**" means Westmount Guarantee Services Inc.;

"**YSL**" has the meaning ascribed to it in the recitals; and

"YSL Project" means the mixed-use commercial and residential condominium development to be constructed on the Property.

1.02 Intent of Proposal

This Proposal is intended to provide all Affected Creditors a greater recovery than they would otherwise receive if the Company were to become bankrupt under the BIA. More specifically, the Proposal will provide for a payment in full of Secured Claims and will provide a significant recovery in respect of Affected Creditor Claims. While the exact recovery cannot be determined until all Claims have been determined, the Company expects Affected Creditors to receive a significant, if not a full recovery, on their Claims and, in any event, a greater recovery than would occur if the Company were to become a bankrupt under the BIA.

In consideration for, among other things, its sponsorship of this Proposal, including the satisfaction of all Secured Claims, Preferred Claims and the establishment of the Affected Creditor Cash Pool, on the Proposal Implementation Date, title to the Property, subject only to the Permitted Encumbrances, as well as the Company's interests and obligations under the Assumed Contracts and Condo Purchase Agreements shall be acquired by the Proposal Sponsor, or its nominee in accordance with the terms hereof.

1.03 Date for Any Action

In the event that any date on which any action is required to be taken under this Proposal by any of the parties is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.04 Time

All times expressed in this Proposal are local time in Toronto, Ontario, Canada unless otherwise stipulated. Time is of the essence in this Proposal.

1.05 Statutory References

Except as otherwise provided herein, any reference in this Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.06 Successors and Assigns

The Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors, and assigns of any Person named or referred to in the Proposal.

1.07 Currency

Unless otherwise stated herein, all references to currency and to "\$" in the Proposal are to lawful money of Canada.

1.08 Articles of Reference

The terms "hereof", "hereunder", "herein" and similar expressions refer to the Proposal and not to any particular article, section, subsection, clause or paragraph of the Proposal and include any agreements supplemental hereto. In the Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of the Proposal.

1.09 Interpretation Not Affected by Headings

The division of the Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of a table of contents and headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.10 Numbers

In this Proposal, where the context requires, a word importing the singular number will include the plural and *vice versa* and a word or words importing gender will include all genders.

ARTICLE II
CLASSIFICATION AND TREATMENT OF AFFECTED PARTIES

2.01 Classes of Creditors

For the purposes of voting on the Proposal, there was only one class of creditors, being the Affected Creditors Class. For the purposes of voting on the Proposal, each Convenience Creditor was deemed to vote in and as part of the Affected Creditors Class.

2.02 Treatment of Affected Creditors

- (a) As soon practicable after the Proposal Implementation Date, and after taking an adequate reserve in respect of any Disputed Claims and Conditional Claims:
 - i. all Affected Creditors (other than Convenience Creditors and Affected Creditors holding Conditional Claims where one or more Conditional Claim Conditions have not been completed) shall receive, in respect of such Affected Creditor Claim, its Pro Rata Share of the Affected Creditor Cash Pool, net of the Superintendent's Levy, made by the Proposal Trustee from the Affected Creditor Cash Pool from time to time in accordance with Article V hereof, provided that aggregate Distributions to an Affected Creditor shall not exceed 100% of the value of such Affected Creditor's Proven Claim; and
 - ii. all Convenience Creditors shall receive in respect of such Convenience Creditor Claims, the Convenience Creditor Consideration, net of the Superintendent's Levy;

- (b) Subject to Section 2.03, on the Proposal Implementation Date, each Affected Creditor Claim shall, and shall be deemed to have been irrevocably and finally extinguished, discharged and released, and each Affected Creditor shall have no further right, title or interest in or to its Affected Creditor Claim.

2.03 Conditional Claims Protocol

If an Affected Creditor submits a proof of claim to the Proposal Trustee indicating that its Claim against the Company is a Conditional Claim due to the fact that one or more pre-conditions to such Affected Creditor's right to payment by the Company had not been satisfied as at the Filing Date due to the acts or omissions of such Affected Creditor, then:

- (a) such Affected Creditor shall have until the Conditional Claim Completion Deadline to complete or otherwise satisfy all outstanding pre-conditions to payment in accordance with the terms of the applicable agreement between such Affected Creditor and the Company (all such conditions, "**Conditional Claim Conditions**"), and provide notice of such completion to the Proposal Trustee along with reasonable proof thereof;
- (b) if such Affected Creditor provides the Proposal Trustee with proof of the completion of all applicable Conditional Claim Conditions prior to the Conditional Claim Completion Deadline, then, subject to the Proposal Trustee's confirmation of same, such Affected Creditor's Conditional Claim shall be deemed to be a Proven Claim, and such Affected Creditor shall be entitled to a distribution in accordance with Section i, and, effective immediately upon issuance of such distribution to the Affected Creditor by the Proposal Trustee, the releases set out in Section 7.01 shall become effective; and
- (c) if such Affected Creditor has not satisfied one or more Conditional Claim Conditions by the Conditional Claim Completion Deadline, then, effective immediately upon the Conditional Claim Completion Deadline, such Affected Creditor's Conditional Claim shall be irrevocably and finally extinguished and such Affected Creditor shall have no further right, title or interest in and to its Conditional Claim and the releases set out in Section 7.01 shall become effective in respect of such Conditional Claim.

2.04 Existing Equityholders and Holders of Equity Claims

Subject to Section 7.01, all Equity Claims shall be fully, finally and irrevocably and forever compromised, released, discharged, cancelled, extinguished and barred as against the Property on the Proposal Implementation Date in accordance with Section 6.01(j).

2.05 Application of Proposal Distributions

All amounts paid or payable hereunder on account of the Affected Creditor Claims (including, for greater certainty, any securities received hereunder) shall be applied as follows: (i) first, in respect of the principal amount of the Affected Creditor Claim, and (ii) second, in respect of the accrued but unpaid interest on the Affected Creditor Claim.

2.06 Full Satisfaction of All Affected Creditor Claims

All Affected Creditors shall accept the consideration set out in Section 2.02 hereof in full and complete satisfaction of their Affected Creditor Claims, and all liens, certificates of pending litigation, executions, or other similar charges or actions or proceedings in respect of such Affected Creditor Claims will have no effect in law or in equity against the Property, or other assets and undertaking of the Company. Upon the Implementation of the Proposal, any and all such registered liens, certificates of pending litigation, executions or other similar charges or actions brought, made or claimed by Affected Creditors will be and will be deemed to have been discharged, dismissed or vacated without cost to the Company and the Company will be released from any and all Affected Creditor Claims of Affected Creditors, subject only to the right of Affected Creditors to receive Distributions as and when made pursuant to this Proposal.

2.07 Undeliverable Distributions

Undeliverable Distributions shall be dealt with and treated in the manner provided for in the BIA and the directives promulgated pursuant thereto.

**ARTICLE III
CREDITORS' MEETING AND AMENDMENTS**

3.01 Meeting of Affected Creditors

As set out in the Interim Decision, the Requisite Majority approved the Proposal at the Creditors' Meeting.

3.02 Assessment of Claims

The provisions of section 135 of the BIA will apply to all proofs of claim submitted by Affected Creditors, including in respect of Disputed Claims. In the event that a duly submitted proof of claim has been disallowed or revised for voting purposes by the Proposal Trustee, and such disallowance has been disputed by the applicable Affected Creditor in accordance with Section 135(4) of the BIA, or in the case of any Claim that is a Conditional Claim as at the time of the Creditors' Meeting, then the dollar value for voting purposes at the Creditors' Meeting shall be the dollar amount of such disputed claim or Conditional Claim, as the case may be, set out in the proof of claim submitted by such Affected Creditor, without prejudice to the determination of the dollar value of such Affected Creditor's disputed claim or Conditional Claim for distribution purposes.

Except as expressly provided herein, the Proposal Trustee's determination of claims pursuant to this Proposal and the BIA shall only apply for the purposes of this Proposal, and such determination shall be without prejudice to a Creditor's right to submit a revised proof of claim in subsequent proceedings in respect of the Company should this Proposal not be implemented.

3.03 Modification to Proposal

Subject to the provisions of the BIA, after the Creditors' Meeting (and both prior to and subsequent to the Approval Order) and subject to the consent of the Proposal Trustee and the Proposal

Sponsor, the Company may at any time and from time to time vary, amend, modify or supplement the Proposal.

ARTICLE IV
PREFERRED CLAIMS AND MANDATORY PAYMENTS

4.01 Crown Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Crown Claims, if any, will be paid by the Proposal Trustee, in full with related interest and penalties as prescribed by the applicable laws, regulations and decrees.

4.02 Preferred Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Preferred Claims, if any, will be paid in full by the Proposal Trustee.

ARTICLE V
FUNDING AND DISTRIBUTIONS

5.01 Proposal Sponsor to Fund

- (a) On the Proposal Implementation Date, the Proposal Sponsor shall deliver to the Proposal Trustee by way of wire transfer (in accordance with wire transfer instructions provided by the Proposal Trustee at least three (3) business days prior to the Proposal Implementation Date):
 - (i) the amount necessary to establish the Affected Creditor Cash Pool in accordance with the provisions of this Proposal; and
 - (ii) the amount necessary to satisfy the Unaffected Claims of Non-Consenting Lienholders.
- (b) The Proposal Trustee shall hold the Affected Creditor Cash Pool in a segregated account and shall distribute such cash, net of any reserves established in respect of Disputed Claims, in accordance with Section 5.02(a) of the Proposal.
- (c) The Proposal Sponsor shall effect payments to Consenting Lienholders outside of the Proposal in accordance with the terms of applicable agreements between such Consenting Lienholders and the Proposal Sponsor and shall, upon request, provide the Proposal Trustee with proof of such payments.
- (d) The Proposal Sponsor shall effect payment in respect of the Unaffected Claims of to Timbercreek and Westmount to those parties directly and shall, upon request, provide the Proposal Trustee with proof of such payments.

5.02 Distributions

As soon as possible after the Proposal Implementation Date and the payments contemplated by Sections 4.01 and 4.02, the Proposal Trustee shall make the following Distributions:

- (a) To each Affected Creditor with a Proven Claim, such Affected Creditor's Pro Rata Share of the Affected Creditor Cash Pool, net of the Superintendent's Levy; and
- (b) To each Non-Consenting Lienholder, the amount of such Non-Consenting Lienholder's Construction Lien Claim, net of the Superintendent's Levy.

Thereafter, the Proposal Trustee may make further Distributions to Affected Creditors from time to time from the reserves established pursuant to Section 5.03, as Disputed Claims are resolved in accordance with the terms of that Section.

5.03 Reserves for Unresolved Claims

Prior to making any Distribution to Affected Creditors pursuant to Section 5.02, the Proposal Trustee shall set aside in the Affected Creditor Cash Pool sufficient funds to pay all Affected Creditors with Disputed Claims or Conditional Claims the amounts such Affected Creditors would be entitled to receive in respect of that particular Distribution pursuant to this Proposal, in each case as if their Disputed Claim or Conditional Claim, as the case may be, had been a Proven Claim at the time of such Distribution. Upon the resolution of each Disputed Claim in accordance with the BIA, or upon final resolution of any Conditional Claim, any funds which have been reserved by the Proposal Trustee to deal with such Disputed Claim or such Conditional Claim, as applicable, but which are not required to be paid to the Affected Creditor shall remain in the Affected Creditor Cash Pool and become available for further Distributions to Affected Creditors in respect of their Proven Claims.

5.04 Method of Distributions

Unless otherwise agreed to by the Proposal Trustee and an Affected Creditor, all Distributions made by the Proposal Trustee pursuant to this Proposal shall be made by cheque mailed to the address shown on the proof of claim filed by such Affected Creditor or, where an Affected Creditor has provided the Trustee with written notice of a change of address, to such address set out in that notice. If any delivery or distribution to be made pursuant to Article IV hereof in respect of an Affected Creditor Claim is returned as undeliverable, or in the case of a distribution made by cheque, the cheque remains uncashed (each an "**Undeliverable Distribution**"), no other crediting or delivery will be required unless and until the Proposal Trustee is notified of the Affected Creditor's then current address. The Proposal Trustee's obligations to the Affected Creditor relating to any Undeliverable Distribution will expire six months following the date of delivery or mailing of the cheque or other distribution, after which date the Proposal Trustee's obligations under this Proposal in respect of such Undeliverable Distribution will be forever discharged and extinguished, and the amount that the Affected Creditor was entitled to be paid under the Proposal shall be distributed to the Proposal Sponsor.

5.05 Residue After All Distributions Made

In the event that any residual amount remains in the Affected Creditor Cash Pool following the Proposal Trustee's final Distribution to Affected Creditors as provided herein, such residual funds shall be directed to the Company's accounts to be dealt with outside of this Proposal.

**ARTICLE VI
IMPLEMENTATION**

6.01 Proposal Implementation Date Transactions

Commencing at the Effective Time, the following events or transactions will occur, or be deemed to have occurred and be taken and effected, in the following order in five minute increments (unless otherwise indicated) and at the times and in the order set out in this Section 6.01 (or in such other manner or order or at such other time or times as the Company and the Proposal Sponsor may agree, each acting reasonably), without any further act or formality required on the part of any Person, except as may be expressly provided herein:

- (a) Either the Proposal Sponsor will, at its election, but subject to obtaining the consent of the applicable Secured Creditor, assume the Secured Claims, or on behalf of the Company, the Proposal Sponsor will make payment in full to Secured Creditors in respect of their Secured Claims;
- (b) the releases in respect of Secured Claims referenced in section 7.01 shall become effective, and any registrations on title to the Property in respect of such Secured Claims shall, unless otherwise agreed between the Secured Creditor and the Proposal Sponsor with the consent of the Proposal Trustee, be discharged from title to the Property;
- (c) the Proposal Sponsor shall make payment to Timbercreek and Westmount, in respect of their Unaffected Claims, respectively, in accordance with Section 5.01(d) calculated as at the Closing Date;
- (d) the Proposal Sponsor shall provide to the Proposal Trustee the amount necessary to establish the Affected Creditor Cash Pool, in accordance with Section 5.01(a)(i), in full and final settlement of all Affected Creditor Claims;
- (e) the Proposal Sponsor shall provide to the Proposal Trustee the amount necessary to satisfy the Unaffected Claims of all Non-Consenting Lienholders, in accordance with Section 5.01(a)(ii), in full and final resolution of all Non-Consenting Lienholder Claims;
- (f) the Proposal Sponsor shall provide the Proposal Trustee with an amount necessary to satisfy the Administrative Fees and Expenses, including a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated to be incurred in connection with the administration of Distributions, resolution of any Disputed Claims, and the Proposal Trustee's discharge;

- (g) title to the Property shall be registered in the name of the Proposal Sponsor, or its nominee, together with any charges applicable to security held by the lenders to the Proposal Sponsor in respect of the purchase of the Property and construction of the Project;
- (h) the assumption of the Assumed Contracts by the Proposal Sponsor, or its nominee, shall become effective;
- (i) all Affected Creditor Claims (including without limitation all Convenience Creditor Claims) shall, and shall be deemed to be, irrevocably and finally extinguished and the Affected Creditors shall have no further right, title or interest in and to their respective Affected Creditor Claims, except with respect to their right to receive a Distribution, if applicable, and in such case, only to the extent of such Distribution;
- (j) subject to Section 7.01, all Equity Claims shall, and shall be deemed to be, irrevocably and finally extinguished and all Existing Equityholders shall have no further right, title or interest in and to their respective Equity Claims as against the Property; and
- (k) the releases in respect of Affected Creditor Claims (other than Conditional Claims with Conditional Claim Conditions not satisfied as at the Effective Time) referred to in Section 7.01 shall become effective.

ARTICLE VII

RELEASES

7.01 Release of Released Parties

At the applicable time pursuant to Section 6.01(b), in the case of Secured Claims, and Section 6.01(k), in respect of Affected Creditor Claims, each of the Released Parties shall be released and discharged from all present and future actions, causes of action, damages, judgments, executions, obligations, liabilities and Claims of any kind or nature whatsoever arising on or prior to the Proposal Implementation Date in connection with this Proposal and the Project, and any proceedings commenced with respect to or in connection with this Proposal, the Project, the transactions contemplated hereunder, and any other actions or matters related directly or indirectly to the foregoing, provided that nothing in this paragraph shall release or discharge (i) any of the Released Parties from or in respect of their respective obligations under this Proposal or any order issue by the Court in connection with this Proposal or any document ancillary to any of the foregoing, (ii) any Released Party from liabilities or claims which cannot be released pursuant to s. 50(14) of the BIA, as determined by the final, non-appealable judgment of the Court, or (iii) any Released Party from any Secured Claim of Timbercreek. The foregoing release shall not be construed to prohibit a party in interest from seeking to enforce the terms of this Proposal, including with respect to Distributions, or any contract or agreement entered into pursuant to, in connection with or contemplated by this Proposal. Notwithstanding the foregoing, the directors and officers of the Company, its affiliates, the former directors and officers, and general partner of the Company shall not be released in respect of any (x) Equity Claim as defined in section 2 of the BIA or any analogous claim in respect of a partnership interest or (y) any claim by a former

employee of the Company or its affiliates relating to unpaid wages or other employment remuneration.

7.02 Injunctions

All Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Proposal Implementation Date, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever of any Person against the Released Parties, as applicable; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, guarantee, decree or order against the Released Parties; (iii) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (iv) taking any actions to interfere with the implementation or consummation of this Proposal or the transactions contemplated hereunder; provided, however, that the foregoing shall not apply to the enforcement of any obligations under this Proposal or any document, instrument or agreement executed to implement this Proposal.

ARTICLE VIII
CONDITIONS PRECEDENT

8.01 Conditions Precedent

This Proposal will take effect on the Proposal Implementation Date. The Implementation of this Proposal on the Proposal Implementation Date is subject to the satisfaction or waiver (in the sole discretion of the Proposal Sponsor) of the following conditions precedent (collectively, the "**Conditions Precedent**"):

- (a) the Proposal is approved by the Required Majority;
- (b) the Approval Order, in form and substance satisfactory to the Proposal Sponsor, has been issued, has not been stayed and no appeal therefrom is outstanding;
- (c) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Authority, no application shall have been made to any Governmental Authority, and no action or investigation shall have been announced, threatened or commenced by any Governmental Authority, in consequence or in connection with the Proposal or the Project that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or inhibit), the Proposal or any part thereof or the Project or any part thereof or requires or purports to require a variation of the Proposal or the Project;
- (d) registrations in respect of all encumbrances, including without limitation any registrations in respect of Construction Lien Claims, but excluding the Permitted Encumbrances, shall have been deleted from title to the Property, provided that (a) should the Implementation of the Proposal not occur following the deletion of an Affected Creditor's encumbrance pursuant to this provision, such Affected Creditor shall have the right to renew such registration, and (b) the Company and/or the

Proposal Sponsor shall be at liberty to pay security into Court (by way of a bond or similar instrument) in respect of any Non-Consenting Lienholder, should the Claim of such Non-Consenting Lienholder be a Disputed Claim;

- (e) the Proposal Sponsor, or its nominee, shall have entered into assignment and assumption agreements in respect of all Assumed Contracts, or an assignment order pursuant to section 84.1 of the BIA shall have been issued, in each case in form and substance satisfactory to the Proposal Sponsor, provided that it shall be a condition of the assumption of each Assumed Contract that the written agreements set out in the list of Assumed Contracts provided by the Proposal Sponsor (as amended from time to time) represent the totality of the contractual arrangements between the Company and each applicable counterparty, and no verbal or extra-contractual arrangements will be recognized by the Proposal Sponsor;
- (f) sufficient financing for the acquisition of the Property by the Proposal Sponsor, or its nominee, shall have been provided by Otera Capital Inc., on terms satisfactory to the Proposal Sponsor, and all material conditions precedent to such financing shall be capable of completion by the Proposal Sponsor prior to the Proposal Implementation Date;
- (g) the Proposal Implementation Date shall occur on the day that is seven days following the issuance of the Approval Order (or, if such date falls on a day that is not a Business Day, then on the next Business Day), or such other date prior to the Outside Date as may be agreed by the Proposal Sponsor;
- (h) any required resolutions authorizing the Company to file this Proposal and any amendments thereto will have been approved by the board of directors of the Company;
- (i) the Proposal Sponsor Agreement shall not have been terminated by the Proposal Sponsor; and
- (j) the Company shall have delivered a certificate to the Proposal Trustee that the conditions precedent to the Implementation of the Proposal have been satisfied or waived (the "**Implementation Certificate**").

Upon written confirmation of receipt from the Proposal Trustee of the Implementation Certificate, the Implementation of the Proposal shall have been deemed to have occurred and all actions deemed to occur upon Implementation of the Proposal shall occur without the delivery or execution of any further documentation, agreement or instrument.

ARTICLE IX
EFFECT OF PROPOSAL

9.01 Binding Effect of Proposal

After the issuance of the Approval Order by the Court, subject to satisfaction of the Conditions Precedent, the Proposal shall be implemented by the Company and shall be fully effective and binding on the Company and all Persons affected by the Proposal. Without limitation, the treatment of Affected Creditor Claims under the Proposal shall be final and binding on the Company, the Affected Creditors, and all Persons affected by the Proposal and their respective heirs, executors, administrators, legal representatives, successors, and assigns. For greater certainty, this Proposal shall have no effect upon Unaffected Creditors.

9.02 Amendments to Agreements and Paramountcy of Proposal

Notwithstanding the terms and conditions of all agreements or other arrangements with Affected Creditors entered into before the Filing Date, for so long as an event of default under this Proposal has not occurred, all such agreements or other arrangements will be deemed to be amended to the extent necessary to give effect to all the terms and conditions of this Proposal. In the event of any conflict or inconsistency between the terms of such agreements or arrangements and the terms of this Proposal, the terms of this Proposal will govern and be paramount.

9.03 Deemed Consents and Authorizations of Affected Creditors

At the Effective Time each Affected Creditor shall be deemed to have:

- (a) executed and delivered to the Company all consents, releases, assignments, and waivers, statutory or otherwise, required to implement and carry out this Proposal in its entirety;
- (b) waived any default by the Company in any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company that has occurred on or prior to the Proposal Implementation Date; and
- (c) agreed, in the event that there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company as at the date and time of Court approval of the Proposal (other than those entered into by the Company on, or with effect from, such date and time) and the provisions of this Proposal, that the provisions of this Proposal shall take precedence and priority and the provisions of such agreement or other arrangement shall be amended accordingly.

ARTICLE X
ADMINISTRATIVE FEES AND EXPENSES

10.01 Administrative Fees and Expenses

Administrative Fees and Expenses will be paid in cash by the Company on the Proposal Implementation Date together with a reserve in respect of the discharge of the Proposal Trustee.

ARTICLE XI
INDEMNIFICATION

11.01 Indemnification of Proposal Trustee

The Proposal Trustee shall be indemnified in full by the Company for all personal liability arising from fulfilling any duties or exercising any powers or duties conferred upon it by this Proposal or under the BIA, except for any willful misconduct or gross negligence.

ARTICLE XII
POST FILING GOODS AND SERVICES

12.01 Payment of Payroll Deductions and Post Filing Claims

The following shall continue to be paid in the ordinary course by the Company prior to and after the Court Approval Date and shall not constitute Distributions or payments under this Proposal:

- (a) all Persons, who may advance monies, or provide goods or services to the Company after the Filing Date shall be paid by the Company in the ordinary course of business;
- (b) current source deductions and other amounts payable pursuant to Section 60(1.2) of the BIA, if applicable, shall be paid to Her Majesty in Right of Canada in full by the Company as and when due; and
- (c) current goods and services tax (GST), and all amounts owing on account of provincial sales taxes, if applicable, shall be paid in full by the Company as and when due.

ARTICLE XIII
TRUSTEE, CERTIFICATE OF COMPLETION, AND DISCHARGE OF TRUSTEE

13.01 Proposal Trustee

KSV Restructuring Inc. shall be the Proposal Trustee pursuant to this Proposal and upon the making of the Distributions and the payment of any other amounts provided for in this Proposal, the Proposal Trustee will be entitled to be discharged from its obligations under the terms of this Proposal. The Proposal Trustee is acting in its capacity as Proposal Trustee under this Proposal,

and not in its personal capacity and shall not incur any liabilities or obligations in connection with this Proposal or in respect of the business, liabilities or obligations of the Company, whether existing as at the Filing Date or incurred subsequent thereto.

The Proposal Trustee shall not incur, and is hereby released from, any liability as a result of carrying out any provisions of this Proposal and any actions related or incidental thereto, save and except for any gross negligence or willful misconduct on its part (as determined by a final, non-appealable judgment of the Court).

13.02 Certificate of Completion and Discharge of Proposal Trustee

Upon the Proposal Trustee receiving confirmation in writing from the Company that the transactions contemplated in Section 6.01 have been completed in the order and manner contemplated therein, and all Distributions to Affected Creditors have been administered in accordance with Article IV, the terms of the Proposal shall be deemed to be fully performed and the Proposal Trustee shall provide a certificate to the Company, the Proposal Sponsor and to the Official Receiver pursuant to Section 65.3 of the BIA and the Proposal Trustee shall be entitled to be discharged.

ARTICLE XIV GENERAL

14.01 Valuation

For purposes of voting and Distributions, all Claims shall be valued as at the Filing Date.

14.02 Preferences, Transfers at Undervalue

In conformity with Section 101.1 of the BIA, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal. As a result, all of the rights, remedies, recourses and Claims described therein:

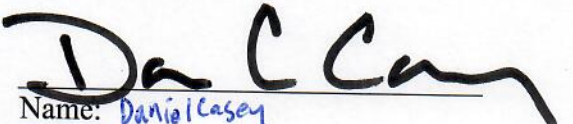
- (a) all such rights, remedies and recourses and any Claims based thereon shall be completely unavailable to the Proposal Trustee or any Affected Creditors against the Company, the Property, or any other Person whatsoever; and
- (b) the Proposal Trustee and all of the Affected Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any Claims based thereon against the Company, the Property any other Person.

14.03 Governing Law


The Proposal shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. Any disputes as to the interpretation or application of the Proposal and all proceedings taken in connection with the Proposal shall be subject to the exclusive jurisdiction of the Court.

Dated at Toronto, this 8th day of July, 2021.

YSL RESIDENCES INC.

Per: 
Name: Daniel Casey
Title: President
I have the authority to bind the Corporation.

**YG LIMITED PARTNERSHIP, by its
general partner 9615334 CANADA INC.**

Per:  .
Name: Daniel Casey
Title: President
I have the authority to bind the Corporation.

SCHEDULE A

PERMITTED ENCUMBRANCES

<u>Instrument Number</u>	<u>Description</u>
EP138153	- Canopy Agreement with the City of Toronto
EP146970	- Encroachment Agreement with the City of Toronto
CT114131	- Encroachment Agreement with the City of Toronto
CT169812	- Canopy Agreement with the City of Toronto
CA11215	- Development Agreement with the City of Toronto
CA231470	- Encroachment Agreement with the City of Toronto
AT5142530	- Heritage Easement Agreement with the City of Toronto
AT5154721	- Heritage By-Law
AT5154722	- Heritage By-Law
AT5157423	- Heritage By-Law
AT5157424	- Heritage By-Law
AT5246455	- Section 37 Agreement
AT5473163	- Application to Register a Court Order (Equitable Mortgage)

SCHEDULE B

LIST OF CONSENTING LIENHOLDERS

- architectsAlliance & Stephen Wells Architect Ltd.
- Brian Isherwood & Associates
- GFL Infrastructure Group Inc.
- Heritage Restoration Inc.
- Kohn Pederson Fox Associates PC
- Kramer Design Associates Limited
- Petra Consultants Ltd.
- Priestly Demolition Inc.
- R. Avis Surveying Inc.
- Reco Cleaning Services
- Royal Excavating & Grading Limited
- Safeline Management Systems
- Sebba Steel Construction Ltd.
- Verdi Structures Inc.
- WSP Canada Inc.

Appendix “C”

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE PROPOSAL OF YG LIMITED PARTNERSHIP
AND YSL RESIDENCES INC. PURSUANT TO THE
BANKRUPTCY AND INSOLVENCY ACT

PROPOSED OFFER TO ALL EQUITYHOLDERS OF
YG LIMITED PARTNERSHIP

(July 9, 2021)

Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Amended Proposal #3 of YG Limited Partnership ("YG LP") and YSL Residences Inc. dated July 8, 2021 (the "**Third Amended Proposal**").

This offer is hereby submitted by Concord Properties Developments Corp. (the "**Proposal Sponsor**") to all of the limited partners of YG LP as well as those entities deemed to hold equity interests in YG LP (together with all limited partners, all such entities, the "**Equityholders**") pursuant to the Amended Reasons for Interim Decision issued by the Court on July 2, 2021 (the "**Interim Decision**"), and is conditional upon the Third Amended Proposal being approved by the Court.

The terms set out in this offer letter are indicative in nature, and are subject to finalization in all respects pursuant to one or more definitive agreements (the "**Definitive Documentation**") to be entered into should the Third Amended Proposal be approved by the Court.

1. In order to monetize tax attributes, the Proposal Sponsor offers to buy from each Equityholder the shares of a holding company (each, a "**Holdco**"), organized to hold that Equityholder's interest in YG LP (whether such interest is in the form of a partnership unit of any class or as otherwise determined pursuant to the Interim Decision). It shall be a condition of such purchase, and the Definitive Documentation will contain a representation and warranty in favour of the Proposal Sponsor to the effect that each Holdco contains no other assets or liabilities other than the applicable Equityholder's interest in YG LP.
2. The purchase price will be 12.5% of the value of each Holdco's net equity interest in YG LP after accounting for recoveries and distributions to each Equityholder from surplus funds returned to YG LP under the Third Amended Proposal, if any.
3. This offer is made separately to each Equityholder, and acceptance is not conditional on the number of Equityholders accepting.
4. To the extent necessary, each Equityholder will have a period of time to be agreed upon by the parties, acting reasonably, to reorganize its current ownership structure so as to be able to deliver shares of a Holdco compliant with the condition set out in paragraph 1, above.

5. If the Third Amended Proposal is approved by the Court, the Proposal Sponsor and all agreeing Equityholders will work diligently to finalize the Definitive Documentation as soon as possible, and in any event no later than seven (7) business days from the date of approval of the Third Amended Proposal.

**CONCORD PROPERTIES
DEVELOPMENTS CORP.**

Per: _____ /s/

Appendix “D”



**Third Report to Court of
KSV Restructuring Inc. as Proposal
Trustee of YG Limited Partnership and
YSL Residences Inc.**

June 18, 2021

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COURT FILE NO.: 31-2734090

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF
YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**THIRD REPORT TO COURT OF
KSV RESTRUCTURING INC. AS PROPOSAL TRUSTEE**

JUNE 18, 2021

1.0 Introduction

1. This report (“Report”) is filed by KSV Restructuring Inc. (“KSV”) in its capacity as proposal trustee (the “Proposal Trustee”) in connection with Notices of Intention to Make a Proposal (“NOIs”) filed on April 30, 2021 (the “Filing Date”) by YG Limited Partnership (the “Partnership”) and YSL Residences Inc. (“Residences”, and together with the Partnership, the “Companies”), pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”).
2. On May 14, 2021, the Ontario Superior Court of Justice (Commercial List) (the “Court”) issued an order (the “Consolidation Order”) procedurally and substantively consolidating the NOI proceedings of the Partnership and Residences (the “NOI Proceedings”) for the purpose of simplifying the administration of the NOI Proceedings, including the filing of a joint proposal and convening a single meeting of creditors. A copy of the Consolidation Order is attached as Appendix “A”.
3. The principal purpose of these proceedings is to create a stabilized environment to allow the Companies to present a proposal that provides creditors with a recovery greater than they would receive in a bankruptcy or alternative insolvency process.
4. On May 27, 2021, the Companies filed a proposal with the Official Receiver in accordance with Section 62(1) of the BIA (the “Proposal”). A Certificate of Filing a Proposal (the “Certificate”) was issued by the Office of the Superintendent of Bankruptcy (Canada) (“OSB”) on May 28, 2021. On June 3, 2021, the Companies filed an amended proposal to include Conditional Claims (as defined below) and make other clarifications to the Proposal (the “First Amended Proposal”). On June 15, 2021, the Companies filed another amendment (the “Second Amendment”) to the First Amended Proposal, which narrowed the scope of the releases (the “Amended Proposal”). Copies of the Amended Proposal and the Certificate are attached as Appendices “B” and “C”, respectively.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Companies;
 - b) summarize the results of the meeting of creditors held on June 15, 2021 to consider and vote on the Amended Proposal (the “Meeting”);
 - c) provide the statutory disclosure required under Sections 58(d) and 59(1) of the BIA; and
 - d) provide the Proposal Trustee’s recommendation to the Court with respect to:
 - i. the approval of the Amended Proposal; and
 - ii. sealing the confidential appendices to this Report on the terms set out below.

1.2 Currency

1. All currency references in this Report are to Canadian dollars.

1.3 Definitions

1. Capitalized terms not defined in the Report have the meanings provided to them in the Amended Proposal.

1.4 Restrictions

1. In preparing this Report, the Proposal Trustee has relied upon unaudited financial information prepared by the Companies’ representatives, the Companies’ books and records and discussions with representatives of the Companies and Concord Properties Developments Corp., the sponsor of the Amended Proposal (the “Sponsor”), and Concord Adex Inc. (“Concord”), an entity related to the Sponsor.
2. The Proposal Trustee has been provided with two appraisals by CBRE Limited (“CBRE”) - one with an effective date of July 30, 2019 issued to Cresford Developments and one with an effective date of March 16, 2021 (the “2021 CBRE Appraisal”) issued to Concord (collectively, the “CBRE Appraisals”). The Proposal Trustee has assumed that the CBRE Appraisals accurately reflect the YSL Project (as defined in Section 2.1 below).
3. The Proposal Trustee has not performed an audit or other verification of the financial and other information provided to it. An examination of the Companies’ financial forecasts as outlined in the Chartered Professional Accountants of Canada Handbook has not been performed. Future oriented financial information relied upon in this Report is based on the Companies’ and Concord’s assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Proposal Trustee expresses no opinion or other form of assurance with respect to the accuracy of any financial information or the Appraisals presented in this Report or relied upon by the Proposal Trustee in its preparation of this Report.

4. Any sale, restructuring and/or realization process for the YSL Project (as defined in Section 2.1 below) could be affected by the Covid-19 pandemic and the effect of the pandemic on any such process cannot be predicted or projected at this time.

2.0 Background

2.1 Overview

1. The Partnership was formed on February 3, 2016 under *The Partnership Act*, C.C.S.M. c. P30 (Manitoba). 9615334 Canada Inc. (the “GP”) is the Partnership’s general partner. The GP has not filed an NOI. Residences was incorporated on January 28, 2016 under the *Business Corporations Act* (Ontario).
2. The Companies are part of the Cresford Group of Companies (“Cresford”), a real estate developer and builder. A corporate organization chart for Cresford is attached as Appendix “D”.
3. Residences is the registered owner of the real properties municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario (the “Real Property”), acting as a bare trustee and nominee of, for and on behalf of the Partnership.
4. The Partnership is the beneficial owner of the Real Property and was formed for the purpose of developing the Real Property into a mixed-use office, retail and residential condominium development comprised of approximately 1,100 residential units, 190,000 square feet of commercial/retail/institutional space and 242 parking spaces known as Yonge Street Living Residences (the “YSL Project”). As of the Filing Date, approximately 800 residential condominium units had been pre-sold, with such contracts executed by Residences and each respective purchaser (each, a “Condo Purchase Agreement”).
5. On May 11, 2021, the Companies disclaimed 56 Condo Purchase Agreements. The Companies advised that the purchase agreements disclaimed were under market and, therefore, the disclaimers improved the value of the YSL Project and enhanced the prospects of a viable proposal being made by the Companies. The Proposal Trustee consented to the disclaimers. No objections to the disclaimers were received.
6. Construction of the YSL Project has been suspended for more than a year and it is presently part way through the excavation and shoring stage, with no ongoing work being completed on the site at this time, other than ongoing dewatering and monitoring work required by the City of Toronto.
7. Pursuant to an agreement dated April 30, 2021 between the Companies, certain Cresford entities and the Sponsor (the “Sponsor Agreement”), the Sponsor agreed to sponsor the Amended Proposal by way of, *inter alia*, agreeing to fund the distributions contemplated by the Amended Proposal. In consideration for the payments contemplated under the Amended Proposal, if the Amended Proposal is implemented, the Sponsor or another Concord-affiliate will become the owner of the Real Property and developer of the YSL Project, with a view to resuming construction work expeditiously. A copy of the Sponsor Agreement is attached as Appendix “E”.
8. The Companies’ mortgagees consented to the Sponsor Agreement.

2.2 Applications by the Limited Partners

1. Certain of the Partnership's limited partners (the "LPs") have commenced separate applications (collectively, the "LP Applications") seeking Orders declaring that, among other things: a) the GP is terminated as general partner of the Partnership; b) any agreements entered into by the GP with the Sponsor are null and void; and c) the GP breached its duty of good faith to the LPs. Additionally, certain of the LPs are seeking the appointment of an equitable receiver.
2. Timbercreek Mortgage Servicing Inc. ("Timbercreek") is the Companies' senior mortgagee. The Proposal Trustee is advised that the Companies defaulted on their obligations to Timbercreek in early 2020. Pursuant to an agreement dated March 26, 2020 among Timbercreek, the Companies and two Cresford entities (the "Forbearance Agreement"), Timbercreek agreed to, among other things, forbear from enforcing its security against the Real Property. Timbercreek subsequently brought a motion to appoint a receiver on November 13, 2020. Pursuant to amendments to the Forbearance Agreement, the receivership application was adjourned several times and remains pending. If the NOI proceedings are discontinued, or if the Amended Proposal is not accepted by the creditors or approved by the Court, Timbercreek has scheduled an application for the appointment of a receiver on July 12, 2021. Timbercreek has advised that if the Amended Proposal is not approved on the return of this motion, it may seek the immediate appointment of a receiver.
3. On June 1, 2021, the Court heard motions by the LPs to, among other things, lift the stay of proceedings pursuant to Section 69(1) of the BIA and to authorize the LPs to bring the LP Applications. Pursuant to an endorsement made on the same day (the "June 1st Endorsement"), the Court, among other things, set a litigation timetable in respect of a hearing on June 23, 2021 where certain of the LPs' arguments could be made at the same time as Court approval of the Amended Proposal, should the Amended Proposal be accepted by the Affected Creditors voting at the Meeting. As set out below, the statutory majority of creditors voted to accept the Amended Proposal and therefore the hearing on June 23, 2021 will consider the LP Applications and the Companies' motion for Court approval of the Amended Proposal. A copy of the June 1st Endorsement is provided as Appendix "F".
4. Court materials filed in these proceedings, including the Proposal Trustee's First Report to Court dated May 6, 2021 (the "First Report") and its Second Report to Court dated May 14, 2021, are available on the Proposal Trustee's website at <https://www.ksvadvisory.com/insolvency-cases/case/yg-limited-partnership>.
5. Additional information about these proceedings, including additional background on the Companies, the LP Applications, and the Companies' current financial position is included in the Proposal Trustee's Report to Creditors dated June 4, 2021 (the "Report to Creditors"). A copy of the Report to Creditors is provided in Appendix "G", without attachments, and can also be found on the Proposal Trustee's website.

3.0 Creditors

1. On June 4, 2021, the Proposal Trustee mailed to each creditor and posted on its website a creditors' package, including a Proof of Claim form, voting letter and the Report to Creditors.

2. A summary of the Companies' liabilities based on its books and records is presented below. The table includes all claims as of the date the Proposal was filed, with interest projected on secured creditor claims to June 30, 2021, which is the approximate implementation date if the Amended Proposal is approved by the Court.

(\$000s)	
Creditors	Amounts
Secured Creditors/Mortgagees	
Timbercreek	106,799
Westmount	112,446
2576725 Ontario	30,865
City of Toronto – property taxes	729
Total Secured Creditors	250,839
Other Creditors and Related Party Creditors	
Construction Lien Claimants	11,865
Third party unsecured creditors	13,043
Related Party Creditors	38,274
Other Creditors and Related Party Creditors	63,182
Total	314,021

3. A list of known creditors based on the Statement of Affairs dated May 27, 2021 sworn by Daniel C. Casey, an officer of the Companies, is attached as Appendix "H".
4. A summary of the claims filed by the Companies' creditors as of the date of the Meeting is provided below¹.

Creditor	Amount (\$000)
Affected Claims	
Third party general unsecured claims	1 24,284
Convenience Creditor Claims	2 107
Conditional Claims	3 2,072
Contingent claims	4 22,709
Related Party Claims	5 38,284
Total Affected Claims	87,456

Notes

1. Represents unsecured claims filed by third party creditors, not including Convenience Creditor Claims, Conditional Claims, and Claims determined by the Proposal Trustee as contingent pursuant to Section 135 (1.1) of the BIA.
2. Represents unsecured claims filed by third party creditors that are either: i) in an amount less than or equal to \$15,000; or ii) in an amount greater than \$15,000 if the relevant Creditor submitted a valid Convenience Creditor Election Form prior to 5:00pm on June 14, 2021.
3. Discussed further in Section 4.3 below
4. Discussed further in Section 4.4 below
5. Discussed further in Section 4.5 below

¹ Represents amounts reflected in filed proofs of claim, where applicable. The claims remain subject to review and determination by the Proposal Trustee.

5. Since the Meeting, two additional claims have been filed in the amounts of \$4.9 million and \$17,000. While the claims were not included in the voting results, the creditor which filed the larger claim (\$4.9 million) submitted a voting letter in favour of acceptance of the Amended Proposal.

4.0 The Amended Proposal

1. The terms of the Amended Proposal were set out in Section 4 of the Report to Creditors and are summarized below.

4.1 Purpose and Effect

1. The overall purpose of the Amended Proposal is to:
 - a) provide for payment in full of the Secured Claims; and
 - b) make a distribution of up to 58% of the amounts owing to each Affected Creditor.
2. In consideration for, among other things, the Sponsor's sponsorship of the Amended Proposal, including the satisfaction of all Secured Claims, Preferred Claims and the establishment of the Proposal Fund in the maximum amount of \$37.7 million (discussed further below in Section 4.2), on the Proposal Implementation Date, title to the Real Property, subject only to the Permitted Encumbrances, as well as the Companies' interests and obligations under the Assumed Contracts and Condo Purchase Agreements, shall be acquired by the Sponsor, or its nominee.

4.2 Dividend Amount

1. If the total Proven Claims are less than \$65 million (the "Maximum Proposal Claims Amount"), Affected Creditors are to receive a distribution of 58% of the face value of their Affected Creditor Claims (the "Affected Creditor Share"). If the total Proven Claims exceed \$65 million, Affected Creditors are to receive an amount equal to the face value of such Affected Creditor Claim multiplied by the formula $0.58 \times (X/Y)$ where "X" equals the Maximum Proposal Claims Amount and "Y" equals the aggregate total amount of Proven Claims (the "Affected Creditor Pro Rata Share").
2. In Section 4.8 of the Report to Creditors, the Proposal Trustee advised that estimated Affected Creditor Claims based on the list of known creditors at the date the Amended Proposal was filed totalled \$63.2 million. The Proposal Trustee noted that *"the estimated Affected Creditor Claims do not include a provision for Conditional Claims, litigation claims or other unknown claims. Amounts filed in the claims process may be materially different from the amounts as recorded in the Companies' books and records and could exceed \$65 million. Accordingly, the dividend to Affected Creditors may be less than 58% of the face value of the Affected Creditor Claims."*
3. As described in Section 3 above, as at the date of this Report, the Proposal Trustee received 59 claims totalling \$92.4 million, which include Conditional Claims, contingent claims, and other claims where the amounts were unknown as at the date the Amended Proposal was filed. Certain of these claims, if accepted as Proven Claims, could result in the total Affected Creditor Claims exceeding \$65 million, therefore resulting in the Affected Creditors receiving the Affected Creditor Pro Rata Share.
4. If the disputed claims are not resolved consensually, they may need to be adjudicated.

4.3 Conditional Claims

1. Conditional Claims include, but are not limited to, any Claim of an Affected Creditor that is not a Proven Claim as at the Filing Date because one or more conditions precedent to establish such Affected Creditor's entitlement to payment by the Companies had not been completed in accordance with any applicable contractual terms as at the Filing Date, and such Affected Creditor has indicated in its proof of claim that the Claim should be treated as a Conditional Claim.
2. Pursuant to the Amended Proposal, the Conditional Creditors have until 5:00 pm (Toronto Time) on September 13, 2021 (the "Conditional Claim Completion Deadline") to complete or otherwise satisfy all outstanding pre-conditions to payment in accordance with the terms of the applicable agreement between such Affected Creditor and the Companies (the "Conditional Claim Conditions") and provide proof of such completion to the Proposal Trustee.
3. As of the date of this Report, the Proposal Trustee has received 11 claims in the aggregate amount of \$2.1 million which meet the criteria definition of Conditional Claims, all of which relate to claims of real estate brokers in respect of commissions on condominium sales where one or more conditions precedent remain outstanding (such as proof of financing or payment of deposits). If brokers with Conditional Claims satisfy the Conditional Claim Conditions, the quantum of the total Affected Creditor Claims will increase.

4.4 Contingent Claims

1. Contingent Claims totalling \$22.7 million were filed by former Cresford employees. The employees have advanced claims alleging that the Companies are a common employer in respect of, *inter alia*, wrongful dismissal, unpaid bonuses, commissions and profit sharing.
2. The largest employee claim was filed by Maria Athanasoulis, the former President and Chief Operating Officer of Cresford. Ms. Athanasoulis's claim is in the amount of \$19 million and is related to a Statement of Claim she filed on January 21, 2020 against the Companies, other Cresford affiliates and Mr. Casey (the "Athanasoulis Claim"). The Athanasoulis Claim is in respect of, among other things, allegations of:
 - a) wrongful dismissal; and
 - b) damages for breach of an oral agreement that the owner of each Cresford project, including the YSL Project, would pay Ms. Athanasoulis 20% of the profits earned on each project (the "Profit Sharing Agreement").
3. The support provided in the Athanasoulis Claim includes, among other things, an unsigned employment agreement dated November 1, 2014 as between Cresford and Ms. Athanasoulis (the "Unsigned Employment Agreement"). A copy of the Athanasoulis Claim is attached as Appendix "I".

4. The Proposal Trustee is aware that Ms. Athanasoulis filed similar claims in the insolvency proceedings of other Cresford affiliates, including in the proceedings commenced by The Clover on Yonge Inc. and the Clover on Yonge Limited Partnership pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "Clover CCAA Proceedings"). Mr. Justice Hainey issued an endorsement dated January 8, 2021 in the Clover CCAA Proceedings (the "Justice Hainey Endorsement") pursuant to which he stated that Ms. Athanasoulis's claim is "too speculative and remote" and therefore was not admitted for voting purposes. An unofficial transcript of the Justice Hainey Endorsement is attached as Appendix "J".
5. The Proposal Trustee reviewed the Athanasoulis Claim and determined it to be a Contingent Claim for an unliquidated amount that was too speculative to be admitted (or otherwise should be valued at nil) for voting purposes for the following reasons:
 - a) the existence and terms of the oral Profit Sharing Agreement and wrongful dismissal have not been proven and are the subject matter of ongoing litigation;
 - b) the efficacy of the Unsigned Employment Agreement is uncertain; and
 - c) the treatment of the similar claim filed by Ms. Athanasoulis in the Clover CCAA Proceedings.
6. Email correspondence between Davies Ward Phillips & Vineberg LLP ("Davies"), the Proposal Trustee's counsel, and Goodmans LLP ("Goodmans"), Ms. Athanasoulis's counsel, concerning the Proposal Trustee's intended treatment of her claim for voting purposes at the Meeting is provided as Appendix "K".
7. Five additional claims totaling \$3.7 million which were filed by various former employees of Cresford, each of which is represented by Naymark Law ("Naymark"), were also treated as Contingent Claims in unliquidated amounts although there was some basis for valuing two of these Contingent Claims for voting purposes. The Proposal Trustee's intended treatment of each of these claims for voting purposes at the Meeting was set out in email correspondence between Davies and Naymark, a copy of which is attached as Appendix "L".

4.5 Related Party Claims

1. Cresford (Rosedale) Developments Inc. ("Cresford Rosedale"), East Downtown Redevelopment Partnership ("EDRP") and Oakleaf Consulting Ltd. ("Oakleaf" and together with Cresford Rosedale and EDRP, the "Related Party Creditors") are entities within the Cresford Group that are related to the Companies. In aggregate, the Companies' books and records reflect that the Related Party Creditors are presently owed approximately \$38.3 million in respect of amounts that they have advanced to the Companies or expenses that they funded on the Companies' behalf (the "Related Party Claims").
2. The Related Party Claims represent a significant portion of the total pool of potential Affected Creditor Claims.
3. The LPs and Goodmans, on behalf of Ms. Athanasoulis, have raised concerns regarding the Related Party Claims, including that the amounts owing to the Related Party Creditors should be treated as equity and not debt.

4. As the quantum and classification of the Related Party Claims could affect the distribution to Affected Creditors, the Proposal Trustee has performed extensive diligence on the Related Party Claims.
5. To date, the Proposal Trustee's diligence has included:
 - a) reviewing financial and other documents provided by the Companies in respect of the Related Party Claims, including but not limited to, accounting records, bank statements, relevant agreements and contracts, tax returns, financial statements and loan documents;
 - b) discussing the Related Party Claims with the Companies' management;
 - c) reviewing materials filed in connection with these proceedings and the LP Applications; and
 - d) discussing the Related Party Claims with certain of the LPs and other stakeholders.
6. As at the date of the Report, the Proposal Trustee has not completed its review of the Related Party Claims and accordingly, has not yet determined their treatment under the Amended Proposal.
7. Related Parties are only entitled to vote against a proposal. For the purposes of voting on the Amended Proposal, the Proposal Trustee advised the Related Party Creditors that it was not able to determine by the Meeting if the Related Party Claims are provable. Accordingly, the Proposal Trustee marked the claims disputed and permitted the Related Party Creditors to vote on that basis. The Related Party Creditors did not vote at the Meeting.

4.6 Second Amendment

1. As discussed above, the First Amended Proposal was amended on June 15, 2021, following discussions between the Companies, the Sponsor, certain of the Companies' creditors and the LPs. The purpose of the Second Amendment is to narrow the release provisions contemplated in Section 7.01 of the First Amended Proposal.
2. On June 15, 2021, the Amended Proposal was filed with the Official Receiver and posted on the Proposal Trustee's website. It was also tabled at the Meeting.

4.7 The Meeting

1. The Meeting was convened virtually by Zoom on June 15, 2021 and was chaired by the Proposal Trustee.

4.8 Voting Treatment

1. The Proposal Trustee received a total of 57 claims prior to the Meeting. As discussed above, in accordance with section 108 of the BIA, the Proposal Trustee objected to certain claims for voting purposes, either partially or in full.
2. Of the 57 claims received, the Proposal Trustee allowed 37 claims to vote at the full value as filed (the "Eligible Voting Claims"), 10 claims were allowed to vote at a reduced value (the "Partially Disputed Voting Claims") and 10 claims were fully disallowed for voting purposes and valued at nil ("Fully Disputed Voting Claims"). The voting treatment of these claims is summarized in the table below:

Voting Treatment of Claims	#	\$ (Allowed)	\$ (Disallowed)
Eligible Voting Claims	37	13,287,381	-
Partially Disputed Voting Claims	10	5,313,758	7,097,757
Fully Disputed Voting Claims	10	-	61,735,343
Total claims received	57²	18,601,139	68,833,100

3. The Partially Disputed Voting Claims primarily include claims filed by brokers in respect of commissions, a portion of which were filed as Conditional Claims. As described in Section 4.3 above, a portion of these claims is only payable on the fulfillment of the Conditional Claim Conditions. Therefore, these claims were only valued for voting purposes at the amount that was payable as per the Companies' accounts payable listing at the date of the Meeting, with the residual amount marked as disputed. Also included in the Partially Disputed Voting Claims are two claims of former employees represented by Naymark.
4. The Fully Disputed Voting Claims include the Related Party Claims (\$38.3 million), the Athanasoulis Claim (\$19 million), three claims of former employees represented by Naymark (\$1.9 million) and three claims from creditors that are not reflected in the Companies' books and records (\$2.5 million).

4.9 Voting Result

1. The following table summarizes the results of the voting at the Meeting:

Voting Summary	Claims Allowed for Voting		Objected Claims ³		Total	
	#	\$	#	\$	#	\$
Accept	46	18,533,339	3	3,295,725	49	21,829,064
Reject	-	-	1	19,000,000	1	19,000,000
Total	46	18,533,339	4	22,295,725	50	40,829,064
% Accept	100%	100%			98%	53%

2. As presented in the table above, the Amended Proposal was unanimously accepted by the Creditors with claims allowed for voting purposes at the Meeting.

² Of the 57 votes noted in the table over, 10 were marked as fully disputed, seven of which did not vote and three of which voted.

³ The Objected Claims do not include the Partially Disputed Voting Claims, as they are included in the Claims Allowed for Voting at the amount determined for that purpose by the Proposal Trustee.

3. Ms. Athanasoulis voted to reject the Amended Proposal.
4. As indicated by the totals presented in the table above, if Ms. Athanasoulis' claim is accepted for voting purposes, the Amended Proposal would fail. As the other Objected Claims all voted in favour of the Amended Proposal, their treatment would not change the outcome of the Amended Proposal.
5. Copies of the voting register and the minutes of the Meeting are attached as Appendices "M" and "N", respectively.

4.10 Participation of the Sponsor

1. As set out in Section 4.9 of the Report to Creditors, Concord advised the Proposal Trustee that certain of the Companies' creditors, which as of the date of the Report to Creditors were owed approximately \$16 million in respect of unsecured or lien claims, had conditionally agreed to assign their claims to the Sponsor or an affiliate of the Sponsor (the "Claim Assignment Agreement"). The Claim Assignment Agreement is subject to Court approval of the Amended Proposal and provides for a payment by the Sponsor to these creditors following Court approval of the Amended Proposal in exchange for the respective creditors:
 - a) assigning their Claim to the Sponsor or a Sponsor affiliate; and
 - b) agreeing to:
 - i. file their Claim as an Affected Claim under the Amended Proposal;
 - ii. vote to approve the Amended Proposal; and
 - iii. name a representative of the Sponsor as their proxy.
2. The Related Party Claims are not subject to the Claim Assignment Agreement.
3. The Sponsor has advised the Proposal Trustee that as of the date of this Meeting, it had executed Claim Assignment Agreements with 39 creditors representing filed claims allowed for voting purposes of \$15.8 million. A schedule listing the creditors and their respective claims is provided as Appendix "O". The Sponsor advised the Proposal Trustee that, as of the Meeting, it had entered into agreements with six other creditors; however, those creditors did not submit votes and therefore the Sponsor considers those agreements to be terminated. Additionally, the Sponsor entered into agreements similar to the Claim Assignment Agreements with the five creditors represented by Naymark that filed claims totalling \$3.7 million⁴. The claims of two of those creditors were accepted for voting purposes at \$413,000.
4. As a result of the Claim Assignment Agreement, the Sponsor is bearing the risk that the total Proven Claims exceed the Maximum Proposal Claims Amount (\$65 million) and therefore that the distributions under the Amended Proposal are less than 58% of Proven Claims.

⁴ These claims remain subject to determination by the Proposal Trustee. It is the Proposal Trustee's understanding that the amount payable by the Sponsor is based on the Proven Claim as determined by the Proposal Trustee.

5. Allegations have been made by various parties in these proceedings that to induce creditors to vote to accept the Amended Proposal, Concord negotiated side deals with creditors in addition to the Assignment Agreements. The Proposal Trustee has asked the Sponsor to confirm whether this is the case. The Proposal Trustee has been advised by the Sponsor that no such side deals were entered into.

5.0 Realization in a Bankruptcy/Receivership

5.1 FM Report and Valuation

1. In the First Report, the Proposal Trustee advised the Court that it engaged Finnegan-Marshall Inc. (“FM”), a prominent real estate and development cost consulting firm based in Toronto, to, among other things, prepare a report that opines on:
 - a) the sales price for the YSL Project on an as-is basis after assessing the YSL Project budget, project revenue and resultant profitability⁵;
 - b) the sales price for the YSL Project if the purchaser disclaimed all existing Condominium Purchase Agreements and re-marketed all the units under the assumption that the purchaser could obtain a higher price per square foot for the units based on market rates; and
 - c) the CBRE Appraisals, in order to explain the differences between the two appraisals and provide an opinion on the appraised values contained therein.
2. FM was retained to, among other things, prepare a report so that the Proposal Trustee could provide a recommendation to the Companies’ creditors with respect to the Amended Proposal.
3. The Proposal Trustee asked FM to consider the purchase price that a purchaser would pay for the Real Property in a sale process if:
 - a) all existing Condo Purchase Agreements were assumed by the purchaser (excluding the 56 Condo Purchase Agreements that were disclaimed) (the “As-Is Scenario”); or
 - b) all existing Condominium Purchase Agreement were disclaimed and all of the units marketed for sale, on the assumption that the purchaser can obtain a higher price per square foot by re-selling the condominium units based on current market prices (the “Re-Sell Scenario”).
4. FM issued a report dated May 26, 2021 to the Proposal Trustee (the “FM Report”) which provides detailed projections of the revenues and the costs associated with the YSL Project as well as the two scenarios referenced above. The Proposal Trustee prepared a waterfall analysis (“Waterfall Analysis”) that, among other things, summarizes the estimated distributions to the Companies’ creditors based on various scenarios, including the Amended Proposal, As-Is Scenario, Re-Sell Scenario and the 2021 CBRE Appraisal. The FM Report, 2021 CBRE Appraisal and Waterfall Analysis

⁵ The FM Report estimates the value that a purchaser would be prepared to pay for the land, as well as the implied value of the land in the Amended Proposal.

are provided in Confidential Appendices “1”, “2” and “3”, respectively. The reasons for including these as confidential appendices are provided in Section 5.2 below.

5. As detailed in Section 6.1 of the Report to Creditors:
 - a) the implied value of the Amended Proposal is \$291 million, including the condo purchaser deposits that have been spent by the Companies, as the Sponsor will not get the benefit of these deposits upon acquisition;
 - b) the FM Report concludes that the recoveries to creditors in the As-Is and Re-Sell Scenarios would be materially inferior to the Amended Proposal, and it is possible that under these scenarios, secured creditors would not be paid in full; and
 - c) the FM Report indicates that in a sale of the YSL Project under the As-Is and Re-Sell Scenarios, there would be no value for the LPs, even if the Related Party Claims were excluded.

5.2 Sealing

1. The Proposal Trustee recommends that the FM Report, 2021 CBRE Appraisal and Waterfall Analysis be filed with the Court on a confidential basis and remain sealed pending further order of the Court. These documents contain sensitive financial information that could negatively impact realization on the YSL Project should the Amended Proposal not be implemented and a sale process be undertaken.
2. Certain of the stakeholder parties in these proceedings, including the Sponsor, Goodmans and the LPs, requested that the Proposal Trustee provide a copy of the FM Report. The Proposal Trustee has done so based on the confidentiality undertakings provided by these parties.
3. The Proposal Trustee does not believe that any stakeholder will be prejudiced if the information is sealed. Upon request and subject to the execution of a confidentiality undertaking, the Proposal Trustee is prepared to make available the FM Report, 2021 CBRE Appraisal and the Waterfall Analysis to the Companies’ creditors who request this information.

5.3 Prospective Transactions

1. Pursuant to a Cross-Examination Brief dated June 11, 2021 filed by the LPs (the “Cross Examination Brief”), the Proposal Trustee was advised of three prospective transactions that the Companies had been considering in 2020 related to the YSL Project. A copy of the Cross Examination Brief is attached as Appendix “P”.
2. The three prospective transactions are:
 - a) a letter of intent dated May 15, 2020 from PJD Properties Inc., an affiliate of GFL Environmental Inc. (the “GFL LOI”);
 - b) an agreement of purchase and sale dated July 14, 2020 between Empire (Water Wave) Inc. and the Companies (the “Empire APS”); and

- c) a financing term sheet dated November 12, 2020 submitted by Concord Properties Developments Corp. (the same entity as the Sponsor) (the “Concord Term Sheet”).
3. The GFL LOI, Empire APS and Concord Term Sheet are each included in the Cross Examination Brief.
4. The Proposal Trustee understands that each of the above transactions was subject to various conditions. Based on discussions with the Companies’ counsel and management, the Proposal Trustee understands that:
 - a) the GFL LOI did not proceed past the preliminary diligence stage;
 - b) the LPs were not prepared to consent to the Empire APS and, for at least that reason, Empire’s conditions were not met. Additionally, the Empire APS was also subject to a broad conditionality provision, including the “economic and financial feasibility of the Property”; and
 - c) the Concord Term Sheet was subject to financing conditions and did not proceed as Otera Capital Inc., the Sponsor’s construction loan lender, did not agree to the financing terms.
5. On June 12, 2021, the Proposal Trustee provided FM with the Cross Examination Brief and asked whether: a) FM was provided with these documents prior to issuance of the FM Report; and b) if not, if FM could review these documents and advise on whether the information contained therein would change the conclusions in the FM Report.
6. FM advised that it was not previously aware of the three offers but that the offers did not change its analysis or conclusions. A copy of the FM Correspondence is provided in Appendix “Q”.

6.0 Retail Square Footage

1. Counsel to Ms. Athanasoulis provided information to the Proposal Trustee regarding a reduction of approximately 13,000 square feet in the retail square footage utilized by CBRE in the 2021 CBRE Appraisal compared to the appraisal it completed in 2019.
2. The Proposal Trustee contacted CBRE to discuss the difference and was advised by CBRE that it relied on drawings provided by Concord, to whom the appraisal was being issued. Concord has advised the Proposal Trustee that the difference is in respect of gross leasable area, which was the measurement used in the 2019 appraisal, compared to net leasable area, which was the measurement in the 2021 CBRE Appraisal, with the estimated rents per square foot considered on those different bases.
3. The Proposal Trustee has requested that Concord approach CBRE to explain this difference and to indicate whether any revisions to the valuation are appropriate. The Proposal Trustee intends to file a supplement to this Report to address this issue based on the response from CBRE, if necessary.

4. The Proposal Trustee asked FM to estimate the incremental value of the retail space if the retail space was understated, as suggested by Ms. Athanasoulis. Based on the rents per square foot included in the 2021 CBRE Appraisal, FM estimated that the values associated with this space if included as leasable area would be \$13 million, less \$1.5 million of costs to complete it, resulting in a net increase of approximately \$11.5 million. Even with this additional value, the recovery under the Amended Proposal provides a superior result for unsecured creditors when compared to a sale of the YSL Project.

7.0 Conclusion and Recommendation

1. In the Report to Creditors, the Proposal Trustee advised that the First Amended Proposal provides creditors with a better outcome than a bankruptcy and therefore recommended that the creditors vote in favour of the First Amended Proposal. Specifically, Section 6 of the Report to Creditors provides that the value of the YSL Project under the First Amended Proposal exceeds the value of the YSL Project under the As-Is and Re-Sell Scenarios, which, in the Proposal Trustee's opinion are the two most likely options for the YSL Project if the First Amended Proposal is not approved. The Proposal Trustee noted that the First Amended Proposal provides Affected Creditors with an opportunity for a recovery of up to 58¢ on the dollar value of their claims, which amount may be nil if the YSL Project is marketed for sale.
2. The Proposal Trustee's recommendations in respect of the First Amended Proposal continue to apply to the Amended Proposal.
3. The retail space issue raised by Ms. Athanasoulis does not affect the Proposal Trustee's recommendation.
4. The Proposal Trustee recommends that the Court issue an order approving the Amended Proposal for the following reasons:
 - a) it was unanimously accepted by creditors entitled to vote at the Meeting; and
 - b) acceptance and implementation of the Amended Proposal is likely to result in a significantly superior result for creditors than a bankruptcy of the Companies.
5. Based on the foregoing, the Proposal Trustee respectfully recommends that the Court make an order approving the Amended Proposal.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
YG LIMITED PARTNERSHIP AND
YSL RESIDENCES INC.,
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “E”

Murtaza Tallat

From: Schwill, Robin <rschwill@dwpv.com>
Sent: July 10, 2021 4:47 PM
To: Christopher.Statham@devrylaw.ca; rmacgregor@millerthomson.com; BrendanBowles@glaholt.com; JohnPaulVentrella@glaholt.com; pcho@weirfoulds.com; pconrod@weirfoulds.com; jkanji@osler.com; RGillott@osler.com; DMajor@blg.com; duvernet@gsnh.com; aengel@foglers.com; jbsugar@sugarlawgroup.com; rsb@botnicklaw.com; eturkienicz@mccagueborlack.com; trotenberg@dakllp.com; mcooper@swlawyers.ca
Cc: Bobby Kofman; Mitch Vininsky; Murtaza Tallat
Subject: 3rd Amended Proposal (the "3rd Amended Proposal") filed in the NOI Proceedings of YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC. (jointly, "YSL")

To: Consenting Lienholders

As you are aware, YSL filed a proposal in accordance with section 50(2) of the BIA on May 27, 2021 (the "Original Proposal"), which was amended on June 3, 2021 (the "First Amended Proposal") and amended again on June 15, 2021 (the "Second Amended Proposal"). The Second Amended Proposal was approved by the Requisite Majority of creditors at the Creditors' Meeting held June 15, 2021; however the Court refused to approve the Second Amended Proposal but gave Concord Properties Development Corp., the Proposal Sponsor (the "Proposal Sponsor"), and YSL the opportunity to address the various issues it had with the Second Amended Proposal.

On July 9, 2021, YSL filed the 3rd Amended Proposal. In order to be approved, the 3rd Amended Proposal requires the consent of the Proposal Trustee, KSV Restructuring Inc. (the "Proposal Trustee"). The Proposal Trustee advised the Court that the Proposal Trustee requires the time to review and consider the 3rd Amended Proposal, including the treatment of the Consenting Lienholders under the 3rd Amended Proposal. Accordingly, the matter was adjourned to July 16, 2021 in order to permit the Proposal Trustee such time to review and report on the 3rd Amended Proposal.

We understand that you are a Consenting Lienholder (or counsel to one) as defined in the 3rd Amended Proposal.

"Consenting Lienholder" means a Construction Lien Creditor that has entered into a claims assignment agreement (the "Assignment Agreement" with the Proposal Sponsor and thereby elected to receive the consideration provided for under such Assignment Agreement. The Proposal Trustee has not been provided with copies of the Assignment Agreements and does not have knowledge of their terms.

We draw to your attention the fact that the 3rd Amended Proposal, if approved, would bind you to the terms of your existing claim Assignment Agreement. In the context of the First Amended Proposal and the Second Amended Proposal, certain unsecured creditors (the "Consenting Unsecured Creditors") also entered into assignment agreements with the Proposal Sponsor, when the maximum distribution available to Affected Creditors under such proposals was 58 cents on the dollar and possibly less.

The 3rd Amended Proposal requires Consenting Lienholders to remain bound to the terms of their Agreements, whereas the Consenting Unsecured Creditors are not bound by the terms of their agreements with the Proposal Sponsor. Accordingly, pursuant to the terms of the 3rd Amended Proposal, the Consenting Unsecured Creditors may receive payment in full or substantially more than was contemplated by the earlier versions of the proposal, whereas Consenting Lienholders remain bound to the terms they previously negotiated with the Proposal Sponsor.

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As these economics are now different from the terms of the Second Amended Proposal upon which the Consenting Lienholders voted, the Proposal Trustee wishes to determine whether the Consenting Lienholders continue to support and consent to the terms of the 3rd Amended Proposal.

Please provide such confirmation or dissent by return email by no later than 4pm Toronto time on July 12, 2021. The Proposal Trustee requires this information as part of its determination as to whether the 3rd Amended Proposal should be approved by the Court on its present terms.

Robin B. Schwill | [Bio](#) | [vCard](#)

T 416.863.5502

rschwill@dwpv.com

DAVIES

155 Wellington Street West

Toronto, ON M5V 3J7

dwpv.com

DAVIES WARD PHILLIPS & VINEBERG LLP

This email may contain confidential information which may be protected by legal privilege. If you are not the intended recipient, please immediately notify us by reply email or by telephone. Delete this email and destroy any copies.

Appendix “F”

	2nd Amended Proposal	3rd Amended Proposal V2	Notes
Affected Creditor Cash Pool	37,700,000	30,900,000	
Affected Creditor Claims, as Filed	-	11,514,234	
Consenting Lienholder Claims	-	64,910	
Non-Consenting Lienholder Claims	11,579,145	-	
Lien Claims (Affected Creditors)	19,000,000	19,000,000	
Maria Athanasoulis Claim	3,058,201	3,058,201	
Five Employee Claims Represented by Naymark Law	13,197,656	13,197,656	
Potential Broker Claims	38,283,619	-	
Unsecured Claims - Related Party	7,013,500	7,013,500	
Other Filed Third Party Unsecured Claims	92,132,121	53,846,502	
Total Affected Creditor Claims, as Filed, Before Adjustments	1,078,884	1,078,884	
Add: Estimate for Claims Not Yet Filed	-	-	Not paid from Affected Creditor Cash Pool
Less: Consenting Lienholder Claims	-	64,910	Not paid from Affected Creditor Cash Pool
Less: Non-consenting Lienholder Claims	-	-	
Total Affected Creditor Claims, Before Undermoted Adjustments	93,211,005	43,346,242	

	Maximum Claims	Minimum Claims	Maximum Claims	Minimum Claims	Notes
Affected Creditor Claims	19,000,000	19,000,000	19,000,000	19,000,000	
Maria Athanasoulis Claim, as Filed	-	-	-	-	High: Assumes Ms. Athanasoulis Claim is admitted in full for distribution purposes (\$1 million wrongful dismissal and balance for profit-sharing). Low: Assumes that the portion admitted for distribution is nil.
Adjustment (High)	-	19,000,000	-	19,000,000	
Adjustment (Low)	19,000,000	-	19,000,000	-	
Claim for Distribution Purposes	3,058,201	3,058,201	3,058,201	3,058,201	High: Assumes claims are admitted in full. Low: Assumes that the portion admitted for distribution is nil.
Five Employee Claims Represented by Naymark Law, as Filed	-	-	-	-	
Adjustment (High)	13,197,656	13,197,656	13,197,656	13,197,656	High: Assumes broker claims satisfy the conditions to be admitted claims under the 3rd Amended Proposal V2. Low: Assumes claims totaling \$4.85 million are admitted for distribution purposes, which is consistent with the amount allowed for voting purposes.
Adjustment (Low)	-	-	-	-	
Claim for Distribution Purposes	13,197,656	4,852,209	13,197,656	4,852,209	
Estimate for Claims Not Yet Filed	1,078,884	1,078,884	1,078,884	1,078,884	High: Assumes these claims are filed and admitted in full for distribution purposes. Low: Assumes no further claims are filed or allowed for distribution purposes.
Adjustment (High)	-	-	-	-	
Adjustment (Low)	1,078,884	1,078,884	1,078,884	1,078,884	
Claim for Distribution Purposes	1,078,884	-	1,078,884	-	
Total Affected Creditor Claims	93,211,005	61,728,472	43,346,242	11,865,709	
% Recovery for Affected Creditors	40%	58%	71%	100%	
Distributions					
Lien Claims (Affected Creditors)	4,683,286	6,715,904	-	-	
Maria Athanasoulis Claim	7,684,715	-	13,543,802	-	
Five Employee Claims Represented by Naymark Law	1,236,916	-	2,179,983	-	
Potential Broker Claims	5,337,907	2,814,281	9,407,707	4,852,209	
Unsecured Claims - Related Party	-	-	-	-	Excluded based on decision of Mr. Justice Dumphy dated June 29, 2021, as amended on July 2, 2021
Other Filed Third Party Unsecured Claims	2,836,671	4,067,630	4,999,445	7,013,500	
Unsecured Claims - Not Yet Filed	436,364	-	769,063	-	
Total Estimated Distributions	22,215,858	13,598,015	30,900,000	11,865,709	Under the 2nd Amended Proposal, the Affected Creditor Cash Pool is limited to 58% of the Affected Creditor Claims admitted for distribution purposes to a maximum of \$65 million of such claims (being \$37.7 million). Under the 3rd Amended Proposal V2, the Affected Creditor Cash Pool is a fixed amount, being \$30.9 million.
Potential Distributions to Equityholders	-	-	-	19,034,291	

Appendix “G”

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE PROPOSAL OF YG LIMITED PARTNERSHIP
AND YSL RESIDENCES INC. PURSUANT TO THE
*BANKRUPTCY AND INSOLVENCY ACT***

AMENDED PROPOSAL #3

WHEREAS, pursuant to Notices of Intention to Make a Proposal dated April 30, 2021, YSL Residences Inc. and YG Limited Partnership (collectively, "YSL" or the "**Company**") initiated proceedings under the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, B-3 as amended (the "**BIA**"), pursuant to Section 50(1) thereof;

AND WHEREAS a creditor proposal was filed in accordance with section 50(2) of the BIA on May 27, 2021 (the "**Original Proposal**");

AND WHEREAS an amendment to the Original Proposal was filed in accordance with section 50(2) of the BIA on June 3, 2021 (the "**First Amended Proposal**");

AND WHEREAS an amendment to the First Amended Proposal was filed in accordance with section 50(2) of the BIA on June 15, 2021 (the "**Second Amended Proposal**");

AND WHEREAS, the Second Amended Proposal was approved by the Requisite Majority of creditors at the Creditors' Meeting held June 15, 2021;

AND WHEREAS, pursuant to the Amended Reasons for Interim Decision issued July 2, 2021 (the "**Interim Decision**"), the Second Amended Proposal was not approved by the Court in the form presented and the Company and the Proposal Sponsor were permitted to amend the Second Amended Proposal to address the issues set out in the Interim Decision;

AND WHEREAS the Company and the Proposal Sponsor wish to amend the Second Amended Proposal on the terms and conditions set out herein with the intention of addressing the issues set out in the Interim Decision;

NOW THEREFORE the Company hereby submits the following third amended proposal under the BIA to its creditors (as amended, the "**Proposal**").

ARTICLE I
DEFINITIONS

1.01 Definitions

In this Proposal:

"**Administrative Fees and Expenses**" means the fees, expenses and disbursements incurred by or on behalf of the Proposal Trustee, the solicitors for the Proposal Trustee, the solicitors of the Company both before and after the Filing Date;

"**Affected Creditor Cash Pool**" means a cash pool in the amount of \$30,900,000 to be comprised of (i) all cash on hand in the Company's accounts as at the Proposal Implementation Date; (ii) any and all amounts refunded to or otherwise received by the Company in connection with the transfer of the YSL Project to the Proposal Sponsor as at the Proposal Implementation Date, and (iii) the balance to be provided by the Proposal Sponsor, subject to the refund of any surplus to the Proposal Sponsor in accordance with Section 5.01(a);

"**Affected Creditor Claim**" means a Proven Claim, other than an Unaffected Claim;

"**Affected Creditors**" means all Persons having Affected Creditor Claims, but only with respect to and to the extent of such Affected Creditor Claims;

"**Affected Creditors Class**" means the class consisting of the Affected Creditors established under and for the purposes of this Proposal, including voting in respect thereof;

"**Approval Order**" means an order of the Court, among other things, approving the Proposal;

"**Assumed Contracts**" means, subject to section 8.01(e), those written contracts entered into by or on behalf of the Company in respect of the Project to be identified by the Proposal Sponsor prior to the Proposal Implementation Date, which are to be assumed by the Proposal Sponsor upon Implementation with the consent of the applicable counterparty or otherwise pursuant to an order issued in pursuant to section 84.1 of the BIA;

"**BIA**" has the meaning ascribed to it in the recitals;

"**Business Day**" means a day, other than a Saturday or Sunday, on which banks are generally open for business in Toronto, Ontario;

"**Claim**" means any right or claim of any Person against the Company in connection with any indebtedness, liability, or obligation of any kind whatsoever in existence on the Filing Date (or which has arisen after the Filing Date as a result of the disclaimer or repudiation by the Company on or after the Filing Date of any lease or executory contract), and any interest accrued thereon to and including the Filing Date and costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise),

and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against the Company with respect to any matter, cause or chose in action, but subject to any counterclaim, set-off or right of compensation in favour of the Company which may exist, whether existing at present or commenced in the future, which indebtedness, liability or obligation (A) is based in whole or in part on facts that existed prior to the Filing Date, (B) relates to a period of time prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA;

"**Company**" has the meaning ascribed to it in the recitals;

"**Conditional Claim**" means any Claim of an Affected Creditor that is not a Proven Claim as at the Filing Date because one or more conditions precedent to establish such Affected Creditor's entitlement to payment by the Company had not been completed in accordance with any applicable contractual terms as at the Filing Date, and such Affected Creditor has indicated in its proof of claim that the Claim should be treated as a Conditional Claim;

"**Conditional Claim Completion Deadline**" means 5:00pm (Toronto time) on September 27, 2021;

"**Conditional Claim Condition**" has the meaning ascribed to it in Section 2.03(a);

"**Conditions Precedent**" shall have the meaning given to such term in section 8.01 hereof;

"**Condo Purchase Agreement**" means an agreement of purchase and sale in respect of a residential condominium unit in the Project between the Company and a Condo Purchaser;

"**Condo Purchaser**" means a purchaser of a residential condominium unit in the Project pursuant to a Condo Purchase Agreement;

"**Condo Purchaser Claim**" means any Claim of a Condo Purchaser in respect of its Condo Purchase Agreement;

"**Construction Lien Claim**" means any Proven Claim in respect of amounts secured by a perfected lien registered against title to the Property and are valid in accordance with the *Construction Act* (Ontario);

"**Construction Lien Creditor**" means a creditor with a Construction Lien Claim;

"**Convenience Creditor**" means an Affected Creditor with a Convenience Creditor Claim;

"**Convenience Creditor Claim**" means (a) any Proven Claims of an Affected Creditor in an amount less than or equal to \$15,000, and (b) any Proven Claim of an Affected Creditor in an amount greater than \$15,000 if the relevant Creditor has made a valid election for the purposes of

this Proposal in accordance with this Proposal prior to the Convenience Creditor Election Deadline;

"Convenience Creditor Consideration" means, in respect of a Convenience Creditor Claim, the lesser of (a) \$15,000, and (b) the amount of the Proven Claim of such Convenience Creditor;

"Court" means the Ontario Superior Court of Justice (Commercial List);

"Court Approval Date" means the date upon which the Court makes the Approval Order;

"Creditors' Meeting" means the duly convened meeting of the Affected Creditors which took place on June 15, 2021;

"Crown" means Her Majesty in Right of Canada or of any Province of Canada and their agents;

"Crown Claims" means the Claims of the Crown set out in Section 60(1.1) of the BIA outstanding as at the Filing Date against the Company, if any, payment of which will be made in priority to the payment of the Preferred Claims and to distributions in respect of the Ordinary Claims, and specifically excludes any other claims of the Crown;

"Disputed Claim" means any Claim which has not been finally resolved as a Proven Claim in accordance with the BIA as at the Proposal Implementation Date;

"Distributions" means a distribution of funds made by the Proposal Trustee from the Affected Creditor Cash Pool to Affected Creditors in respect of Affected Creditor Claims, in accordance with Article V;

"Effective Time" means 12:00 p.m. (Toronto time) on the Proposal Implementation Date;

"Equity Claim" has the meaning ascribed to it in Section 2 of the BIA, and includes, without limitation, the Claims of all limited partners of YG LP and those Equity Claims deemed to be equity pursuant to the Interim Decision;

"Existing Equity" means the limited partnership units of YG LP and those Equity Claims deemed to be equity pursuant to the Interim Decision;

"Existing Equityholders" means the holders of the Existing Equity immediately prior to the Effective Time;

"Filing Date" means April 30, 2021, being the date upon which Notices of Intention to Make a Proposal were filed by the Company with the Official Receiver in accordance with the BIA;

"First Amended Proposal" has the meaning ascribed to it in the recitals;

"Governmental Authority" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (ii) exercising, or entitled or

purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

"**Implementation**" means the completion and implementation of the transactions contemplated by this Proposal;

"**Implementation Certificate**" has the meaning ascribed to it in Section 8.01(j);

"**Interim Decision**" has the meaning ascribed to it in the recitals;

"**Official Receiver**" shall have the meaning ascribed thereto in the BIA;

"**Original Proposal**" has the meaning ascribed to it in the recitals;

"**Outside Date**" means July 31, 2021;

"**Permitted Encumbrances**" means those encumbrances on the Property listed in Schedule "A" hereto;

"**Person**" means any individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority and a natural person in such person's capacity as trustee, executor, administrator or other legal representative;

"**Preferred Claim**" means a Claim enumerated in Section 136(1) of the BIA outstanding as at the Filing Date against the Company, if any, the payment of which will be made in priority to distributions in respect of Affected Creditor Claims;

"**Pro Rata Share**" means the fraction that is equal to (a) the amount of the Proven Claim of an Affected Creditor that is not a Convenience Creditor, divided by (b) the aggregate amount of all Proven Claims held by Affected Creditors who are not Convenience Creditors;

"**Project**" means the mixed-used office, retail and residential condominium development to be constructed on the Property currently consisting of approximately 1,100 residential condominium units and 170 parking units and known as Yonge Street Living Residences;

"**Property**" means the real property owned by the Company and municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario, and legally described by PIN numbers 21101-0042 (LT) to 21101-0049 (LT), inclusive;

"**Proposal**" means this Amended Proposal of the Company, and any amendments, modifications and/or supplements hereto made in accordance with the terms hereof;

"**Proposal Implementation Date**" means the date on which Implementation occurs, which shall occur following the satisfaction of the Conditions Precedent, and no later than the Outside Date;

"**Proposal Sponsor**" means Concord Properties Developments Corp.;

"Proposal Sponsor Agreement" means that agreement entered into among the Proposal Sponsor and the Company as of April 30, 2021, as amended from time to time;

"Proposal Trustee" means KSV Restructuring Inc. in its capacity as trustee in respect of this Proposal, or its duly appointed successor;

"Proposal Trustee's Website" means the following website: www.ksvadvisory.com/insolvency-cases/case/yg-limited-partnership;

"Proven Claim" means in respect of an Affected Creditor, the amount of a Claim as finally determined in accordance with the provisions of the BIA, provided that the Proven Claim of an Affected Creditor with a Claim in excess of \$15,000 that has elected to be a Convenience Creditor by submitting a Convenience Creditor Election Form shall be valued for voting purposes as \$15,000;

"Released Claims" means, collectively, the matters that are subject to release and discharge pursuant to Section 7.01;

"Released Parties" means, collectively, (i) the Company, (ii) each affiliate or subsidiary of the Company; (iii) the Proposal Sponsor, (iv) the Proposal Trustee, and (v) subject to section 7.01, each of the foregoing Persons' respective former and current officers, directors, principals, members, affiliates, limited partners, general partners, managed accounts or funds, fund advisors, employees, financial and other advisors, legal counsel, and agents, each in their capacity as such;

"Required Majority" means an affirmative vote of a majority in number and two-thirds in value of all Proven Claims in the Affected Creditors Class entitled to vote, who were present and voting at the Creditors' Meeting (whether online, in-person, by proxy or by voting letter) in accordance with the voting procedures established by this Proposal and the BIA;

"Second Amended Proposal" has the meaning ascribed to it in the recitals;

"Secured Claims" means:

- (a) The Claim of Timbercreek which is secured by, among other things a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (b) The Claim of Westmount, which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (c) The Claim of 2576725 Ontario Inc. which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (d) All Construction Lien Claims but only to the extent of such Construction Lien Claims;

"Secured Creditor" means a Person holding a Secured Claim, with respect to, and to the extent of such Secured Claim;

"**Superintendent's Levy**" means the levy payable to the Superintendent of Bankruptcy pursuant to sections 60(4) and 147 of the BIA;

"**Timbercreek**" means, collectively, Timbercreek Mortgage Servicing Inc. and 2292912 Ontario Inc.;

"**Unaffected Claim**" means:

- (a) the Administrative Fees and Expenses;
- (b) the Claim of Timbercreek;
- (c) the Claim of Westmount;
- (d) the Claim of 2576725 Ontario Inc., which is secured by, among other things, an equitable mortgage encumbering the Property;
- (e) any Claim of the City of Toronto;
- (f) all Condo Purchaser Claims;
- (g) all Construction Lien Claims, but only to the extent such Claims are valid in accordance with the *Construction Act* (Ontario) and have been perfected by the Proposal Implementation Date; and
- (h) such other Claims as the Company and Proposal Sponsor may agree with the consent of the Proposal Trustee;

"**Unaffected Creditor**" means a creditor holding an Unaffected Claim, with respect to and to the extent of such Unaffected Claim;

"**Undeliverable Distributions**" has the meaning ascribed to it in Section 5.04;

"**Westmount**" means Westmount Guarantee Services Inc.;

"**YSL**" has the meaning ascribed to it in the recitals; and

"**YSL Project**" means the mixed-use commercial and residential condominium development to be constructed on the Property.

1.02 Intent of Proposal

This Proposal is intended to provide all Affected Creditors a greater recovery than they would otherwise receive if the Company were to become bankrupt under the BIA. More specifically, the Proposal will provide for a payment in full of Secured Claims and will provide a significant recovery in respect of Affected Creditor Claims. While the exact recovery cannot be determined until all Claims have been determined, the Company expects Affected Creditors to receive a significant, if not a full recovery, on their Claims and, in any event, a greater recovery than would occur if the Company were to become a bankrupt under the BIA.

In consideration for, among other things, its sponsorship of this Proposal, including the satisfaction of all Secured Claims, Preferred Claims and the establishment of the Affected Creditor Cash Pool, on the Proposal Implementation Date, title to the Property, subject only to the Permitted Encumbrances, as well as the Company's interests and obligations under the Assumed Contracts and Condo Purchase Agreements shall be acquired by the Proposal Sponsor, or its nominee in accordance with the terms hereof.

1.03 Date for Any Action

In the event that any date on which any action is required to be taken under this Proposal by any of the parties is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.04 Time

All times expressed in this Proposal are local time in Toronto, Ontario, Canada unless otherwise stipulated. Time is of the essence in this Proposal.

1.05 Statutory References

Except as otherwise provided herein, any reference in this Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.06 Successors and Assigns

The Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors, and assigns of any Person named or referred to in the Proposal.

1.07 Currency

Unless otherwise stated herein, all references to currency and to "\$" in the Proposal are to lawful money of Canada.

1.08 Articles of Reference

The terms "hereof", "hereunder", "herein" and similar expressions refer to the Proposal and not to any particular article, section, subsection, clause or paragraph of the Proposal and include any agreements supplemental hereto. In the Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of the Proposal.

1.09 Interpretation Not Affected by Headings

The division of the Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of a table of contents and headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.10 Numbers

In this Proposal, where the context requires, a word importing the singular number will include the plural and *vice versa* and a word or words importing gender will include all genders.

ARTICLE II **CLASSIFICATION AND TREATMENT OF AFFECTED PARTIES**

2.01 Classes of Creditors

For the purposes of voting on the Proposal, there was only one class of creditors, being the Affected Creditors Class. For the purposes of voting on the Proposal, each Convenience Creditor was deemed to vote in and as part of the Affected Creditors Class.

2.02 Treatment of Affected Creditors

- (a) As soon practicable after the Proposal Implementation Date, and after taking an adequate reserve in respect of any unresolved Claims pursuant to Section 5.03:
 - i. all Affected Creditors (other than Convenience Creditors and Affected Creditors holding Conditional Claims where one or more Conditional Claim Conditions have not been completed) shall receive, in respect of such Affected Creditor Claim, its Pro Rata Share of the Affected Creditor Cash Pool, net of the Superintendent's Levy, made by the Proposal Trustee from the Affected Creditor Cash Pool from time to time in accordance with Article V hereof, provided that aggregate Distributions to an Affected Creditor shall not exceed 100% of the value of such Affected Creditor's Proven Claim; and
 - ii. all Convenience Creditors shall receive in respect of such Convenience Creditor Claims, the Convenience Creditor Consideration, net of the Superintendent's Levy;
- (b) Subject to Section 2.03, on the Proposal Implementation Date, each Affected Creditor Claim shall, and shall be deemed to have been irrevocably and finally extinguished, discharged and released, and each Affected Creditor shall have no further right, title or interest in or to its Affected Creditor Claim.

2.03 Conditional Claims Protocol

If an Affected Creditor submits a proof of claim to the Proposal Trustee indicating that its Claim against the Company is a Conditional Claim due to the fact that one or more pre-conditions to such Affected Creditor's right to payment by the Company had not been satisfied as at the Filing Date due to the acts or omissions of such Affected Creditor, then:

- (a) such Affected Creditor shall have until the Conditional Claim Completion Deadline to complete or otherwise satisfy all outstanding pre-conditions to payment in accordance with the terms of the applicable agreement between such Affected

Creditor and the Company (all such conditions, "**Conditional Claim Conditions**"), and provide notice of such completion to the Proposal Trustee along with reasonable proof thereof;

- (b) if such Affected Creditor provides the Proposal Trustee with proof of the completion of all applicable Conditional Claim Conditions prior to the Conditional Claim Completion Deadline, then, subject to the Proposal Trustee's confirmation of same, such Affected Creditor's Conditional Claim shall be deemed to be a Proven Claim, and such Affected Creditor shall be entitled to a Distribution in accordance with Section 5.02, and, effective immediately upon issuance of such distribution to the Affected Creditor by the Proposal Trustee, the releases set out in Section 7.01 shall become effective; and
- (c) if such Affected Creditor has not satisfied one or more Conditional Claim Conditions by the Conditional Claim Completion Deadline, then, effective immediately upon the Conditional Claim Completion Deadline, such Affected Creditor's Conditional Claim shall be irrevocably and finally extinguished and such Affected Creditor shall have no further right, title or interest in and to its Conditional Claim and the releases set out in Section 7.01 shall become effective in respect of such Conditional Claim.

2.04 Existing Equityholders and Holders of Equity Claims

Subject to Section 7.01, all Equity Claims shall be fully, finally and irrevocably and forever compromised, released, discharged, cancelled, extinguished and barred as against the Property on the Proposal Implementation Date in accordance with Section 6.011.1(1)(1)(h).

2.05 Application of Proposal Distributions

All amounts paid or payable hereunder on account of the Affected Creditor Claims (including, for greater certainty, any securities received hereunder) shall be applied as follows: (i) first, in respect of the principal amount of the Affected Creditor Claim, and (ii) second, in respect of the accrued but unpaid interest on the Affected Creditor Claim.

2.06 Full Satisfaction of All Affected Creditor Claims

All Affected Creditors shall accept the consideration set out in Section 2.02 hereof in full and complete satisfaction of their Affected Creditor Claims, and all liens, certificates of pending litigation, executions, or other similar charges or actions or proceedings in respect of such Affected Creditor Claims will have no effect in law or in equity against the Property, or other assets and undertaking of the Company. Upon the Implementation of the Proposal, any and all such registered liens, certificates of pending litigation, executions or other similar charges or actions brought, made or claimed by Affected Creditors will be and will be deemed to have been discharged, dismissed or vacated without cost to the Company and the Company will be released from any and all Affected Creditor Claims of Affected Creditors, subject only to the right of Affected Creditors to receive Distributions as and when made pursuant to this Proposal.

2.07 Undeliverable Distributions

Undeliverable Distributions shall be dealt with and treated in the manner provided for in the BIA and the directives promulgated pursuant thereto.

**ARTICLE III
CREDITORS' MEETING AND AMENDMENTS**

3.01 Meeting of Affected Creditors

As set out in the Interim Decision, the Requisite Majority approved the Proposal at the Creditors' Meeting.

3.02 Assessment of Claims

The provisions of section 135 of the BIA will apply to all proofs of claim submitted by Affected Creditors, including in respect of Disputed Claims. In the event that a duly submitted proof of claim has been disallowed or revised for voting purposes by the Proposal Trustee, and such disallowance has been disputed by the applicable Affected Creditor in accordance with Section 135(4) of the BIA, or in the case of any Claim that is a Conditional Claim as at the time of the Creditors' Meeting, then the dollar value for voting purposes at the Creditors' Meeting shall be the dollar amount of such disputed claim or Conditional Claim, as the case may be, set out in the proof of claim submitted by such Affected Creditor, without prejudice to the determination of the dollar value of such Affected Creditor's disputed claim or Conditional Claim for distribution purposes.

Except as expressly provided herein, the Proposal Trustee's determination of claims pursuant to this Proposal and the BIA shall only apply for the purposes of this Proposal, and such determination shall be without prejudice to a Creditor's right to submit a revised proof of claim in subsequent proceedings in respect of the Company should this Proposal not be implemented.

3.03 Modification to Proposal

Subject to the provisions of the BIA, after the Creditors' Meeting (and both prior to and subsequent to the issuance of the Approval Order) and subject to the consent of the Proposal Trustee and the Proposal Sponsor, the Company may at any time and from time to time vary, amend, modify or supplement the Proposal.

**ARTICLE IV
PREFERRED CLAIMS AND MANDATORY PAYMENTS**

4.01 Crown Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Crown Claims, if any, will be paid by the Proposal Trustee, in full with related interest and penalties as prescribed by the applicable laws, regulations and decrees.

4.02 Preferred Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Preferred Claims, if any, will be paid in full by the Proposal Trustee.

ARTICLE V FUNDING AND DISTRIBUTIONS

5.01 Proposal Sponsor to Fund

- (a) On the Proposal Implementation Date, the Proposal Sponsor shall deliver to the Proposal Trustee by way of wire transfer (in accordance with wire transfer instructions provided by the Proposal Trustee at least three (3) business days prior to the Proposal Implementation Date) the amount necessary to establish the Affected Creditor Cash Pool in accordance with the provisions of this Proposal, provided that any surplus amounts over and above the Affected Creditor Cash Pool amount of \$30,900,000 that are returned to the Company in connection with the transfer of the YSL Project to the Proposal Sponsor shall be promptly returned to the Proposal Sponsor, including, without limitation, the cash collateral to be released by TD Bank when the letters of credit held by the City of Toronto and the Toronto Transit Commission are replaced by letters of credit to be provided by the Proposal Sponsor; and
- (b) The Proposal Trustee shall hold the Affected Creditor Cash Pool in a segregated account and shall distribute such cash, net of any reserves established in respect of unresolved Claims, in accordance with Section 5.03 of the Proposal.
- (c) The Proposal Sponsor shall effect payments in respect of the Unaffected Claims to those parties entitled to such payments directly and shall provide the Proposal Trustee with proof of such payments, as applicable.

5.02 Distributions

As soon as possible after the Proposal Implementation Date and the payments contemplated by Sections 4.01 and 4.02, the Proposal Trustee shall make a Distribution to each Affected Creditor with a Proven Claim, in an amount equal to such Affected Creditor's Pro Rata Share of the Affected Creditor Cash Pool, net of the Superintendent's Levy, and net of any amounts held in reserve in respect of unresolved Claims, in accordance with Section 5.03.

Thereafter, the Proposal Trustee may make further Distributions to Affected Creditors from time to time from the reserves established pursuant to Section 5.03, as unresolved Claims are resolved in accordance with the terms of Section 3.02.

5.03 Reserves for Unresolved Claims

Prior to making any Distribution to Affected Creditors pursuant to Section 5.02, the Proposal Trustee shall set aside in the Affected Creditor Cash Pool sufficient funds to pay all Affected

Creditors with Disputed Claims or Conditional Claims the amounts such Affected Creditors would be entitled to receive in respect of that particular Distribution pursuant to this Proposal, in each case as if their Disputed Claim or Conditional Claim, as the case may be, had been a Proven Claim at the time of such Distribution. Upon the resolution of each Disputed Claim in accordance with the BIA, or upon final resolution of any Conditional Claim, any funds which have been reserved by the Proposal Trustee to deal with such Disputed Claim or such Conditional Claim, as applicable, but which are not required to be paid to the Affected Creditor shall remain in the Affected Creditor Cash Pool and become available for further Distributions to Affected Creditors in respect of their Proven Claims.

5.04 Method of Distributions

Unless otherwise agreed to by the Proposal Trustee and an Affected Creditor, all Distributions made by the Proposal Trustee pursuant to this Proposal shall be made by cheque mailed to the address shown on the proof of claim filed by such Affected Creditor or, where an Affected Creditor has provided the Trustee with written notice of a change of address, to such address set out in that notice. If any delivery or distribution to be made pursuant to Article V hereof in respect of an Affected Creditor Claim is returned as undeliverable, or in the case of a distribution made by cheque, the cheque remains uncashed (each an "**Undeliverable Distribution**"), no other crediting or delivery will be required unless and until the Proposal Trustee is notified of the Affected Creditor's then current address. The Proposal Trustee's obligations to the Affected Creditor relating to any Undeliverable Distribution will expire six months following the date of delivery or mailing of the cheque or other distribution, after which date the Proposal Trustee's obligations under this Proposal in respect of such Undeliverable Distribution will be forever discharged and extinguished, and the amount that the Affected Creditor was entitled to be paid under the Proposal shall be distributed to the Proposal Sponsor.

5.05 Residue After All Distributions Made

In the event that any residual amount remains in the Affected Creditor Cash Pool following the Proposal Trustee's final Distribution to Affected Creditors as provided herein, such residual funds shall be held by the Proposal Trustee pending receipt of a duly issued direction from all of the holders of Class A Preferred Units of YG LP, or otherwise by order of the Court.

ARTICLE VI IMPLEMENTATION

6.01 Proposal Implementation Date Transactions

Commencing at the Effective Time, the following events or transactions will occur, or be deemed to have occurred and be taken and effected, in the following order in five minute increments (unless otherwise indicated) and at the times and in the order set out in this Section 6.01 (or in such other manner or order or at such other time or times as the Company and the Proposal Sponsor may agree, each acting reasonably), without any further act or formality required on the part of any Person, except as may be expressly provided herein:

- (a) Either the Proposal Sponsor will, at its election, but subject to obtaining the consent of the applicable Secured Creditor, assume the Secured Claims, or on behalf of the Company, the Proposal Sponsor will make payment in full to Secured Creditors in respect of their Secured Claims, in accordance with Section 5.01(c) calculated as at the Closing Date;
- (b) the releases in respect of Secured Claims referenced in section 7.01 shall become effective, and any registrations on title to the Property in respect of such Secured Claims shall, unless otherwise agreed between the Secured Creditor and the Proposal Sponsor with the consent of the Proposal Trustee, be discharged from title to the Property;
- (c) the Proposal Sponsor shall provide to the Proposal Trustee the amount necessary to establish the Affected Creditor Cash Pool, in accordance with Section 5.01(a), in full and final settlement of all Affected Creditor Claims;
- (d) the Proposal Sponsor shall provide the Proposal Trustee with an amount necessary to satisfy the Administrative Fees and Expenses, including a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated to be incurred in connection with the administration of Distributions, resolution of any unresolved Claims pursuant to Section 5.03, and the Proposal Trustee's discharge;
- (e) title to the Property shall be registered in the name of the Proposal Sponsor, or its nominee, together with any charges applicable to security held by the lenders to the Proposal Sponsor in respect of the purchase of the Property and construction of the Project;
- (f) the assumption of the Assumed Contracts by the Proposal Sponsor, or its nominee, shall become effective;
- (g) all Affected Creditor Claims (including without limitation all Convenience Creditor Claims) shall, and shall be deemed to be, irrevocably and finally extinguished and the Affected Creditors shall have no further right, title or interest in and to their respective Affected Creditor Claims, except with respect to their right to receive a Distribution, if applicable, and in such case, only to the extent of such Distribution;
- (h) subject to Section 7.01, all Equity Claims shall, and shall be deemed to be, irrevocably and finally extinguished and all Existing Equityholders shall have no further right, title or interest in and to their respective Equity Claims as against the Property; and
- (i) the releases in respect of Affected Creditor Claims (other than Conditional Claims with Conditional Claim Conditions not satisfied as at the Effective Time) referred to in Section 7.01 shall become effective.

ARTICLE VII
RELEASES

7.01 Release of Released Parties

At the applicable time pursuant to Section 6.01(b), in the case of Secured Claims, and Section 6.01(i), in respect of Affected Creditor Claims, each of the Released Parties shall be released and discharged from all present and future actions, causes of action, damages, judgments, executions, obligations, liabilities and Claims of any kind or nature whatsoever arising on or prior to the Proposal Implementation Date in connection with this Proposal and the Project, and any proceedings commenced with respect to or in connection with this Proposal, the Project, the transactions contemplated hereunder, and any other actions or matters related directly or indirectly to the foregoing, provided that nothing in this paragraph shall release or discharge (i) any of the Released Parties from or in respect of their respective obligations under this Proposal or any order issue by the Court in connection with this Proposal or any document ancillary to any of the foregoing, (ii) any Released Party from liabilities or claims which cannot be released pursuant to s. 50(14) of the BIA, as determined by the final, non-appealable judgment of the Court, or (iii) any Released Party from any Secured Claim of Timbercreek. The foregoing release shall not be construed to prohibit a party in interest from seeking to enforce the terms of this Proposal, including with respect to Distributions, or any contract or agreement entered into pursuant to, in connection with or contemplated by this Proposal. Notwithstanding the foregoing, the directors and officers of the Company, its affiliates, the former directors and officers, and general partner of the Company shall not be released in respect of any (x) Equity Claim as defined in section 2 of the BIA or any analogous claim in respect of a partnership interest or (y) any claim by a former employee of the Company or its affiliates relating to unpaid wages or other employment remuneration.

7.02 Injunctions

All Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Proposal Implementation Date, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever of any Person against the Released Parties, as applicable; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, guarantee, decree or order against the Released Parties; (iii) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (iv) taking any actions to interfere with the implementation or consummation of this Proposal or the transactions contemplated hereunder; provided, however, that the foregoing shall not apply to the enforcement of any obligations under this Proposal or any document, instrument or agreement executed to implement this Proposal.

ARTICLE VIII
CONDITIONS PRECEDENT

8.01 Conditions Precedent

This Proposal will take effect on the Proposal Implementation Date. The Implementation of this Proposal on the Proposal Implementation Date is subject to the satisfaction or waiver (in the sole discretion of the Proposal Sponsor) of the following conditions precedent (collectively, the "**Conditions Precedent**"):

- (a) the Proposal is approved by the Required Majority;
- (b) the Approval Order, in form and substance satisfactory to the Proposal Sponsor, has been issued, has not been stayed and no appeal therefrom is outstanding;
- (c) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Authority, no application shall have been made to any Governmental Authority, and no action or investigation shall have been announced, threatened or commenced by any Governmental Authority, in consequence or in connection with the Proposal or the Project that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or inhibit), the Proposal or any part thereof or the Project or any part thereof or requires or purports to require a variation of the Proposal or the Project;
- (d) registrations in respect of all encumbrances, including without limitation any registrations in respect of Construction Lien Claims, but excluding the Permitted Encumbrances, shall have been deleted from title to the Property, provided that (a) should the Implementation of the Proposal not occur following the deletion of an Affected Creditor's encumbrance pursuant to this provision, such Affected Creditor shall have the right to renew such registration, and (b) the Company and/or the Proposal Sponsor shall be at liberty to pay security into Court (by way of a bond or similar instrument) in respect of any Construction Lien Claim;
- (e) the Proposal Sponsor, or its nominee, shall have entered into assignment and assumption agreements in respect of all Assumed Contracts, or an assignment order pursuant to section 84.1 of the BIA shall have been issued, in each case in form and substance satisfactory to the Proposal Sponsor, provided that it shall be a condition of the assumption of each Assumed Contract that the written agreements set out in the list of Assumed Contracts provided by the Proposal Sponsor (as amended from time to time) represent the totality of the contractual arrangements between the Company and each applicable counterparty, and no verbal or extra-contractual arrangements will be recognized by the Proposal Sponsor;
- (f) sufficient financing for the acquisition of the Property by the Proposal Sponsor, or its nominee, shall have been provided by Otera Capital Inc., on terms satisfactory to the Proposal Sponsor, and all material conditions precedent to such financing shall be capable of completion by the Proposal Sponsor prior to the Proposal Implementation Date;

- (g) the Proposal Implementation Date shall occur on the day that is three Business Days following the issuance of the Approval Order, or such other date prior to the Outside Date as may be agreed by the Proposal Sponsor;
- (h) any required resolutions authorizing the Company to file this Proposal and any amendments thereto will have been approved by the board of directors of the Company;
- (i) the Proposal Sponsor Agreement shall not have been terminated by the Proposal Sponsor; and
- (j) the Company and the Proposal Sponsor shall have delivered a certificate to the Proposal Trustee that all of the conditions precedent to the Implementation of the Proposal have been satisfied or waived (the "**Implementation Certificate**").

Upon the Proposal Trustee's receipt of the Implementation Certificate, the Affected Creditor Cash Pool and the funding required by Section 6.01(d), the Implementation of the Proposal shall have been deemed to have occurred and all actions deemed to occur upon Implementation of the Proposal shall occur without the delivery or execution of any further documentation, agreement or instrument.

ARTICLE IX

EFFECT OF PROPOSAL

9.01 Binding Effect of Proposal

After the issuance of the Approval Order by the Court, subject to satisfaction of the Conditions Precedent, the Proposal shall be implemented by the Company and shall be fully effective and binding on the Company and all Persons affected by the Proposal. Without limitation, the treatment of Affected Creditor Claims under the Proposal shall be final and binding on the Company, the Affected Creditors, and all Persons affected by the Proposal and their respective heirs, executors, administrators, legal representatives, successors, and assigns. For greater certainty, this Proposal shall have no effect upon Unaffected Creditors.

9.02 Amendments to Agreements and Paramountcy of Proposal

Notwithstanding the terms and conditions of all agreements or other arrangements with Affected Creditors entered into before the Filing Date, for so long as an event of default under this Proposal has not occurred, all such agreements or other arrangements will be deemed to be amended to the extent necessary to give effect to all the terms and conditions of this Proposal. In the event of any conflict or inconsistency between the terms of such agreements or arrangements and the terms of this Proposal, the terms of this Proposal will govern and be paramount.

9.03 Deemed Consents and Authorizations of Affected Creditors

At the Effective Time each Affected Creditor shall be deemed to have:

- (a) executed and delivered to the Company all consents, releases, assignments, and waivers, statutory or otherwise, required to implement and carry out this Proposal in its entirety;
- (b) waived any default by the Company in any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company that has occurred on or prior to the Proposal Implementation Date; and
- (c) agreed, in the event that there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company as at the date and time of Court approval of the Proposal (other than those entered into by the Company on, or with effect from, such date and time) and the provisions of this Proposal, that the provisions of this Proposal shall take precedence and priority and the provisions of such agreement or other arrangement shall be amended accordingly.

ARTICLE X
ADMINISTRATIVE FEES AND EXPENSES

10.01 Administrative Fees and Expenses

Administrative Fees and Expenses including a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated to be incurred in connection with the administration of Distributions, resolution of any unresolved Claims pursuant to Section 5.03, and the Proposal Trustee's discharge will be paid in cash by the Proposal Sponsor on the Proposal Implementation Date.

ARTICLE XI
INDEMNIFICATION

11.01 Indemnification of Proposal Trustee

The Proposal Trustee shall be indemnified in full by the Proposal Sponsor for: (a) all personal liability arising from fulfilling any duties or exercising any powers or duties conferred upon it by this Proposal or under the BIA, except for any willful misconduct or gross negligence; and (b) all Administrative Fees and Expenses reasonably incurred but not covered by the payment set out in Section 10.01.

ARTICLE XII
POST FILING GOODS AND SERVICES

12.01 Payment of Payroll Deductions and Post Filing Claims

The following shall continue to be paid in the ordinary course by the Company prior to and after the Court Approval Date and shall not constitute Distributions or payments under this Proposal:

- (a) all Persons, who may advance monies, or provide goods or services to the Company after the Filing Date shall be paid by the Company in the ordinary course of business;
- (b) current source deductions and other amounts payable pursuant to Section 60(1.2) of the BIA, if applicable, shall be paid to Her Majesty in Right of Canada in full by the Company as and when due; and
- (c) current goods and services tax (GST), and all amounts owing on account of provincial sales taxes, if applicable, shall be paid in full by the Company as and when due.

ARTICLE XIII
TRUSTEE, CERTIFICATE OF COMPLETION, AND DISCHARGE OF TRUSTEE

13.01 Proposal Trustee

KSV Restructuring Inc. shall be the Proposal Trustee pursuant to this Proposal and upon the making of the Distributions and the payment of any other amounts provided for in this Proposal, the Proposal Trustee will be entitled to be discharged from its obligations under the terms of this Proposal. The Proposal Trustee is acting in its capacity as Proposal Trustee under this Proposal, and not in its personal capacity and shall not incur any liabilities or obligations in connection with this Proposal or in respect of the business, liabilities or obligations of the Company, whether existing as at the Filing Date or incurred subsequent thereto.

The Proposal Trustee shall not incur, and is hereby released from, any liability as a result of carrying out any provisions of this Proposal and any actions related or incidental thereto, save and except for any gross negligence or willful misconduct on its part (as determined by a final, non-appealable judgment of the Court).

13.02 Certificate of Completion and Discharge of Proposal Trustee

Upon the Proposal Trustee having received the Implementation Certificate, and all Distributions to Affected Creditors having been administered in accordance with Article V, the terms of the Proposal shall be deemed to be fully performed and the Proposal Trustee shall provide a certificate to the Company, the Proposal Sponsor and to the Official Receiver pursuant to Section 65.3 of the BIA and the Proposal Trustee shall be entitled to be discharged.

ARTICLE XIV
GENERAL

14.01 Valuation

For purposes of voting and Distributions, all Claims shall be valued as at the Filing Date.

14.02 Preferences, Transfers at Undervalue

In conformity with Section 101.1 of the BIA, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal. As a result, all of the rights, remedies, recourses and Claims described therein:

- (a) all such rights, remedies and recourses and any Claims based thereon shall be completely unavailable to the Proposal Trustee or any Affected Creditors against the Company, the Property, or any other Person whatsoever; and
- (b) the Proposal Trustee and all of the Affected Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any Claims based thereon against the Company, the Property any other Person.

14.03 Governing Law

The Proposal shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. Any disputes as to the interpretation or application of the Proposal and all proceedings taken in connection with the Proposal shall be subject to the exclusive jurisdiction of the Court.

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Dated at Toronto, this _____ day of July, 2021.

YSL RESIDENCES INC.

Per: _____
Name:
Title:
I have the authority to bind the Corporation.

**YG LIMITED PARTNERSHIP, by its
general partner 9615334 CANADA INC.**

Per: _____
Name:
Title:
I have the authority to bind the Corporation.

SCHEDULE A

PERMITTED ENCUMBRANCES

<u>Instrument Number</u>	<u>Description</u>
EP138153	- Canopy Agreement with the City of Toronto
EP146970	- Encroachment Agreement with the City of Toronto
CT114131	- Encroachment Agreement with the City of Toronto
CT169812	- Canopy Agreement with the City of Toronto
CA11215	- Development Agreement with the City of Toronto
CA231470	- Encroachment Agreement with the City of Toronto
AT5142530	- Heritage Easement Agreement with the City of Toronto
AT5154721	- Heritage By-Law
AT5154722	- Heritage By-Law
AT5157423	- Heritage By-Law
AT5157424	- Heritage By-Law
AT5246455	- Section 37 Agreement
AT5473163	- Application to Register a Court Order (Equitable Mortgage)

Appendix “H”

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE PROPOSAL OF YG LIMITED PARTNERSHIP
AND YSL RESIDENCES INC. PURSUANT TO THE
BANKRUPTCY AND INSOLVENCY ACT

AMENDED PROPOSAL #3

WHEREAS, pursuant to Notices of Intention to Make a Proposal dated April 30, 2021, YSL Residences Inc. and YG Limited Partnership (collectively, "YSL" or the "**Company**") initiated proceedings under the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, B-3 as amended (the "**BIA**"), pursuant to Section 50(1) thereof;

AND WHEREAS a creditor proposal was filed in accordance with section 50(2) of the BIA on May 27, 2021 (the "**Original Proposal**");

AND WHEREAS an amendment to the Original Proposal was filed in accordance with section 50(2) of the BIA on June 3, 2021 (the "**First Amended Proposal**");

AND WHEREAS an amendment to the First Amended Proposal was filed in accordance with section 50(2) of the BIA on June 15, 2021 (the "**Second Amended Proposal**");

AND WHEREAS, the Second Amended Proposal was approved by the Requisite Majority of creditors at the Creditors' Meeting held June 15, 2021;

AND WHEREAS, pursuant to the Amended Reasons for Interim Decision issued July 2, 2021 (the "**Interim Decision**"), the Second Amended Proposal was not approved by the Court in the form presented and the Company and the Proposal Sponsor were permitted to amend the Second Amended Proposal to address the issues set out in the Interim Decision;

AND WHEREAS the Company and the Proposal Sponsor wish to amend the Second Amended Proposal on the terms and conditions set out herein with the intention of addressing the issues set out in the Interim Decision;

NOW THEREFORE the Company hereby submits the following third amended proposal under the BIA to its creditors (as amended, the "**Proposal**").

ARTICLE I
DEFINITIONS

1.01 Definitions

In this Proposal:

"**Administrative Fees and Expenses**" means the fees, expenses and disbursements incurred by or on behalf of the Proposal Trustee, the solicitors for the Proposal Trustee, the solicitors of the Company both before and after the Filing Date;

"**Affected Creditor Cash Pool**" means a cash pool in the amount of \$30,900,000 to be comprised of (i) all cash on hand in the Company's accounts as at the Proposal Implementation Date; (ii) any and all amounts refunded to or otherwise received by the Company in connection with the transfer of the YSL Project to the Proposal Sponsor as at the Proposal Implementation Date, and (iii) the balance to be provided by the Proposal Sponsor, subject to the refund of any surplus to the Proposal Sponsor in accordance with Section 5.01(a);

"**Affected Creditor Claim**" means a Proven Claim, other than an Unaffected Claim;

"**Affected Creditors**" means all Persons having Affected Creditor Claims, but only with respect to and to the extent of such Affected Creditor Claims;

"**Affected Creditors Class**" means the class consisting of the Affected Creditors established under and for the purposes of this Proposal, including voting in respect thereof;

"**Approval Order**" means an order of the Court, among other things, approving the Proposal;

"**Assumed Contracts**" means, subject to section 8.01(e), those written contracts entered into by or on behalf of the Company in respect of the Project to be identified by the Proposal Sponsor prior to the Proposal Implementation Date, which are to be assumed by the Proposal Sponsor upon Implementation with the consent of the applicable counterparty or otherwise pursuant to an order issued in pursuant to section 84.1 of the BIA;

"**BIA**" has the meaning ascribed to it in the recitals;

"**Business Day**" means a day, other than a Saturday or Sunday, on which banks are generally open for business in Toronto, Ontario;

"**Claim**" means any right or claim of any Person against the Company in connection with any indebtedness, liability, or obligation of any kind whatsoever in existence on the Filing Date (or which has arisen after the Filing Date as a result of the disclaimer or repudiation by the Company on or after the Filing Date of any lease or executory contract), and any interest accrued thereon to and including the Filing Date and costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets

or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against the Company with respect to any matter, cause or chose in action, but subject to any counterclaim, set-off or right of compensation in favour of the Company which may exist, whether existing at present or commenced in the future, which indebtedness, liability or obligation (A) is based in whole or in part on facts that existed prior to the Filing Date, (B) relates to a period of time prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA;

"**Company**" has the meaning ascribed to it in the recitals;

"**Conditional Claim**" means any Claim of an Affected Creditor that is not a Proven Claim as at the Filing Date because one or more conditions precedent to establish such Affected Creditor's entitlement to payment by the Company had not been completed in accordance with any applicable contractual terms as at the Filing Date, and such Affected Creditor has indicated in its proof of claim that the Claim should be treated as a Conditional Claim;

"**Conditional Claim Completion Deadline**" means 5:00pm (Toronto time) on September ~~13~~27, 2021;

"**Conditional Claim Condition**" has the meaning ascribed to it in Section 2.03(a);

"**Conditions Precedent**" shall have the meaning given to such term in section 8.01 hereof;

"**Condo Purchase Agreement**" means an agreement of purchase and sale in respect of a residential condominium unit in the Project between the Company and a Condo Purchaser;

"**Condo Purchaser**" means a purchaser of a residential condominium unit in the Project pursuant to a Condo Purchase Agreement;

"**Condo Purchaser Claim**" means any Claim of a Condo Purchaser in respect of its Condo Purchase Agreement;

~~"**Consenting Lienholder**" means a Construction Lien Creditor that has entered into a claims assignment agreement with the Proposal Sponsor and thereby elected to receive the consideration provided for under such agreement, as listed in Schedule B hereto;~~

~~"**Consenting Lienholder Payment Amount**" means an amount equal to the aggregate consideration payable to Consenting Lienholders pursuant to applicable claims assignment agreements between such Consenting Lienholders and the Proposal Sponsor;~~

"**Construction Lien Claim**" means any Proven Claim in respect of amounts secured by a perfected lien registered against title to the Property and are valid in accordance with the *Construction Act* (Ontario);

"**Construction Lien Creditor**" means a creditor with a Construction Lien Claim;

"**Convenience Creditor**" means an Affected Creditor with a Convenience Creditor Claim;

"**Convenience Creditor Claim**" means (a) any Proven Claims of an Affected Creditor in an amount less than or equal to \$15,000, and (b) any Proven Claim of an Affected Creditor in an amount greater than \$15,000 if the relevant Creditor has made a valid election for the purposes of this Proposal in accordance with this Proposal prior to the Convenience Creditor Election Deadline;

"**Convenience Creditor Consideration**" means, in respect of a Convenience Creditor Claim, the lesser of (a) \$15,000, and (b) the amount of the Proven Claim of such Convenience Creditor;

"**Court**" means the Ontario Superior Court of Justice (Commercial List);

"**Court Approval Date**" means the date upon which the Court makes the Approval Order;

"**Creditors' Meeting**" means the duly convened meeting of the Affected Creditors which took place on June 15, 2021;

~~"Cresford" means, collectively, Cresford (Rosedale) Developments Inc., East Downtown Redevelopment Partnership (EDRP), and Oakleaf Consulting Ltd., which Claims have been determined to be equity claims (as defined in the BIA) pursuant to the Interim Decision;~~

"**Crown**" means Her Majesty in Right of Canada or of any Province of Canada and their agents;

"**Crown Claims**" means the Claims of the Crown set out in Section 60(1.1) of the BIA outstanding as at the Filing Date against the Company, if any, payment of which will be made in priority to the payment of the Preferred Claims and to distributions in respect of the Ordinary Claims, and specifically excludes any other claims of the Crown;

"**Disputed Claim**" means any Claim which has not been finally resolved as a Proven Claim in accordance with the BIA as at the Proposal Implementation Date;

"**Distributions**" means a distribution of funds made by the Proposal Trustee from the Affected Creditor Cash Pool to Affected Creditors in respect of Affected Creditor Claims, in accordance with Article V;

"**Effective Time**" means 12:00 p.m. (Toronto time) on the Proposal Implementation Date;

"**Equity Claim**" has the meaning ascribed to it in Section 2 of the BIA, and includes, without limitation, the Claims of all limited partners of YG LP and ~~Cresford~~ those Equity Claims deemed to be equity pursuant to the Interim Decision;

"**Existing Equity**" means the limited partnership units of YG LP and those Equity Claims deemed to be equity pursuant to the Interim Decision;

"**Existing Equityholders**" means the holders of the Existing Equity immediately prior to the Effective Time;

"**Filing Date**" means April 30, 2021, being the date upon which Notices of Intention to Make a Proposal were filed by the Company with the Official Receiver in accordance with the BIA;

"**First Amended Proposal**" has the meaning ascribed to it in the recitals;

"**Governmental Authority**" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (ii) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

"**Implementation**" means the completion and implementation of the transactions contemplated by this Proposal;

"**Implementation Certificate**" has the meaning ascribed to it in Section 8.01(j);

"**Interim Decision**" has the meaning ascribed to it in the recitals;

~~"**Non-Consenting Lienholders**" means those Construction Lien Creditors that did not enter into a claims assignment agreement with the Proposal Sponsor;~~

"**Official Receiver**" shall have the meaning ascribed thereto in the BIA;

"**Original Proposal**" has the meaning ascribed to it in the recitals;

"**Outside Date**" means July 31, 2021;

"**Permitted Encumbrances**" means those encumbrances on the Property listed in Schedule "A" hereto;

"**Person**" means any individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority and a natural person in such person's capacity as trustee, executor, administrator or other legal representative;

"**Preferred Claim**" means a Claim enumerated in Section 136(1) of the BIA outstanding as at the Filing Date against the Company, if any, the payment of which will be made in priority to distributions in respect of Affected Creditor Claims;

"Pro Rata Share" means the fraction that is equal to (a) the amount of the Proven Claim of an Affected Creditor that is not a Convenience Creditor, divided by (b) the aggregate amount of all Proven Claims held by Affected Creditors who are not Convenience Creditors;

"Project" means the mixed-used office, retail and residential condominium development to be constructed on the Property currently consisting of approximately 1,100 residential condominium units and 170 parking units and known as Yonge Street Living Residences;

"Property" means the real property owned by the Company and municipally known as 363-391 Yonge Street and 3 Gerrard Street East, Toronto, Ontario, and legally described by PIN numbers 21101-0042 (LT) to 21101-0049 (LT), inclusive;

"Proposal" means this Amended Proposal of the Company, and any amendments, modifications and/or supplements hereto made in accordance with the terms hereof;

"Proposal Implementation Date" means the date on which Implementation occurs, which shall occur following the satisfaction of the Conditions Precedent, and no later than the Outside Date;

"Proposal Sponsor" means Concord Properties Developments Corp.;

"Proposal Sponsor Agreement" means that agreement entered into among the Proposal Sponsor and the Company as of April 30, 2021, as amended from time to time;

"Proposal Trustee" means KSV Restructuring Inc. in its capacity as trustee in respect of this Proposal, or its duly appointed successor;

"Proposal Trustee's Website" means the following website:
www.ksvadvisory.com/insolvency-cases/case/yg-limited-partnership;

"Proven Claim" means in respect of an Affected Creditor, the amount of a Claim as finally determined in accordance with the provisions of the BIA, provided that the Proven Claim of an Affected Creditor with a Claim in excess of \$15,000 that has elected to be a Convenience Creditor by submitting a Convenience Creditor Election Form shall be valued for voting purposes as \$15,000;

"Released Claims" means, collectively, the matters that are subject to release and discharge pursuant to Section 7.01;

"Released Parties" means, collectively, (i) the Company, (ii) each affiliate or subsidiary of the Company; (iii) the Proposal Sponsor, (iv) the Proposal Trustee, and (v) subject to section 7.01, each of the foregoing Persons' respective former and current officers, directors, principals, members, affiliates, limited partners, general partners, managed accounts or funds, fund advisors, employees, financial and other advisors, legal counsel, and agents, each in their capacity as such;

"Required Majority" means an affirmative vote of a majority in number and two-thirds in value of all Proven Claims in the Affected Creditors Class entitled to vote, who were present and

voting at the Creditors' Meeting (whether online, in-person, by proxy or by voting letter) in accordance with the voting procedures established by this Proposal and the BIA;

"**Second Amended Proposal**" has the meaning ascribed to it in the recitals;

"**Secured Claims**" means:

- (a) The Claim of Timbercreek which is secured by, among other things a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (b) The Claim of Westmount, which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (c) The Claim of 2576725 Ontario Inc. which is secured by, among other things, a mortgage, charge, lien or other security validly charging or encumbering the Property;
- (d) All Construction Lien Claims but only to the extent of such Construction Lien Claims;

"**Secured Creditor**" means a Person holding a Secured Claim, with respect to, and to the extent of such Secured Claim;

"**Superintendent's Levy**" means the levy payable to the Superintendent of Bankruptcy pursuant to sections 60(4) and 147 of the BIA;

"**Timbercreek**" means, collectively, Timbercreek Mortgage Servicing Inc. and 2292912 Ontario Inc.;

"**Unaffected Claim**" means:

- (a) the Administrative Fees and Expenses;
- (b) the Claim of Timbercreek;
- (c) the Claim of Westmount;
- (d) the Claim of 2576725 Ontario Inc., which is secured by, among other things, an equitable mortgage encumbering the Property;
- (e) any Claim of the City of Toronto;
- (f) all Condo Purchaser Claims;
- (g) all Construction Lien Claims ~~of Non-Consenting Lienholders~~, but only to the extent such Claims are valid in accordance with the *Construction Act* (Ontario) and have been perfected by the Proposal Implementation Date; and

- (h) such other Claims as the Company and Proposal Sponsor may agree with the consent of the Proposal Trustee;

"**Unaffected Creditor**" means a creditor holding an Unaffected Claim, with respect to and to the extent of such Unaffected Claim;

"**Undeliverable Distributions**" has the meaning ascribed to it in Section 5.04;

"**Westmount**" means Westmount Guarantee Services Inc.;

"**YSL**" has the meaning ascribed to it in the recitals; and

"**YSL Project**" means the mixed-use commercial and residential condominium development to be constructed on the Property.

1.02 Intent of Proposal

This Proposal is intended to provide all Affected Creditors a greater recovery than they would otherwise receive if the Company were to become bankrupt under the BIA. More specifically, the Proposal will provide for a payment in full of Secured Claims and will provide a significant recovery in respect of Affected Creditor Claims. While the exact recovery cannot be determined until all Claims have been determined, the Company expects Affected Creditors to receive a significant, if not a full recovery, on their Claims and, in any event, a greater recovery than would occur if the Company were to become a bankrupt under the BIA.

In consideration for, among other things, its sponsorship of this Proposal, including the satisfaction of all Secured Claims, Preferred Claims and the establishment of the Affected Creditor Cash Pool, on the Proposal Implementation Date, title to the Property, subject only to the Permitted Encumbrances, as well as the Company's interests and obligations under the Assumed Contracts and Condo Purchase Agreements shall be acquired by the Proposal Sponsor, or its nominee in accordance with the terms hereof.

1.03 Date for Any Action

In the event that any date on which any action is required to be taken under this Proposal by any of the parties is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.04 Time

All times expressed in this Proposal are local time in Toronto, Ontario, Canada unless otherwise stipulated. Time is of the essence in this Proposal.

1.05 Statutory References

Except as otherwise provided herein, any reference in this Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time

to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.06 Successors and Assigns

The Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors, and assigns of any Person named or referred to in the Proposal.

1.07 Currency

Unless otherwise stated herein, all references to currency and to "\$" in the Proposal are to lawful money of Canada.

1.08 Articles of Reference

The terms "hereof", "hereunder", "herein" and similar expressions refer to the Proposal and not to any particular article, section, subsection, clause or paragraph of the Proposal and include any agreements supplemental hereto. In the Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of the Proposal.

1.09 Interpretation Not Affected by Headings

The division of the Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of a table of contents and headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.10 Numbers

In this Proposal, where the context requires, a word importing the singular number will include the plural and *vice versa* and a word or words importing gender will include all genders.

ARTICLE II CLASSIFICATION AND TREATMENT OF AFFECTED PARTIES

2.01 Classes of Creditors

For the purposes of voting on the Proposal, there was only one class of creditors, being the Affected Creditors Class. For the purposes of voting on the Proposal, each Convenience Creditor was deemed to vote in and as part of the Affected Creditors Class.

2.02 Treatment of Affected Creditors

- (a) As soon practicable after the Proposal Implementation Date, and after taking an adequate reserve in respect of any ~~Disputed~~unresolved Claims ~~and Conditional~~Claims pursuant to Section 5.03:

- i. all Affected Creditors (other than Convenience Creditors and Affected Creditors holding Conditional Claims where one or more Conditional Claim Conditions have not been completed) shall receive, in respect of such Affected Creditor Claim, its Pro Rata Share of the Affected Creditor Cash Pool, net of the Superintendent's Levy, made by the Proposal Trustee from the Affected Creditor Cash Pool from time to time in accordance with Article V hereof, provided that aggregate Distributions to an Affected Creditor shall not exceed 100% of the value of such Affected Creditor's Proven Claim; and
 - ii. all Convenience Creditors shall receive in respect of such Convenience Creditor Claims, the Convenience Creditor Consideration, net of the Superintendent's Levy;
- (b) Subject to Section 2.03, on the Proposal Implementation Date, each Affected Creditor Claim shall, and shall be deemed to have been irrevocably and finally extinguished, discharged and released, and each Affected Creditor shall have no further right, title or interest in or to its Affected Creditor Claim.

2.03 Conditional Claims Protocol

If an Affected Creditor submits a proof of claim to the Proposal Trustee indicating that its Claim against the Company is a Conditional Claim due to the fact that one or more pre-conditions to such Affected Creditor's right to payment by the Company had not been satisfied as at the Filing Date due to the acts or omissions of such Affected Creditor, then:

- (a) such Affected Creditor shall have until the Conditional Claim Completion Deadline to complete or otherwise satisfy all outstanding pre-conditions to payment in accordance with the terms of the applicable agreement between such Affected Creditor and the Company (all such conditions, "**Conditional Claim Conditions**"), and provide notice of such completion to the Proposal Trustee along with reasonable proof thereof;
- (b) if such Affected Creditor provides the Proposal Trustee with proof of the completion of all applicable Conditional Claim Conditions prior to the Conditional Claim Completion Deadline, then, subject to the Proposal Trustee's confirmation of same, such Affected Creditor's Conditional Claim shall be deemed to be a Proven Claim, and such Affected Creditor shall be entitled to a ~~d~~**D**istribution in accordance with Section ~~5.02~~**5.02**, and, effective immediately upon issuance of such distribution to the Affected Creditor by the Proposal Trustee, the releases set out in Section 7.01 shall become effective; and
- (c) if such Affected Creditor has not satisfied one or more Conditional Claim Conditions by the Conditional Claim Completion Deadline, then, effective immediately upon the Conditional Claim Completion Deadline, such Affected Creditor's Conditional Claim shall be irrevocably and finally extinguished and such Affected Creditor shall have no further right, title or interest in and to its

Conditional Claim and the releases set out in Section 7.01 shall become effective in respect of such Conditional Claim.

2.04 Existing Equityholders and Holders of Equity Claims

Subject to Section 7.01, all Equity Claims shall be fully, finally and irrevocably and forever compromised, released, discharged, cancelled, extinguished and barred as against the Property on the Proposal Implementation Date in accordance with Section 6.01(jh).

2.05 Application of Proposal Distributions

All amounts paid or payable hereunder on account of the Affected Creditor Claims (including, for greater certainty, any securities received hereunder) shall be applied as follows: (i) first, in respect of the principal amount of the Affected Creditor Claim, and (ii) second, in respect of the accrued but unpaid interest on the Affected Creditor Claim.

2.06 Full Satisfaction of All Affected Creditor Claims

All Affected Creditors shall accept the consideration set out in Section 2.02 hereof in full and complete satisfaction of their Affected Creditor Claims, and all liens, certificates of pending litigation, executions, or other similar charges or actions or proceedings in respect of such Affected Creditor Claims will have no effect in law or in equity against the Property, or other assets and undertaking of the Company. Upon the Implementation of the Proposal, any and all such registered liens, certificates of pending litigation, executions or other similar charges or actions brought, made or claimed by Affected Creditors will be and will be deemed to have been discharged, dismissed or vacated without cost to the Company and the Company will be released from any and all Affected Creditor Claims of Affected Creditors, subject only to the right of Affected Creditors to receive Distributions as and when made pursuant to this Proposal.

2.07 Undeliverable Distributions

Undeliverable Distributions shall be dealt with and treated in the manner provided for in the BIA and the directives promulgated pursuant thereto.

ARTICLE III CREDITORS' MEETING AND AMENDMENTS

3.01 Meeting of Affected Creditors

As set out in the Interim Decision, the Requisite Majority approved the Proposal at the Creditors' Meeting.

3.02 Assessment of Claims

The provisions of section 135 of the BIA will apply to all proofs of claim submitted by Affected Creditors, including in respect of Disputed Claims. In the event that a duly submitted proof of claim has been disallowed or revised for voting purposes by the Proposal Trustee, and such disallowance has been disputed by the applicable Affected Creditor in accordance with Section

135(4) of the BIA, or in the case of any Claim that is a Conditional Claim as at the time of the Creditors' Meeting, then the dollar value for voting purposes at the Creditors' Meeting shall be the dollar amount of such disputed claim or Conditional Claim, as the case may be, set out in the proof of claim submitted by such Affected Creditor, without prejudice to the determination of the dollar value of such Affected Creditor's disputed claim or Conditional Claim for distribution purposes.

Except as expressly provided herein, the Proposal Trustee's determination of claims pursuant to this Proposal and the BIA shall only apply for the purposes of this Proposal, and such determination shall be without prejudice to a Creditor's right to submit a revised proof of claim in subsequent proceedings in respect of the Company should this Proposal not be implemented.

3.03 Modification to Proposal

Subject to the provisions of the BIA, after the Creditors' Meeting (and both prior to and subsequent to the issuance of the Approval Order) and subject to the consent of the Proposal Trustee and the Proposal Sponsor, the Company may at any time and from time to time vary, amend, modify or supplement the Proposal.

ARTICLE IV PREFERRED CLAIMS AND MANDATORY PAYMENTS

4.01 Crown Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Crown Claims, if any, will be paid by the Proposal Trustee, in full with related interest and penalties as prescribed by the applicable laws, regulations and decrees.

4.02 Preferred Claims

Within thirty (30) Business Days following the granting of the Approval Order, the Preferred Claims, if any, will be paid in full by the Proposal Trustee.

ARTICLE V FUNDING AND DISTRIBUTIONS

5.01 Proposal Sponsor to Fund

- (a) On the Proposal Implementation Date, the Proposal Sponsor shall deliver to the Proposal Trustee by way of wire transfer (in accordance with wire transfer instructions provided by the Proposal Trustee at least three (3) business days prior to the Proposal Implementation Date) ~~(i)~~ the amount necessary to establish the Affected Creditor Cash Pool in accordance with the provisions of this Proposal, provided that any surplus amounts over and above the Affected Creditor Cash Pool amount of \$30,900,000 that are returned to the Company in connection with the transfer of the YSL Project to the Proposal Sponsor shall be promptly returned to the Proposal Sponsor, including, without limitation, the cash collateral to be released by TD Bank when the letters of

credit held by the City of Toronto and the Toronto Transit Commission are replaced by letters of credit to be provided by the Proposal Sponsor; and

~~(ii) — the amount necessary to satisfy the Unaffected Claims of Non-Consenting Lienholders.~~

(b) The Proposal Trustee shall hold the Affected Creditor Cash Pool in a segregated account and shall distribute such cash, net of any reserves established in respect of ~~Disputed~~unresolved Claims, in accordance with Section ~~5.02(a)~~5.03 of the Proposal.

~~(c) — The Proposal Sponsor shall effect payments to Consenting Lienholders outside of the Proposal in accordance with the terms of applicable agreements between such Consenting Lienholders and the Proposal Sponsor and shall, upon request, provide the Proposal Trustee with proof of such payments.~~

(c) ~~(d)~~—The Proposal Sponsor shall effect payments in respect of the Unaffected Claims ~~of to Timbercreek and Westmount~~ to those parties entitled to such payments directly and shall, ~~upon request~~, provide the Proposal Trustee with proof of such payments, as applicable.

5.02 Distributions

As soon as possible after the Proposal Implementation Date and the payments contemplated by Sections 4.01 and 4.02, the Proposal Trustee shall make ~~the following Distributions~~:

~~(a) —~~ To a Distribution to each Affected Creditor with a Proven Claim, in an amount equal to such Affected Creditor's Pro Rata Share of the Affected Creditor Cash Pool, net of the Superintendent's Levy; ~~and~~

~~(b) — To each Non-Consenting Lienholder, the amount of such Non-Consenting Lienholder's Construction Lien Claim, net of the Superintendent's Levy~~ net of any amounts held in reserve in respect of unresolved Claims, in accordance with Section 5.03.

Thereafter, the Proposal Trustee may make further Distributions to Affected Creditors from time to time from the reserves established pursuant to Section 5.03, as ~~Disputed~~unresolved Claims are resolved in accordance with the terms of ~~that~~ Section 3.02.

5.03 Reserves for Unresolved Claims

Prior to making any Distribution to Affected Creditors pursuant to Section 5.02, the Proposal Trustee shall set aside in the Affected Creditor Cash Pool sufficient funds to pay all Affected Creditors with Disputed Claims or Conditional Claims the amounts such Affected Creditors would be entitled to receive in respect of that particular Distribution pursuant to this Proposal, in each case as if their Disputed Claim or Conditional Claim, as the case may be, had been a Proven Claim at the time of such Distribution. Upon the resolution of each Disputed Claim in accordance with the BIA, or upon final resolution of any Conditional Claim, any funds which have been reserved by the Proposal Trustee to deal with such Disputed Claim or such

Conditional Claim, as applicable, but which are not required to be paid to the Affected Creditor shall remain in the Affected Creditor Cash Pool and become available for further Distributions to Affected Creditors in respect of their Proven Claims.

5.04 Method of Distributions

Unless otherwise agreed to by the Proposal Trustee and an Affected Creditor, all Distributions made by the Proposal Trustee pursuant to this Proposal shall be made by cheque mailed to the address shown on the proof of claim filed by such Affected Creditor or, where an Affected Creditor has provided the Trustee with written notice of a change of address, to such address set out in that notice. If any delivery or distribution to be made pursuant to Article ~~IV~~V hereof in respect of an Affected Creditor Claim is returned as undeliverable, or in the case of a distribution made by cheque, the cheque remains uncashed (each an "**Undeliverable Distribution**"), no other crediting or delivery will be required unless and until the Proposal Trustee is notified of the Affected Creditor's then current address. The Proposal Trustee's obligations to the Affected Creditor relating to any Undeliverable Distribution will expire six months following the date of delivery or mailing of the cheque or other distribution, after which date the Proposal Trustee's obligations under this Proposal in respect of such Undeliverable Distribution will be forever discharged and extinguished, and the amount that the Affected Creditor was entitled to be paid under the Proposal shall be distributed to the Proposal Sponsor.

5.05 Residue After All Distributions Made

In the event that any residual amount remains in the Affected Creditor Cash Pool following the Proposal Trustee's final Distribution to Affected Creditors as provided herein, such residual funds shall be ~~directed to held by the Company's accounts to be dealt with outside of this Proposal~~ Trustee pending receipt of a duly issued direction from all of the holders of Class A Preferred Units of YG LP, or otherwise by order of the Court.

ARTICLE VI IMPLEMENTATION

6.01 Proposal Implementation Date Transactions

Commencing at the Effective Time, the following events or transactions will occur, or be deemed to have occurred and be taken and effected, in the following order in five minute increments (unless otherwise indicated) and at the times and in the order set out in this Section 6.01 (or in such other manner or order or at such other time or times as the Company and the Proposal Sponsor may agree, each acting reasonably), without any further act or formality required on the part of any Person, except as may be expressly provided herein:

- (a) Either the Proposal Sponsor will, at its election, but subject to obtaining the consent of the applicable Secured Creditor, assume the Secured Claims, or on behalf of the Company, the Proposal Sponsor will make payment in full to Secured Creditors in respect of their Secured Claims, in accordance with Section 5.01(d) calculated as at the Closing Date;

- (b) the releases in respect of Secured Claims referenced in section 7.01 shall become effective, and any registrations on title to the Property in respect of such Secured Claims shall, unless otherwise agreed between the Secured Creditor and the Proposal Sponsor with the consent of the Proposal Trustee, be discharged from title to the Property;
- ~~(c) the Proposal Sponsor shall make payment to Timbercreek and Westmount, in respect of their Unaffected Claims, respectively, in accordance with Section 5.01(d) calculated as at the Closing Date;~~
- (c) ~~(d)~~ the Proposal Sponsor shall provide to the Proposal Trustee the amount necessary to establish the Affected Creditor Cash Pool, in accordance with Section 5.01(a)~~(i)~~, in full and final settlement of all Affected Creditor Claims;
- ~~(e) the Proposal Sponsor shall provide to the Proposal Trustee the amount necessary to satisfy the Unaffected Claims of all Non-Consenting Lienholders, in accordance with Section 5.01(a)(ii), in full and final resolution of all Non-Consenting Lienholder Claims;~~
- (d) ~~(f)~~ the Proposal Sponsor shall provide the Proposal Trustee with an amount necessary to satisfy the Administrative Fees and Expenses, including a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated to be incurred in connection with the administration of Distributions, resolution of any ~~Disputed~~unresolved Claims pursuant to Section 5.03, and the Proposal Trustee's discharge;
- (e) ~~(g)~~ title to the Property shall be registered in the name of the Proposal Sponsor, or its nominee, together with any charges applicable to security held by the lenders to the Proposal Sponsor in respect of the purchase of the Property and construction of the Project;
- (f) ~~(h)~~ the assumption of the Assumed Contracts by the Proposal Sponsor, or its nominee, shall become effective;
- (g) ~~(i)~~ all Affected Creditor Claims (including without limitation all Convenience Creditor Claims) shall, and shall be deemed to be, irrevocably and finally extinguished and the Affected Creditors shall have no further right, title or interest in and to their respective Affected Creditor Claims, except with respect to their right to receive a Distribution, if applicable, and in such case, only to the extent of such Distribution;
- (h) ~~(j)~~ subject to Section 7.01, all Equity Claims shall, and shall be deemed to be, irrevocably and finally extinguished and all Existing Equityholders shall have no further right, title or interest in and to their respective Equity Claims as against the Property; and

- (i) ~~(k)~~ the releases in respect of Affected Creditor Claims (other than Conditional Claims with Conditional Claim Conditions not satisfied as at the Effective Time) referred to in Section 7.01 shall become effective.

ARTICLE VII RELEASES

7.01 Release of Released Parties

At the applicable time pursuant to Section 6.01(b), in the case of Secured Claims, and Section 6.01(~~k~~i), in respect of Affected Creditor Claims, each of the Released Parties shall be released and discharged from all present and future actions, causes of action, damages, judgments, executions, obligations, liabilities and Claims of any kind or nature whatsoever arising on or prior to the Proposal Implementation Date in connection with this Proposal and the Project, and any proceedings commenced with respect to or in connection with this Proposal, the Project, the transactions contemplated hereunder, and any other actions or matters related directly or indirectly to the foregoing, provided that nothing in this paragraph shall release or discharge (i) any of the Released Parties from or in respect of their respective obligations under this Proposal or any order issue by the Court in connection with this Proposal or any document ancillary to any of the foregoing, (ii) any Released Party from liabilities or claims which cannot be released pursuant to s. 50(14) of the BIA, as determined by the final, non-appealable judgment of the Court, or (iii) any Released Party from any Secured Claim of Timbercreek. The foregoing release shall not be construed to prohibit a party in interest from seeking to enforce the terms of this Proposal, including with respect to Distributions, or any contract or agreement entered into pursuant to, in connection with or contemplated by this Proposal. Notwithstanding the foregoing, the directors and officers of the Company, its affiliates, the former directors and officers, and general partner of the Company shall not be released in respect of any (x) Equity Claim as defined in section 2 of the BIA or any analogous claim in respect of a partnership interest or (y) any claim by a former employee of the Company or its affiliates relating to unpaid wages or other employment remuneration.

7.02 Injunctions

All Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Proposal Implementation Date, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever of any Person against the Released Parties, as applicable; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, guarantee, decree or order against the Released Parties; (iii) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (iv) taking any actions to interfere with the implementation or consummation of this Proposal or the transactions contemplated hereunder; provided, however, that the foregoing shall not apply to the enforcement of any obligations under this Proposal or any document, instrument or agreement executed to implement this Proposal.

ARTICLE VIII
CONDITIONS PRECEDENT

8.01 Conditions Precedent

This Proposal will take effect on the Proposal Implementation Date. The Implementation of this Proposal on the Proposal Implementation Date is subject to the satisfaction or waiver (in the sole discretion of the Proposal Sponsor) of the following conditions precedent (collectively, the "Conditions Precedent"):

- (a) the Proposal is approved by the Required Majority;
- (b) the Approval Order, in form and substance satisfactory to the Proposal Sponsor, has been issued, has not been stayed and no appeal therefrom is outstanding;
- (c) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Authority, no application shall have been made to any Governmental Authority, and no action or investigation shall have been announced, threatened or commenced by any Governmental Authority, in consequence or in connection with the Proposal or the Project that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or inhibit), the Proposal or any part thereof or the Project or any part thereof or requires or purports to require a variation of the Proposal or the Project;
- (d) registrations in respect of all encumbrances, including without limitation any registrations in respect of Construction Lien Claims, but excluding the Permitted Encumbrances, shall have been deleted from title to the Property, provided that (a) should the Implementation of the Proposal not occur following the deletion of an Affected Creditor's encumbrance pursuant to this provision, such Affected Creditor shall have the right to renew such registration, and (b) the Company and/or the Proposal Sponsor shall be at liberty to pay security into Court (by way of a bond or similar instrument) in respect of any ~~Non-Consenting Lienholder, should the Claim of such Non-Consenting Lienholder be a Disputed~~ Construction Lien Claim;
- (e) the Proposal Sponsor, or its nominee, shall have entered into assignment and assumption agreements in respect of all Assumed Contracts, or an assignment order pursuant to section 84.1 of the BIA shall have been issued, in each case in form and substance satisfactory to the Proposal Sponsor, provided that it shall be a condition of the assumption of each Assumed Contract that the written agreements set out in the list of Assumed Contracts provided by the Proposal Sponsor (as amended from time to time) represent the totality of the contractual arrangements between the Company and each applicable counterparty, and no verbal or extra-contractual arrangements will be recognized by the Proposal Sponsor;

- (f) sufficient financing for the acquisition of the Property by the Proposal Sponsor, or its nominee, shall have been provided by Otera Capital Inc., on terms satisfactory to the Proposal Sponsor, and all material conditions precedent to such financing shall be capable of completion by the Proposal Sponsor prior to the Proposal Implementation Date;
- (g) the Proposal Implementation Date shall occur on the day that is ~~seven days~~three Business Days following the issuance of the Approval Order ~~(or, if such date falls on a day that is not a Business Day, then on the next Business Day)~~, or such other date prior to the Outside Date as may be agreed by the Proposal Sponsor;
- (h) any required resolutions authorizing the Company to file this Proposal and any amendments thereto will have been approved by the board of directors of the Company;
- (i) the Proposal Sponsor Agreement shall not have been terminated by the Proposal Sponsor; and
- (j) the Company and the Proposal Sponsor shall have delivered a certificate to the Proposal Trustee that all of the conditions precedent to the Implementation of the Proposal have been satisfied or waived (the "**Implementation Certificate**").

Upon ~~written confirmation of receipt from~~ the Proposal Trustee's receipt of the Implementation Certificate, the Affected Creditor Cash Pool and the funding required by Section 6.01(d), the Implementation of the Proposal shall have been deemed to have occurred and all actions deemed to occur upon Implementation of the Proposal shall occur without the delivery or execution of any further documentation, agreement or instrument.

ARTICLE IX

EFFECT OF PROPOSAL

9.01 Binding Effect of Proposal

After the issuance of the Approval Order by the Court, subject to satisfaction of the Conditions Precedent, the Proposal shall be implemented by the Company and shall be fully effective and binding on the Company and all Persons affected by the Proposal. Without limitation, the treatment of Affected Creditor Claims under the Proposal shall be final and binding on the Company, the Affected Creditors, and all Persons affected by the Proposal and their respective heirs, executors, administrators, legal representatives, successors, and assigns. For greater certainty, this Proposal shall have no effect upon Unaffected Creditors.

9.02 Amendments to Agreements and Paramountcy of Proposal

Notwithstanding the terms and conditions of all agreements or other arrangements with Affected Creditors entered into before the Filing Date, for so long as an event of default under this Proposal has not occurred, all such agreements or other arrangements will be deemed to be amended to the extent necessary to give effect to all the terms and conditions of this Proposal. In

the event of any conflict or inconsistency between the terms of such agreements or arrangements and the terms of this Proposal, the terms of this Proposal will govern and be paramount.

9.03 Deemed Consents and Authorizations of Affected Creditors

At the Effective Time each Affected Creditor shall be deemed to have:

- (a) executed and delivered to the Company all consents, releases, assignments, and waivers, statutory or otherwise, required to implement and carry out this Proposal in its entirety;
- (b) waived any default by the Company in any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company that has occurred on or prior to the Proposal Implementation Date; and
- (c) agreed, in the event that there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Company as at the date and time of Court approval of the Proposal (other than those entered into by the Company on, or with effect from, such date and time) and the provisions of this Proposal, that the provisions of this Proposal shall take precedence and priority and the provisions of such agreement or other arrangement shall be amended accordingly.

ARTICLE X ADMINISTRATIVE FEES AND EXPENSES

10.01 Administrative Fees and Expenses

Administrative Fees and Expenses ~~including together with~~ a reserve in respect of the reasonably estimated additional Administrative Fees and Expenses anticipated to be incurred in connection with the administration of Distributions, resolution of any unresolved Claims pursuant to Section 5.03, and the Proposal Trustee's discharge will be paid in cash by the ~~Company~~Proposal Sponsor on the Proposal Implementation Date ~~together with a reserve in respect of the discharge of the Proposal Trustee.~~

ARTICLE XI INDEMNIFICATION

11.01 Indemnification of Proposal Trustee

The Proposal Trustee shall be indemnified in full by the ~~Company~~Proposal Sponsor for: (a) all personal liability arising from fulfilling any duties or exercising any powers or duties conferred upon it by this Proposal or under the BIA, except for any willful misconduct or gross negligence; and (b) all Administrative Fees and Expenses reasonably incurred but not covered by the payment set out in Section 10.01.

ARTICLE XII
POST FILING GOODS AND SERVICES

12.01 Payment of Payroll Deductions and Post Filing Claims

The following shall continue to be paid in the ordinary course by the Company prior to and after the Court Approval Date and shall not constitute Distributions or payments under this Proposal:

- (a) all Persons, who may advance monies, or provide goods or services to the Company after the Filing Date shall be paid by the Company in the ordinary course of business;
- (b) current source deductions and other amounts payable pursuant to Section 60(1.2) of the BIA, if applicable, shall be paid to Her Majesty in Right of Canada in full by the Company as and when due; and
- (c) current goods and services tax (GST), and all amounts owing on account of provincial sales taxes, if applicable, shall be paid in full by the Company as and when due.

ARTICLE XIII
TRUSTEE, CERTIFICATE OF COMPLETION, AND DISCHARGE OF TRUSTEE

13.01 Proposal Trustee

KSV Restructuring Inc. shall be the Proposal Trustee pursuant to this Proposal and upon the making of the Distributions and the payment of any other amounts provided for in this Proposal, the Proposal Trustee will be entitled to be discharged from its obligations under the terms of this Proposal. The Proposal Trustee is acting in its capacity as Proposal Trustee under this Proposal, and not in its personal capacity and shall not incur any liabilities or obligations in connection with this Proposal or in respect of the business, liabilities or obligations of the Company, whether existing as at the Filing Date or incurred subsequent thereto.

The Proposal Trustee shall not incur, and is hereby released from, any liability as a result of carrying out any provisions of this Proposal and any actions related or incidental thereto, save and except for any gross negligence or willful misconduct on its part (as determined by a final, non-appealable judgment of the Court).

13.02 Certificate of Completion and Discharge of Proposal Trustee

Upon the Proposal Trustee ~~receiving confirmation in writing from the Company that the transactions contemplated in Section 6.01 have been completed in the order and manner contemplated therein~~ having received the Implementation Certificate, and all Distributions to Affected Creditors have ~~been~~ ing been administered in accordance with Article ~~IVV~~, the terms of the Proposal shall be deemed to be fully performed and the Proposal Trustee shall provide a certificate to the Company, the Proposal Sponsor and to the Official Receiver pursuant to Section 65.3 of the BIA and the Proposal Trustee shall be entitled to be discharged.

ARTICLE XIV
GENERAL

14.01 Valuation

For purposes of voting and Distributions, all Claims shall be valued as at the Filing Date.

14.02 Preferences, Transfers at Undervalue

In conformity with Section 101.1 of the BIA, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal. As a result, all of the rights, remedies, recourses and Claims described therein:

- (a) all such rights, remedies and recourses and any Claims based thereon shall be completely unavailable to the Proposal Trustee or any Affected Creditors against the Company, the Property, or any other Person whatsoever; and
- (b) the Proposal Trustee and all of the Affected Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any Claims based thereon against the Company, the Property any other Person.

14.03 Governing Law

The Proposal shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. Any disputes as to the interpretation or application of the Proposal and all proceedings taken in connection with the Proposal shall be subject to the exclusive jurisdiction of the Court.

[remainder of page left intentionally blank]

Dated at Toronto, this _____ day of July, 2021.

YSL RESIDENCES INC.

Per: _____
Name:
Title:
I have the authority to bind the Corporation.

**YG LIMITED PARTNERSHIP, by its
general partner 9615334 CANADA INC.**

Per: _____
Name:
Title:
I have the authority to bind the Corporation.

SCHEDULE A

PERMITTED ENCUMBRANCES

Instrument Number	Description
EP138153	- Canopy Agreement with the City of Toronto
EP146970	- Encroachment Agreement with the City of Toronto
CT114131	- Encroachment Agreement with the City of Toronto
CT169812	- Canopy Agreement with the City of Toronto
CA11215	- Development Agreement with the City of Toronto
CA231470	- Encroachment Agreement with the City of Toronto
AT5142530	- Heritage Easement Agreement with the City of Toronto
AT5154721	- Heritage By-Law
AT5154722	- Heritage By-Law
AT5157423	- Heritage By-Law
AT5157424	- Heritage By-Law
AT5246455	- Section 37 Agreement
AT5473163	- Application to Register a Court Order (Equitable Mortgage)

~~LIST OF CONSENTING LIENHOLDERS~~

~~• architectsAlliance & Stephen Wells Architect Ltd.~~

~~• Brian Isherwood & Associates~~

~~• GFL Infrastructure Group Inc.~~

~~• Heritage Restoration Inc.~~

~~• Kohn Pederson Fox Associates PC~~

~~• Kramer Design Associates Limited~~

~~• Petra Consultants Ltd.~~

~~• Priestly Demolition Inc.~~

~~• R. Avis Surveying Inc.~~

~~• Reco Cleaning Services~~

~~• Royal Excavating & Grading Limited~~

~~• Safeline Management Systems~~

~~• Sebba Steel Construction Ltd.~~

~~• Verdi Structures Inc.~~

~~• WSP Canada Inc.~~

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Input:	
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Description	#27947251v4<BJWORK.LEGAL.BJLOCAL> - Amended Proposal #3 - YSL
Document 2 ID	iManage://BJWORK.LEGAL.BJLOCAL/WSLegal/27947251/6
Description	#27947251v6<BJWORK.LEGAL.BJLOCAL> - Amended Proposal #3 - YSL
Rendering set	Standard

Legend:	
<u>Insertion</u>	
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Style change	
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Moved cell	
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Statistics:	
	Count
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Format changes	0

1294

Total changes	160
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13

PROJECT PROFORMA COMPLETION REPORT FOR
YSL RESIDENCES – 383 YONGE STREET
TORONTO, ON

Prepared for: KSV ADVISORY

Prepared by: FINNEGAN MARSHALL INC.

Issued: May 26th, 2021
Project No.: 21099



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326 DAVENPORT ROAD SUITE 200
TORONTO ON M5R 1K6

May 26th, 2021

KSV Advisory
150 King Street West
Suite 2308
Toronto, Ontario
M5H 1J9

Attn: Bobby Kofman, President and Managing Director

[Re: YSL Residences – Project Pro Forma Completion Report](#)

Dear Mr. Kofman,

KSV have requested that Finnegan Marshall (“FM”) undertake the following:

1. Review pertinent project documentation and prepare a report that will provide the sale price for the project on an as-is basis after assessing the project budget, project revenue and resultant profitability.
 2. CBRE has prepared a land appraisal dated March 16th, 2021 and FM will review the appraisal and opine on the land value therein. FM will also review a prior appraisal dated July 20, 2019 prepared by CBRE and explain the reasons for the reduction in value in the current appraisal v the former appraisal, to the extent possible.
 3. FM will also advise whether it is possible that a developer would consider terminating all existing APS’s and whether a higher land sales price could be achieved through an alternative development.
- 1) Project Sale Price – we understand the project sale price to be the combined total of the secured claims from Timbercreek, Westmount & 2576725 Ontario Inc., the lien claims and 58 cents in the dollar for the unsecured claims. We have provided a detailed calculation of this amount for \$291,139,562 in section 2. We reviewed the list of unsecured creditors and adjusted for known extra realty taxes payable to the City of Toronto, additional deposit insurance fees payable to Westmount all to June 30th, 2021.

Included in the sales price of \$291,139,562 is \$111,757,134 for Westmount insured purchaser deposits released into the project & used to pay for project costs. We are advised that the land purchaser intends to preserve all existing sales with the exception of 56 sales for which \$8,675,468 deposits were collected. Hence, these deposits of \$8,675,468 need to be returned to those original purchasers. This will mean that the remaining deposits already used to pay project costs of \$103,081,666 will not have to be returned to the purchasers. Accordingly, this reduces the effective project sales price to \$188,057,896 although the land vendor will not have use of the \$103,081,666 deposits already used.



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We wish to highlight that our budget assumes that land transfer tax will be payable on the full consideration of \$291,139,562 as opposed to the effective cash payment of \$188,057,896. A professional taxation opinion should be sought as to whether land transfer tax is payable on the Westmount secured deposits already used to pay costs for retained sales of \$103,081,666. If land transfer tax is not payable on this \$103,081,666, it will save approximately \$4.1 Million, but not change our conclusion.

Our approach to assessing the project sale price was to undertake this on a residual land basis. This involved calculating detailed sales revenue, a detailed project budget, adding the project sale price as outlined above and assessing whether the resultant profit meets market standards.

For the project revenue, we used the sales prices for the retained sales less deposits used, as well as the projected sales prices per the CBRE appraisal for the unsold suites, office space, retail and parking stalls. We allowed for 56 existing sales being cancelled where the opinion is the sales price is under market and related sales incentives will then not apply. This will result in additional gross revenue of \$17,083,153 on these 56 sales. Adjustment have also been made for closing recoveries and remaining sales incentives.

Finally, we deducted from the available revenue the \$103,081,666 in deposits from existing retained sales already used to pay project costs. The resultant revenue is projected at \$1,092,184,713.

For the project budget, we undertook a detailed calculation of all future completion costs. No amount is included for costs already incurred. We prepared a detailed construction budget trade by trade based on prevailing market trade costs taking into account the project design, location, and project duration. We assumed that construction will be administered on a CCDC5A construction management basis where the new owner will hold all the trade contracts. Accordingly, no allowance is included for the premium costs of a 5B contract or a general contract.

We also undertook detailed soft cost budgets for all required soft cost items. These soft cost budgets are again only for future costs.

We prepared a detailed Cash Flow based on the assumed Source of Funds provided herein. One specific point to highlight that is singular for this cash flow and source of funds, is that there will be way less purchaser deposits available than standard as prior deposits used on retained sales of \$103,081,666 are not available. While this will be an issue to address with the construction lender, for the purpose of this report, we have assumed that the shortfall in typical purchaser deposit availability will be made up by a combination of extra equity and loan.

Our project budget is calculated at \$986,619,000 which includes the project list price of net \$188,057,896.

Based on the revenue of \$1,092,184,713 less the project budget of \$986,619,000, the profit is \$105,565,713 which is equal to 10.70% of the budget. Finnegan Marshall acts as construction cost



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consultant on approximately 140 projects under construction. It is our opinion that a profit margin of 10.70% is lower than the market range, especially for a large-scale project with extended duration as the subject project. In addition, on account of the reduced availability of purchaser deposits, the comparative return on equity over the projected 6.25 years project duration is well lower than market at 9.7%. Accordingly, it is our opinion that the project sale price proposed is higher than the land value is worth. For a project of this scale, duration and increased risk, our opinion is that a profit margin should be at least 15% on budget which would reduce the land sale price by \$36.9Million. I would caution that due to the likely high equity requirement, this would still only provide a ROE of 13.6%. I would suspect that the land vendor would likely structure their construction financing to allow for a reduction in equity as more units are sold, which would improve the ROE. This construction loan finance structure will result in equity being reduced. In our opinion, a minimum annual target ROE would be 15%.

- 2) Land Appraisals Difference – the land value in the CBRE July 30th, 2019 appraisal was \$375.5Million and this reduced by \$97Million to \$278.5Million in the latest CBRE appraisal of March 16th, 2021. There are various reasons for this reduction primarily being a combination of reduced revenue and increased budgets between appraisals. Based on our review each of the adjustments appear to be supportable and reasonable.
 - a) Reduction in residential net saleable area of 6,413sf (724,383sf – 717,970sf) which amounts to about <\$ 9.7Million>.
 - b) Reduction in projected list price for unsold units for Sky units from \$2,022psf to \$1,862psf which amounts to <\$17Million>.
 - c) Reduction in projected list price for unsold condos from \$1,564psf to \$1,550psf - <\$2Million>.
 - d) Reduction in sold price psf from \$1,431 psf to \$1,418psf - <\$6Million reduction>.
 - e) Reduction in retail area of 12,464sf (73,378sf – 60,914sf) and reduction in rents. Previously, Cresford had advised of a pending sales price of \$97Million compared to the current CBRE market value of \$67.6Million at a 4.75% Cap rate. Overall reduction <\$29.4Million>
 - f) Increase in office value by fact that prior Ryerson sale is advised as no longer applicable and instead selling office as condos at \$850psf + HST. Increase of \$33.2Million.
 - g) No storage lockers in latest appraisal. There were never any lockers in the project, and they should never have been included. Reduction <\$3.7Million>.
 - h) Increase in sales incentives <\$3.7Million>.
 - i) Increase in construction budget of <\$13.75Million>
 - j) Increase in soft cost budgets of <\$29Million> largely for higher land related costs (DC's)
 - k) Cost incurred no longer applicable <\$16Million> as incurred costs have no value in a land residual method.

With respect to the request for our opinion on the land value of \$278.5Million within the CBRE appraisal of March 16, 2021, our opinion is this land value is too high for the reasons outlined, as the resultant profit of 10.41% is lower than the market we would expect of 15% minimum for a project of this scale and duration, especially with the lack of deposits available to fund the project. We would also expect a minimum 15% ROE.



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- 3) Potential Higher Land Price – if the existing deals are terminated, the deposits already used on the retained sales of \$103,081,666 will have to be returned. These deposits equate to \$235psf based on 437,678sf saleable area. While this is fully offset if the units are resold at similar price of \$1,418psf, it will cause a cash flow challenge for any developer as they will have to cash flow this immediate payment on land closing of this extra \$103Million until replacement deposits are received on the resold units. The issue with deposits on resold units is the receipt will be staggered likely over 2.5 years and secondly the market for deposits is under considerable pressure as most projects are now only selling at 15% pre-occupancy deposits instead of 20% pre-Covid.

CBRE carried the sales price for the unsold condo units at \$1,564psf and for the sky units at \$1,862psf. We note that the unsold condo units are priced higher at \$1,564psf than the sold condo units at \$1,418psf because the remaining unsold condo units are largely at higher floors than the sold units, thereby attracting a floor height premium. The sky units are priced higher than the unsold condo units as they are located at the top of the building from 69th-84th floors plus they have upgraded finishes.

We assessed these proposed sales prices for the unsold suites compared to the current market. Recent market launches this year in downtown have included the 8 Wellesley West project which achieved \$1,454psf, and also the Prime project at Yonge/Gerrard. The Prime project location is not as good as YSL. However, their average unit size is much smaller than YSL and smaller unit sizes result in higher prices psf. The Prime project was launched start of April 2021 and is 73% sold at \$1,440psf. It is our opinion that YSL if relaunched could achieve an average of \$1,564psf for the condo units, but we would not be comfortable using higher. We accept the higher sales projected prices for the sky units at \$1,862psf with upgraded finishes. We also want to highlight that contrary to the CBRE report, the current drawings only have regular floor heights for the sky units from level 69-79. It is only on levels 80-84 that the floor height increases from 9' to 10'.

In order to test what impact releasing all existing sales would do and reselling at \$1,564psf for condo units and \$1,864psf for sky units, we prepared a separate pro forma for this. From a budget perspective, releasing all the existing sales will require a full return of the deposits used of \$103,081,666. In addition, the sales program for the entire building will need to be relaunched and that will take time. Even with a speedy preparation for relaunch and preparing the construction for a restart and obtaining lender support, we used a period of 6 months delay to achieve this and in our opinion, this is aggressive. However, we recognize that the market is presently very hot, and it could be achieved. The new project owner would also have to then finance the land acquisition and this will add to costs.

We assumed in a resell scenario, the lien claimants would be paid in full but that no payments would be made to the unsecured creditors. This saves \$28.7Million on the budget.

Our detailed calculation of this resell option shows that the additional profit will be approximately \$48Million. As a result, the percentage profit increases from 10.7% to 13.79%. The return on equity would improve to 13.6%. Our conclusion is clearly that this resell option will not improve overall



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profitability percentage wise to an acceptable market level of 15% profit on budget. In addition, a resell option would markedly increase the project risk as one would forego the confidence of already having substantial sales with the uncertainty of having no sales.

The other option is for the land purchaser to go back to the existing purchasers and ask for a partial price increase. If an increase of \$73psf (50% of \$1,564psf - \$1,418psf) was received, it would amount to \$29Million extra revenue net of HST. I understand that Concord Adex did this on another former Cresford site they purchased and there is a lawsuit launched by the existing purchasers over their requested price increase. Even if this price increase was successful, it would still only increase the profit margin to 13.6% or less than the 15% target I opined would be required to get the profit and project sale price to market.

4) Enclosures

We enclose the following attachments which address both the retained sales and the complete resell options:

1. Executive Summary
2. Project Budget
3. Construction Estimate
4. Sales Revenue
5. Source of Funds
6. Project Statistics Summary
7. Project Statistics Detail Floor by Floor
8. Project Cash Flow

We will be pleased to provide any further elaboration or clarification as required.

This report is for the exclusive use of client and Finnegan Marshall Inc. does not hold any reporting responsibility to any other party.

Yours truly,

FINNEGAN MARSHALL INC.

Per: Niall Finnegan



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- 6.0 PROJECT STATISTICS SUMMARY
- 7.0 PROJECT STATISTICS FLOOR BY FLOOR
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1.0
EXECUTIVE SUMMARY



YSL RESIDENCES - 383 YONGE STREET
 TORONTO, ONTARIO
 MIXED-USE DEVELOPMENT

Date: 26-May-2021
 Project No.: 21099
 Report No.: Proforma

EXECUTIVE SUMMARY	TOTAL	VARIANCE	RESELL
PROJECTED REVENUE	\$1,092,184,713	\$174,831,266	\$1,267,015,978
PROJECT BUDGET	\$986,619,000	\$126,869,000	\$1,113,488,000
PROFIT	\$105,565,713	\$47,962,265	\$153,527,978
PROFIT AS % OF BUDGET	10.70%	3.09%	13.79%



2.0
PRO FORMA BUDGET



YSL RESIDENCES - 383 YONGE STREET
TORONTO, ONTARIO
MIXED-USE DEVELOPMENT

Date: 7-Jun-2021
Project No.: 21099
Report No.: Proforma

PROJECT BUDGET SUMMARY (COMPLETION COSTS)	TOTAL PROJECT BUDGET	RESELL PREMIUM	RESELL BUDGET
LAND			
1 Project Acquisition	291,139,562	(28,696,217)	262,443,345
2 Less Westmount Purchaser Deposits Sales Retained	(103,081,666)	103,081,666	0
3 Add Deposits Returned Cancelled Sales	excluded	0	excluded
4 Land Transfer Tax	11,638,532	(1,147,849)	10,490,684
5 Credit Land Transfer Tax Westmount Deposits Retained	TBA	0	0
6 Professional Fees Acquisition (allowance)	2,000,000	0	2,000,000
7 Parkland Dedication	23,571,230	706,837	24,278,067
8 City Development Charges	46,357,807	0	46,357,807
9 City DC Ground Floor Retail Replacement Credit	included 4	0	included 4
10 Seperate School Board EDC	5,803,736	483,296	6,287,032
11 Realty Taxes (from July 1/21)	10,600,000	1,138,000	11,738,000
12 Section 37 including indexing			
a) Community Centre	included 13	0	included 13
b) Affordable Rental Housing Ward 13	4,800,000	80,000	4,880,000
c) Public Art	1,020,000	17,000	1,037,000
d) Pedestrian Connection Ryerson	1,440,000	24,000	1,464,000
e) O'Keefe Lane	900,000	15,000	915,000
f) Yonge St Improvements	1,296,000	21,600	1,317,600
g) Reserve Fund Initial Op Cost Child Care	216,000	3,600	219,600
13 Tieback & Neighbour Agreements	1,875,000	0	1,875,000
CONSTRUCTION			
14 Construction (excluding completed costs)	455,271,300	13,658,139	468,929,439
15 Less Completed Costs Construction (GFL/Michael/HRI)	(6,989,578)	0	(6,989,578)
16 Purchaser Upgrade Costs	excluded	0	excluded
17 Construction Management	14,341,046	430,231	14,771,277
18 Heritage Restoration	648,000	0	648,000
19 Heritage Retention Bracing Removal	750,000	25,000	775,000
20 Common Area Furniture & Amenity Equipment	2,000,000	0	2,000,000
21 Building Permit (final 40%)	837,665	0	837,665
22 Hydro Overhead Line Protection	0	0	0
23 Municipal Fees	400,000	0	400,000
24 Service Connections (hydro/sanitary/water/storm)	1,500,000	0	1,500,000
25 Lane & Road Occupancy	4,457,000	89,000	4,546,000
26 Construction Insurance	3,939,007	118,170	4,057,178
27 Bonding	0	0	0
28 TARION Enrolment	1,541,530	162,090	1,703,620
DESIGN (Completion Costs)			
29 Architect	2,000,000	0	2,000,000
30 Heritage Architect	100,000	0	100,000
31 Structural Engineer	770,000	0	770,000
32 Mechanical & Electrical Engineer	300,000	0	300,000
33 Landscape Architect	90,000	0	90,000
34 Interior Designer	500,000	0	500,000
35 Soils & Enviromental Consultant	50,000	0	50,000
36 Shoring Consultant	90,000	0	90,000
37 Cost Consultant	100,000	0	100,000
38 Inspection & Testing/Tarion Bulletin 19	400,000	0	400,000
39 Exterior Cladding Consultant	200,000	0	200,000
40 Code Consultant	40,000	0	40,000
41 Civil Engineer	75,000	0	75,000
42 Elevator Consultant	10,000	0	10,000
43 Planners	50,000	0	50,000
44 Vibration Monitoring	0	0	0
45 Acoustic Engineer	30,000	0	30,000
46 Traffic Engineer	75,000	0	75,000
47 Wind Consultant	50,000	0	50,000
48 Printing & Disbursements	175,000	0	175,000
49 Miscellaneous Consultants	750,000	0	750,000
LEGAL & ADMINISTRATION			
50 Legal Fees	2,933,000	1,000,000	3,933,000
51 Land Surveyor	432,000	0	432,000
52 Accountant	200,000	0	200,000
53 Development Management (allowance)	29,071,575	1,466,823	30,538,398



YSL RESIDENCES - 383 YONGE STREET
TORONTO, ONTARIO
MIXED-USE DEVELOPMENT

Date: 7-Jun-2021
Project No.: 21099
Report No.: Proforma

PROJECT BUDGET SUMMARY (COMPLETION COSTS)	TOTAL PROJECT BUDGET	RESELL PREMIUM	RESELL BUDGET
<u>MARKETING & SALES</u>			
54 Sales Office Construction	250,000	250,000	500,000
55 Sales Office Operations	432,000	0	432,000
56 Marketing & Advertising	1,000,000	1,757,500	2,757,500
57 Public Relations	250,000	250,000	500,000
58 Sales Commissions - Lead Brokers (50% sold)	3,598,350	(3,598,350)	0
59 Sales Commissions - Lead Brokers (100% unsold)	4,711,964	5,940,168	10,652,132
60 Sales Commissions - Outside Brokers (50% sold)	14,069,084	(14,069,084)	0
61 Sales Commissions - Outside Brokers (100% unsold)	15,078,285	27,530,244	42,608,529
62 Office Landlord Work	2,420,800	0	2,420,800
63 Office Sales Commissions	3,292,288	0	3,292,288
64 Retail Leasing Commissions	1,139,201	0	1,139,201
65 Retail Landlord Work	1,522,850	0	1,522,850
66 Retail Tenant Inducements	3,287,736	0	3,287,736
67 Retail Disposition Sale Commission	1,384,310	0	1,384,310
<u>FINANCE</u>			
68 Construction Loan Arrangement Fee	3,451,120	251,695	3,702,815
69 Construction Loan Stand By Fee	4,105,379	299,411	4,404,790
70 Agency Fee	180,000	0	180,000
71 Appraisals	50,000	0	50,000
72 Project Monitor	394,000	0	394,000
73 Letter of Credit Fees	437,500	0	437,500
74 Deposit Insurance Fees	8,841,184	(1,284,337)	7,556,847
75 Construction Loan Interest	68,541,262	4,998,810	73,540,072
76 Land Loan Finance Fee	0	1,705,882	1,705,882
77 Land Loan Interest	0	6,473,603	6,473,603
<u>OPERATING COSTS & INCOME</u>			
78 Operating Costs & Realty Taxes	2,041,727	0	2,041,727
79 Occupancy Income	(12,012,132)	(638,106)	(12,650,238)
80 Interest Earned on Deposits	(1,423,421)	857,253	(566,169)
81 Interest Payable on Deposits	0	0	0
82 Customer Service/Warranty Reserve	2,757,500	0	2,757,500
<u>CONTINGENCY</u>			
83 Construction Contingency	22,763,600	682,872	23,446,472
84 Soft Cost Contingency	17,290,668	2,785,053	20,075,721
<u>HARMONIZED SALES TAX</u>			
85 H.S.T. on Monthly Payables	recovered 86	0	recovered 86
86 H.S.T. Monthly Input Tax Credit	recovers 85	0	recovers 85
PROJECT BUDGET SUMMARY (COMPLETION COSTS)	986,619,000	126,869,000	1,113,488,000
	986,619,000	126,869,000	1,113,488,000
<u>Project Acquisition:</u>			
	Timbercreek ***	106,798,989	106,798,989
	2576725 Ont ***	30,865,424	30,865,424
	Westmount ***	111,757,134	111,757,134
as advised by KSV from Concord Adex	Liens 100% Settlement ***	2,600,000	11,603,783
deposit insurance fees to June 30, 2021	Westmount	688,597	688,597
Realty Taxes for interim period to June 30, 2021	Treasurer City of Toronto	729,418	729,418
\$65 Million Max * 58%	Balance of Liens + Unsecured	37,700,000	0
		291,139,562	262,443,345
*** Based on the face value of such liabilities calculated as at June 30, 2021.			
<u>Less Westmount Purchaser Deposits Sales Retained:</u>			
Total deposits previously released		111,757,134	111,757,134
Deduct deposits 56 cancelled units		(8,675,468)	(111,757,134)
Prior released deposits retained sales		103,081,666	0



3.0
CONSTRUCTION ESTIMATE

**TRADE SUMMARY****YSL Residences - 383 Yonge Street**

Toronto, Ontario

Order of Magnitude Estimate

Description		Below Grade	Above Grade	Total	Cost/sf (GLA)	\$/Unit	%/Total
Area Sq Ft		210,144	1,114,689				
0 <u>CONSTRUCTION MANAGEMENT FEE</u>	EXCLUDED	\$0	\$0	\$0	\$0.00	\$0	0.0%
1 <u>SITE OVERHEADS</u>	11.1%	\$3,992,900	\$41,423,000	\$45,415,900	\$40.74	\$41,175	9.5%
2 <u>SITE WORK</u>		\$12,780,000	\$2,757,500	\$15,537,497	\$13.94	\$14,087	3.3%
3 <u>CONCRETE</u>		\$26,931,400	\$130,203,600	\$157,884,980	\$141.64	\$143,141	33.0%
4 <u>MASONRY</u>		\$396,200	\$3,395,800	\$3,792,028	\$3.40	\$3,438	0.8%
5 <u>METALS</u>		\$195,200	\$10,356,900	\$10,552,119	\$9.47	\$9,567	2.2%
6 <u>CARPENTRY</u>		\$59,800	\$18,120,300	\$18,180,023	\$16.31	\$16,482	3.8%
7 <u>THERMAL & MOISTURE</u>		\$1,467,700	\$6,351,200	\$7,818,888	\$7.01	\$7,089	1.6%
8 <u>DOOR & WINDOWS</u>		\$310,800	\$55,582,400	\$55,893,225	\$50.14	\$50,674	11.7%
9 <u>FINISHES</u>		\$967,800	\$33,763,100	\$34,730,962	\$31.16	\$31,488	7.3%
10 <u>SPECIALTIES</u>		\$496,400	\$1,235,400	\$1,731,750	\$1.55	\$1,570	0.4%
11 <u>EQUIPMENT</u>		\$130,000	\$10,633,900	\$10,763,850	\$9.66	\$9,759	2.3%
12 <u>FURNISHINGS</u>		\$0	\$30,000	\$30,000	\$0.03	\$27	0.0%
13 <u>SPECIAL CONST</u>		\$0	\$3,585,000	\$3,585,000	\$3.22	\$3,250	0.7%
14 <u>CONVEYING SYSTEMS</u>		\$1,490,000	\$16,490,000	\$17,980,000	\$16.13	\$16,301	3.8%
15 <u>MECHANICAL</u>		\$2,648,600	\$47,128,800	\$49,777,422	\$44.66	\$45,129	10.4%
16 <u>ELECTRICAL</u>		\$2,037,400	\$19,560,200	\$21,597,669	\$19.38	\$19,581	4.5%
Sub Total		\$53,904,200	\$400,617,100	\$455,271,300	\$408.43	\$412,757	95.2%
<u>Design Contingency</u>	0.0%	\$0	\$0	\$0	\$0.00	\$0	0.0%
<u>Escalation Contingency (beyond May 2021)</u>		Excluded	Excluded	Excluded	\$0.00	\$0	0.0%
<u>Construction Contingency</u>	5.0%	\$2,695,200	\$20,030,900	\$22,763,600	\$20.42	\$20,638	4.8%
<u>H.S.T.</u>		Excluded	Excluded	Excluded			
Grand Total		\$56,599,400	\$420,648,000	\$478,034,900	\$428.85	\$433,395	100.0%

GLA 103,558 m2
 GLA 1,114,689 sf
 Number of Suites 1,103 no

\$269 \$377

Cost/m2 \$4,616
 Cost/sf \$429
 Cost/unit \$433,395

YSL Residences - 383 Yonge Street**CONSTRUCTION BUDGET**

<i>DIVISION 1 - SITE OVERHEADS</i>	QUANTITY	UNIT	RATE	TOTAL
Project Manager	74	mths	\$27,500	\$2,035,000
Assistant Project Manager (Residential)	72	mths	\$15,000	\$1,080,000
Assistant Project Manager (Commercial)	26	mths	\$15,000	\$390,000
Senior Site Superintendent	74	mths	\$30,000	\$2,220,000
Assistant Site Superintendent	66	mths	\$17,000	\$1,122,000
Project Coordinator - Structure	50	mths	\$13,000	\$650,000
Project Coordinator - Exterior Cladding	36	mths	\$13,000	\$468,000
Project Coordinator - Low Rise Residential	36	mths	\$13,000	\$468,000
Project Coordinator - High Rise Residential	36	mths	\$13,000	\$468,000
Project Coordinator - Commercial	24	mths	\$13,000	\$312,000
Finish Superintendents	100	mths	\$17,000	\$1,700,000
M&E Coordinator	36	mths	\$17,000	\$612,000
Health & Safety	72	mths	\$5,000	\$360,000
Site Clerk	74	mths	\$8,000	\$592,000
General Labour	592	mths	\$15,000	\$8,880,000
Finish Labour / Handymen	1,103	unit	\$2,200	\$2,426,600
Hoist Operators	120	mths	\$17,500	\$2,100,000
Jump Lift Operator	24	mths	\$17,500	\$420,000
Flagmen / Site Delivery Control	180	mths	\$15,000	\$2,700,000
Key Runners	1	sum	\$200,000	\$200,000
Site Travel	1	sum	\$232,800	\$232,800
Site Survey	1	sum	\$200,000	\$200,000
Hoist Rental	1	sum	\$3,000,000	\$3,000,000
Temporary Hydro Connection / Substation	1	sum	\$400,000	\$400,000
Temporary Hydro Consumption	1,103	unit	\$1,200	\$1,323,600
Temporary Gas	1	sum	\$1,200,000	\$1,200,000
Temporary Heating Rentals	1	sum	\$350,000	\$350,000
Temporary Heating Consumption	1,103	unit	\$700	\$772,100
Temporary Water	1	sum	\$20,000	\$20,000
Temporary Toilets	72	mths	\$7,500	\$540,000
Temporary Telephones	1	sum	\$120,000	\$120,000
Temporary Roads	1	sum	\$50,000	\$50,000
Hoarding & Jersey Barriers	1	sum	\$600,000	\$600,000
Security Cameras & Monitoring	72	mths	\$4,000	\$288,000
Security Labour	66	mths	\$12,500	\$825,000
Police Paid Duty	1	sum	\$100,000	\$100,000
Site Office Rental	72	mths	\$4,500	\$324,000
Office Supplies	72	mths	\$3,000	\$216,000
Equipment Rental Supply	1,103	unit	\$1,100	\$1,213,300
Final Cleaning	1,103	unit	\$600	\$661,800
Garbage Removal	1,103	unit	\$900	\$992,700
Project Signage	1	sum	\$50,000	\$50,000
Safety Fence	1	sum	\$1,000,000	\$1,000,000
General Construction Supplies	1,103	unit	\$600	\$661,800
Temporary Stairs	1	sum	\$50,000	\$50,000
Winter Protection	1,103	unit	\$400	\$441,200
Parking Fees	1	sum	\$50,000	\$50,000
Roof Topping	1	sum	\$30,000	\$30,000
Temporary Scaffolding & Platforms	1	sum	\$500,000	\$500,000
Hydro Line Protection				Soft Costs.
Street & Sidewalk Occupancy Permits				Soft Costs.
DIVISION 1 TOTAL				\$45,415,900

<i>DIVISION 2 - SITE WORK</i>	QUANTITY	UNIT	RATE	TOTAL
Shoring - Caisson Wall w/ Tiebacks (6 levels deep)	5,467	m ²	\$1,175	\$6,423,584
Allowance for Platform	1	sum	\$128,000	\$128,000
Allowance for Dewatering (Allowance Only)	1	sum	\$1,250,000	\$1,250,000
Mass Excavation & Haul Material	68,487	m ³	\$60	\$4,109,201
Detail Excavation	2,739	m ³	\$100	\$273,947
Removal of Caisson Spoils	5,467	m ³	\$48	\$262,410
Trim Caissons/Cut Down Piles	1	sum	\$166,400	\$166,400
Premium Allowance for Removal of Contaminated Soils				Soft Costs.
Landscaping	1,103	units	\$2,500	\$2,757,500
Backfill & Granular Supply	1,850	m ³	\$90	\$166,455
DIVISION 2 TOTAL				\$15,537,497

YSL Residences - 383 Yonge Street

CONSTRUCTION BUDGET

<i>DIVISION 3 - CONCRETE (ASSUME NO BATHTUB)</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>	
Formwork - Below Grade	48,900	m ²	\$350	\$17,115,000	
Formwork - Podium	62,800	m ²	\$350	\$21,980,000	
Formwork - Tower	185,800	m ²	\$260	\$48,308,000	
Precast Stairs				Included.	
Concrete Pump	79,000	m ³	\$47	\$3,713,000	
Curtain Wall Embeds	6,700	no	\$88	\$589,600	
Staging Slabs	1	sum	\$750,000	\$750,000	
Winterization				Included.	
RCS on South & West/ ACS	\$28.87 per sf total blended			Included.	
Reinforcing Steel Supply	148 Kg/m3	11,692,000	kg	\$1.45	\$16,953,400
Stud Rails		1	sum	\$100,000	\$100,000
Pre-Tied Supply Premium	49%	5,736,000	kg	\$0.85	\$4,875,600
Reinforcing Steel Labour		11,692,000	kg	\$0.895	\$10,464,340
Reinforcing Steel Labour Credit (Pre Tied)		(5,736,000)	kg	\$0.250	(\$1,434,000)
Reinforcing Accessories		11,692,000	kg	\$0.15	\$1,753,800
Concrete Supply - Below Grade (incl 80/70mpa columns)		12,640	m ³	\$275	\$3,476,000
Concrete Supply - Above Grade (incl 80/70mpa columns to 25)		66,360	m ³	\$275	\$18,249,000
Concrete Accessories		79,000	m ³	\$7.50	\$592,500
Concrete Placing		79,000	m ³	\$88	\$6,952,000
Concrete Levelling		88,245	m ²	\$12	\$1,058,940
Post Tensioning at Walls Level 9-50		1,666	m ² wall	\$500	\$833,000
GFRC Cladding		1,631	m ²	\$800	\$1,304,800
Cutting & Coring		1	sum	\$250,000	\$250,000
DIVISION 3 TOTAL				\$157,884,980	

<i>DIVISION 4 - MASONRY</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Blockwork	1	sum	\$1,415,000	\$1,415,000
Brick Veneer Cladding	231	m ²	\$650	\$150,248
Stone Veneer Cladding	266	m ²	\$1,200	\$318,780
Heritage Restoration	1,272	m ²	\$1,500	\$1,908,000
DIVISION 4 TOTAL				\$3,792,028

<i>DIVISION 5 - METALS</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Balcony & Terrace Railings; Laminated Bypass	4,043	m	\$775	\$3,133,325
Full Height Custom Curtainwall Balcony Guards				In division 8.
Curtainwall Extension as Level 9 Windscreen				In division 8.
Windscreen (Terraces at Level 2, 3, 4, 8)	138	m	\$2,800	\$386,400
Balcony & Terrace Dividers	344	no	\$1,200	\$412,800
Miscellaneous Metals, Shelf Angles, Miscellaneous Steel	123,081	m ²	\$30	\$3,692,430
Heritage Retention	1,272	m ²	\$2,026	\$2,577,164
Ornamental Metals	1	sum	\$350,000	\$350,000
DIVISION 5 TOTAL				\$10,552,119

<i>DIVISION 6 - CARPENTRY</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Rough Carpentry - Parking	19,523	m ²	\$0.50	\$9,762
Stairs & Railings	4	no	\$15,000	\$60,000
Rough Carpentry - Common/Units	969	unit	\$350	\$339,150
Rough Carpentry - Sky units	134	unit	\$350	\$46,900
Finish Carpentry - Parking	19,523	m ²	\$0.50	\$9,762
Finish Carpentry - Common/Units	969	unit	\$7,650	\$7,412,850
Finish Carpentry - Sky units	134	unit	\$15,000	\$2,010,000
Kitchen Cabinets & Vanities	969	unit	\$4,700	\$4,554,300
Kitchen Cabinets & Vanities - Sky units	134	unit	\$10,000	\$1,340,000
Kitchen Cabinets/Vanities - Amenities	\$5,389 avg \$ per unit	1	sum	\$50,000
Countertops	969	unit	\$1,700	\$1,647,300
Countertops Sky units	134	unit	\$5,000	\$670,000
Countertops at Amenities	\$2,128 avg \$ per unit	1	sum	\$30,000
DIVISION 6 TOTAL				\$18,180,023

YSL Residences - 383 Yonge Street

CONSTRUCTION BUDGET

<i>DIVISION 7 - THERMAL & MOISTURE (NO BATHTUB)</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Slab on Grade Sealer	3,398	m ²	\$12	\$40,776
Crystalline Waterproofing Elevator Pits	16	no	\$7,500	\$120,000
Waterproof Parking Roof/Ground Floor Exterior	94	m ²	\$250	\$23,500
Waterproof Basement Perimeter Walls	5,083	m ²	\$125	\$635,360
Pedestrian Traffic Topping - Service Rooms	5,500	m ²	\$55	\$302,509
Vehicular Traffic Topping	10,276	m ²	\$45	\$462,438
Balcony Finish	5,468	m ²	\$35	\$191,380
Stormwater Tank Waterproofing	1	sum	\$75,000	\$75,000
Insulation	1	sum	\$300,000	\$300,000
Miscellaneous Waterproofing	\$2,400,963	1	sum	\$250,000
Membrane Roofing	3,640	m ²	\$375	\$1,365,000
Extra Over for Green Roof (Levels 3 & 4)	310	m ²	\$425	\$131,750
Amenity Terrace Pavers				In Landscaping.
Outdoor Retail Terrace Pavers (Level 2 & 3)	663	m ²	\$125	\$82,875
Private Terrace Pavers (Level 5, 22, 29, 35, 41, 46, 51, 56, 61, 69, 76, 77, 79, 81, 82)	1,009	m ²	\$100	\$100,900
Insulated Soffits Allowance	1	sum	\$300,000	\$300,000
Plaster Finish to Underside of Balconies	5,468	m ²	\$50	\$273,400
Aluminum Panel Cladding	558	m ²	\$950	\$530,100
Louved Cladding	550	m ²	\$900	\$495,000
Louved Sloped Roof, including Framing as Required	484	m ²	\$1,000	\$484,400
Caulking & Firestopping	1,103	unit	\$1,500	\$1,654,500
DIVISION 7 TOTAL				\$7,818,888

<i>DIVISION 8 - DOORS & WINDOWS</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Hollow Metal Door & Frame Supply	1,103	units	\$425	\$468,775
Closet Doors & Shelving	2,216	no	\$350	\$775,600
Closet Organizers - Sky Units	134	units	\$2,000	\$268,000
Sliding Barn Doors (say one per Den)	\$946 avg \$ per unit			Excluded.
Washroom Accessories at Units	1,978	no	\$100	\$197,800
Mirrors at Units	1,978	no	\$140	\$276,920
Mirrors - Common Area & Parking	1	sum	\$75,000	\$75,000
Washroom Accessories/Toilet Partitions/Grab Bars - Common Area	1	sum	\$75,000	\$75,000
Podium Curtainwall	5,661	m ²	\$1,300	\$7,359,300
Tower Curtainwall	33,660	m ²	\$1,150	\$38,709,000
Window Wall (at Balconies)	6,857	m ²	\$730	\$5,005,610
Punched Windows (in Brick)	54	m ²	\$730	\$39,420
Punched Windows & Storefront (in Heritage Facade)	475	m ²	\$850	\$403,750
Interior Glazing & Glass Doors	1	sum	\$250,000	\$250,000
Revolving Door	1	no	\$90,000	\$90,000
Overhead Doors - Allowance for Misc Interior/Parking Control Gates	1	sum	\$50,000	\$50,000
Overhead Doors - Loading	5	no	\$25,000	\$125,000
Overhead Doors - Parking	1	no	\$35,000	\$35,000
Finish Hardware	1,103	unit	\$1,350	\$1,489,050
Auto Operators Allowance	\$1,531 avg \$ per unit	1	sum	\$200,000
DIVISION 8 TOTAL				\$55,893,225

<i>DIVISION 9 - FINISHES</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Drywall	103,558	m ²	\$205	\$21,229,390
Stone & Tile	969	unit	\$3,500	\$3,391,500
Stone & Tile - Sky Units	134	unit	\$10,000	\$1,340,000
Engineered Wood Flooring at Units	42,489	m ²	\$82	\$3,484,091
Amenity Flooring	2,298	m ²	\$250	\$574,500
Carpet at Corridors & Management Office	5,366	m ²	\$75	\$402,481
Painting & Wall Coverings	1,103	unit	\$3,000	\$3,309,000
Special Finishes / ID Detailing	1	sum	\$1,000,000	\$1,000,000
DIVISION 9 TOTAL				\$34,730,962

YSL Residences - 383 Yonge Street

CONSTRUCTION BUDGET

<i>DIVISION 10 - SPECIALTIES</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Architectural Louvres	1	sum	\$250,000	\$250,000
Fireplaces Allowance	1	sum	\$100,000	\$100,000
Building Signage/Wayfinding	1	sum	\$350,000	\$350,000
Canopy over Outdoor Retail Space (Level 3)	105	m ²	\$1,500	\$157,500
Storage Lockers Allowance				N/A.
Bike Storage (Count per A1.01)	1,261	no	\$350	\$441,350
Shower Enclosures	370	no	\$1,170	\$432,900
DIVISION 10 TOTAL				\$1,731,750

<i>DIVISION 11 - EQUIPMENT</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Waste Handling Equipment (Level B2)	1	sum	\$130,000	\$130,000
Window Washing Equipment / Building Maintenance Unit	1	sum	\$3,500,000	\$3,500,000
Loading Dock Equipment	1	sum	\$60,000	\$60,000
Parking Control Equipment	1	sum	\$50,000	\$50,000
Appliances	969	unit	\$5,650	\$5,474,850
Appliances - Sky units	134	unit	\$11,000	\$1,474,000
Appliances/Wine Storage at Amenities	1	sum	\$75,000	\$75,000
DIVISION 11 TOTAL				\$10,763,850

YSL Residences - 383 Yonge Street

CONSTRUCTION BUDGET

<i>DIVISION 12 - FURNISHINGS</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Entrance Grilles - Bikes, Institutional, Retail, Residential FF & E Window Blinds	4	lobbies	\$7,500	\$30,000 Soft Costs. Soft Costs.
DIVISION 12 TOTAL				\$30,000

<i>DIVISION 13 - SPECIAL CONSTRUCTION</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Pool & Hot Tub Allowance (Level 9 Amenity)	1	sum	\$350,000	\$350,000
Pool Lift	1	sum	\$35,000	\$35,000
Floating Slabs	1	sum	\$200,000	\$200,000
Golf Simulator				Soft Costs.
Structural Dampening System Allowance	1	sum	\$3,000,000	\$3,000,000
DIVISION 13 TOTAL				\$3,585,000

<i>DIVISION 14 - CONVEYING SYSTEMS</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Freight Elevator - 1 No. (P1 - Level 3)	5	stps	\$60,000	\$300,000
Bike Elevator - 1 No. (P1 - GF)	4	stps	\$50,000	\$200,000
Commercial & Institutional Elevators - 5 No. (Various P5 - Level 7)	33	stps	\$50,000	\$1,650,000
Low Rise Residential Elevators - 5 No. (GF, L8-L50)	225	stps	\$20,000	\$4,500,000
High Rise Residential Elevators - 4 No. (GF, L8, L8M, L9, L51-L82)	144	stps	\$55,000	\$7,920,000
Retail Escalators B1 - B1 Mezz	1	pair	\$410,000	\$410,000
Retail Escalators B1 Mezz - GF	1	pair	\$410,000	\$410,000
Retail Escalators GF - Level 2	1	pair	\$410,000	\$410,000
Retail Escalators Level 2 - Level 3	1	pair	\$410,000	\$410,000
Allowance for Jump Lift Use	1	sum	\$1,500,000	\$1,500,000
Residential Passenger Elevator Custom Cab Finishes	9	no	\$30,000	\$270,000
DIVISION 14 TOTAL				\$17,980,000

<i>DIVISION 15 - MECHANICAL</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Plumbing, Fire Protection & Controls	1,103	units	\$37,433	\$41,288,308
Ventilation	1,103	units	\$7,493	\$8,264,846
Underground Drains	1	sum	\$224,268	\$224,268
DIVISION 15 TOTAL				\$49,777,422

<i>DIVISION 16 - ELECTRICAL</i>	<i>QUANTITY</i>	<i>UNIT</i>	<i>RATE</i>	<i>TOTAL</i>
Electrical	1,103	units	\$17,042	\$18,796,849
Lighting Fixtures & Controls (supply)	1,103	units	\$1,799	\$1,983,756
Car Charging Stations (48no.)	1	sum	\$172,800	\$172,800
Security System (common area)	1,103	units	\$584	\$644,264
DIVISION 16 TOTAL				\$21,597,669

	\$455,271,312
Check:	\$455,271,312
Check:	\$455,271,312
Area sq ft:	1,114,689
\$ per sq ft:	\$408



4.0
SALES REVENUE

YSL RESIDENCES - 383 YONGE STREET
TORONTO, ONTARIO
MIXED-USE DEVELOPMENT

Date: 26-May-2021
 Project No.: 21099
 Report No.: Proforma

←----- RETAIN EXISTING SALES ----->

PROJECTED TOTAL REVENUE	SOLD	UNSOLD	TOTAL	VARIANCE	RESELL OPTION
1 Residential Condo (unsold equal to: a) regular suites 181nr for 135,705sf * \$1,564psf plus b) sky suites 134nr for 107,362sf * \$1,862psf)	673,220,400 797 474,903 1,418 72.3% 66.1% 62.0%	412,167,500 306 243,067 1,696 27.7% 33.9% 38.0%	1,085,387,900 1,103 717,970 1,512 100.0% 100.0% 100.0%	69,511,056	1,103 954,990,912 199,908,044
2 Residential Condo - cancel 56 prior sales - resell market value	(49,663,400)	62,261,100			
2 Condo Parking Stalls (195nr @ \$120,000) Stalls Sold	9,120,000 76	13,200,000 110	22,320,000 186	0	22,320,000 / 186nr
3 Storage Lockers	0	0	0	0	0
4 H.S.T.on Condo Sales	(57,047,796) \$625,292,604	(48,410,370) \$376,957,130	(105,458,166) \$1,002,249,734	(6,547,554) \$62,963,502	(112,005,721) -9.51% \$1,065,213,235
5 Closing Recoveries	25,548,098	15,641,380	41,189,478	0	41,189,478
6 Other Residential Revenue - Telecommunication Provider - Suite Metering	0 0	0 0	0 0	0 0	0 0
7 Upgrades	0	0	0	0	0
8 Vendors Incentives Total Sold Units 13,271,551 Less 56 Cancel -4,485,453 Remaining 8,786,098	(8,786,098)	0	(8,786,098)	8,786,098	0
9 Office Condos - 96,832sf * \$850psf + HST		82,307,200	82,307,200	0	82,307,200
10 Retail - 60,914sf CBRE 4.75% Cap/5% vacancy a) Below Grade - 13,657sf * \$30psf b) Ground - 14,706sf * \$130psf c) 2nd - 21,045sf * \$35psf c) 3rd - 11,506sf * \$35psf		69,215,500	69,215,500	0	69,215,500
11 Commercial Parking - 48 stalls @ \$100,000		4,800,000	4,800,000	0	4,800,000
12 LC Cash Security Reimbursable		4,290,565	4,290,565	0	4,290,565
Less Deposits Released Retained Sales	\$642,054,604 53.7%	\$553,211,775 46.3%	\$1,195,266,379 100.0%	\$71,749,600 \$71,749,600	\$1,267,015,978 \$1,267,015,978
Revenue to Receive	\$538,972,938 49.3%	\$553,211,775 50.7%	\$1,092,184,713 100.0%	\$174,831,266 \$174,831,266	\$1,267,015,978 \$1,267,015,978

Condo Suites
 (969nr/610,608sf/\$1,564psf)
 Sky Suites
 (134nr/107,362sf/\$1,862psf)



5.0
SOURCE OF FUNDS



YSL RESIDENCES - 383 YONGE STREET
 TORONTO, ONTARIO
 MIXED-USE DEVELOPMENT

Date: 26-May-2021
 Project No.: 21099
 Report No.: Proforma

<u>SOURCE OF FUNDING</u>	<u>RETAIN SALES</u>	<u>VARIANCE</u>	<u>RESELL</u>
EQUITY	167,000,000	0	167,000,000
INSURED DEPOSITS	94,578,000	(77,462,000)	172,040,000
DEFERRED COSTS	34,817,000	932,000	33,885,000
CONSTRUCTION LOAN	690,224,000	(50,339,000)	740,563,000
TOTAL	986,619,000	(126,869,000)	1,113,488,000
	16.93%		15.00%
	9.59%		15.45%
	3.53%		3.04%
	69.96%		66.51%
	100.00%		100.00%
<u>Deferred Costs:</u>			
Legal Fees (suite closings)	1,158,150	0	1,158,150
Sales Commissions - Lead Brokers	5,954,333	628,266	5,326,066
Sales Commissions - Outside Brokers (50%)	21,608,226	303,961	21,304,265
Office Sale Commission (50%)	1,646,144	0	1,646,144
Retail Disposition Sale Commission	1,384,310	0	1,384,310
Deposit Insurance Fees (warranty period)	308,840	0	308,840
Warranty Reserve	2,757,500	0	2,757,500
Interest Payable on Deposits	0	0	0
	34,817,503	932,228	33,885,275
	34,817,000	932,000	33,885,000
	round to		
<u>Insured Deposits:</u>			
a) Remaining Deposits on Sold Units	28,158,876		
b) Resale Cancelled Sales	62,261,100		
Assume 70% Sales	43,582,770		
Assume 20% Pre-Occupancy Deposits	8,716,554		860,200,000
c) Unsold Units	412,167,500		172,040,000
Assume 70% Sales	288,517,250		
Assume 20% Pre-Occupancy Deposits	57,703,450		0
	94,578,880	(77,461,120)	172,040,000
	94,578,000	(77,462,000)	172,040,000
	round to		
<u>Loan Coverage Sold Units:</u>			
Current Pre-Sales	632,677,000	227,523,000	860,200,000
Less HST	(57,047,796)	(24,795,365)	(81,843,161)
Less Deposits funding costs	(103,081,666)	(68,958,334)	(172,040,000)
Less Deferred Costs sold units	(18,504,284)	5,326,375	(13,177,909)
Net Closing Sales Proceeds	454,043,254	139,095,676	593,138,930
Loan Amount	690,224,000	50,339,000	740,563,000
Loan Coverage	66%	14%	80%



6.0
PROJECT STATISTICS SUMMARY



YSL RESIDENCES - 383 YONGE STREET
TORONTO, ONTARIO
MIXED-USE DEVELOPMENT

Date: 26-May-2021
Project No.: 21099
Report No.: Proforma

PROJECT STATISTICS SUMMARY			TOTAL
1	Zoning Area (GZA)	Residential	816,668 sf
		Commercial	200,521 sf
		Total	1,017,189 sf
2	Above Grade Construction Area (GCA)		1,114,689 sf
3	Saleable (NSA) - Residential Condo	- Office	717,970 sf
		- Retail	96,832 sf
		- Total	60,914 sf
		-efficiency (GCA/NSA)	875,716 sf
		-efficiency (GZA/NSA)	78.56%
4	Suites	- Average SF Area (NSA)	651 sf
		- Number	1,103 nr.
5	Suite Mix	- Studio	263 nr.
		- 1 Bedroom	451 nr.
		- 2 Bedroom	385 nr.
		- 3 Bedroom	4 nr.
6	Parking Stalls	- Residential	186 nr.
		- Commercial	48 nr.
		- Car Share	6 nr.
		- Community Space	3 nr.
		- Total	243 nr.
7	Underground	- Total Area (sf)	210,144 sf
8	Buildable Areas	- Above Grade (sf)	1,114,689 sf
		- Underground/Parking (sf)	210,144 sf
		- Total Above & Below Grade(sf)	1,324,833 sf



7.0
PROJECT STATISTICS DETAIL FLOOR BY FLOOR

PROJECT STATISTICS

383 Yonge St

Underground	Area m²	Void m³	Area m²	Area sf	Stalls No	Perimeter m	Height m
P5	3,398	638	2,760	29,708	63	256	2.75
P4	3,398	0	3,398	36,576	75	256	2.75
P3	3,398	0	3,398	36,576	71	256	2.75
P2	3,398	0	3,398	36,576	34	256	3.23
P1 - Retail	3,398	0	3,398	36,576	0	256	3.15
P1 Mezz - Retail	3,398	227	3,171	34,132	0	259	5.23
A Sub-Total	20,388	865	19,523	210,144	243		19.86

Tower	Area m²	Void m³	Area m²	Area sf	Suites No	Perimeter m	Perimeter incl Projections m	Height m	Balcony m²	Cladding incl Projections m²
Podium	GF	3,304	0	3,304	35,564	0	339	346	4.050	1401
	Mezz	3,640	3,353	287	3,089	0	268	297	2.450	728
	L2 - Retail	3,523	388	3,135	33,745	0	290	296	5.500	1628
	L3 - Retail	2,698	40	2,658	28,610	0	266	286	5.500	1573
	L4 - Institutional	2,380	0	2,380	25,618	0	229	253	4.200	1063
	L5 - Institutional	2,380	0	2,380	25,618	0	229	253	4.200	1063
	L6 - Institutional	2,380	0	2,380	25,618	0	229	253	4.200	1063
	L7 - Institutional/Office	2,380	0	2,380	25,618	0	229	253	4.200	1063
	L8 - Amenity/Mech	2,231	0	2,231	24,014	0	226	268	6.000	1608
	L8 Mezz - Amenity	2,231	2,089	142	1,528	0	0	0	0.000	0
L9 - Amenity	1,690	0	1,690	18,191	0	198	249	4.200	1046	
Lower Residential	L10	1,688	0	1,688	18,169	26	197	197	2.950	581
	L11	1,688	0	1,688	18,169	26	197	197	2.950	581
	L12	1,688	0	1,688	18,169	26	197	197	2.950	581
	L13	1,688	0	1,688	18,169	25	197	197	2.950	581
	L14	1,688	0	1,688	18,169	25	197	197	3.250	640
	L15	1,348	0	1,348	14,510	22	181	181	2.950	534
	L16	1,348	0	1,348	14,510	22	181	189	2.950	558
	L17	1,348	0	1,348	14,510	22	181	189	2.950	558
	L18	1,348	0	1,348	14,510	22	181	189	2.950	558
	L19	1,348	0	1,348	14,510	22	181	189	2.950	558
	L20	1,348	0	1,348	14,510	22	181	189	2.950	558
	L21	1,352	0	1,352	14,553	18	181	189	3.900	737
	L22	1,172	0	1,172	12,615	17	162	179	2.950	528
	L23	1,172	0	1,172	12,615	17	162	179	2.950	528
	L24	1,172	0	1,172	12,615	17	162	179	2.950	528
	L25	1,172	0	1,172	12,615	17	162	179	2.950	528
	L26	1,172	0	1,172	12,615	17	162	179	2.950	528
	L27	1,172	0	1,172	12,615	17	162	179	2.950	528
	L28	1,172	0	1,172	12,615	17	162	179	2.950	528
	L29	1,145	0	1,145	12,325	17	159	175	2.950	516
	L30	1,145	0	1,145	12,325	17	159	175	2.950	516
	L31	1,145	0	1,145	12,325	17	159	175	2.950	516
	L32	1,145	0	1,145	12,325	17	159	175	2.950	516
	L33	1,145	0	1,145	12,325	17	159	175	2.950	516
	L34 - Mechanical	1,151	0	1,151	12,389	8	159	169	4.000	676
	L35	1,107	0	1,107	11,916	17	155	172	2.950	507
	L36	1,107	0	1,107	11,916	17	155	172	2.950	507
	L37	1,107	0	1,107	11,916	17	155	172	2.950	507
	L38	1,107	0	1,107	11,916	17	155	172	2.950	507
	L39	1,107	0	1,107	11,916	17	155	172	2.950	507
	L40	1,107	0	1,107	11,916	17	155	172	3.600	619
	L41	1,080	0	1,080	11,625	16	153	169	2.950	499
L42	1,080	0	1,080	11,625	16	153	169	2.950	499	
L43	1,080	0	1,080	11,625	16	153	169	2.950	499	
L44	1,080	0	1,080	11,625	16	153	169	2.950	499	
L45	1,080	0	1,080	11,625	16	153	169	2.950	499	
L46	1,053	0	1,053	11,334	15	150	166	2.950	490	
L47	1,053	0	1,053	11,334	15	150	166	2.950	490	
L48	1,053	0	1,053	11,334	15	150	166	3.900	647	
L49	1,053	0	1,053	11,334	15	150	166	2.950	490	
L50	1,053	0	1,053	11,334	15	150	166	2.950	490	

PROJECT STATISTICS

383 Yonge St

		Area	Void	Area	Area	Suites	Perimeter incl		Height	Balcony	Cladding incl
		m ²	m ²	m ²	sf	No	Perimeter	Projections	m	m ²	Projections
							m	m			m ²
Upper Residential	L51	1,025	0	1,025	11,033	14	147	164	2.950	87	484
	L52	1,025	0	1,025	11,033	14	147	164	3.600	105	590
	L53	1,025	0	1,025	11,033	14	147	164	2.950	100	484
	L54	1,024	0	1,024	11,022	14	147	160	2.950	95	472
	L55	1,024	0	1,024	11,022	14	144	160	2.950	90	472
	L56	997	0	997	10,732	13	144	160	2.950	85	472
	L57	997	0	997	10,732	13	144	160	2.950	105	472
	L58	997	0	997	10,732	13	144	160	2.950	100	472
	L59	997	0	997	10,732	13	144	160	2.950	95	472
	L60 - Mechanical	997	0	997	10,732	0	144	157	3.900	90	612
	L61	954	0	954	10,269	13	139	160	2.950	85	472
	L62	954	0	954	10,269	13	139	159	2.950	121	469
	L63	954	0	954	10,269	13	139	159	2.950	116	469
	L64	954	0	954	10,269	13	139	159	2.950	111	469
	L65	954	0	954	10,269	13	139	159	2.950	106	469
	L66	954	0	954	10,269	13	139	159	2.950	101	469
	L67	954	0	954	10,269	13	139	159	2.950	96	469
	L68	954	0	954	10,269	13	139	159	3.600	91	572
	L69	915	0	915	9,849	12	135	147	2.950	15	434
	L70	915	0	915	9,849	12	135	146	2.950	46	431
	L71	915	0	915	9,849	12	135	146	2.950	42	431
	L72	915	0	915	9,849	12	135	146	2.950	37	431
	L73	915	0	915	9,849	12	135	146	2.950	32	431
	L74	915	0	915	9,849	12	135	142	3.900	27	554
	L75	903	0	903	9,720	12	133	143	2.950	19	422
	L76	865	0	865	9,311	10	131	139	2.950	0	410
	L77	758	0	758	8,159	8	120	144	2.950	0	425
	L78	756	0	756	8,138	8	120	133	2.950	57	392
	L79	702	0	702	7,556	7	114	127	2.950	0	375
	L80	644	0	644	6,932	5	106	122	3.250	0	397
	L81	583	0	583	6,275	4	100	116	3.250	0	377
	L82 - PH	523	0	523	5,630	4	95	108	3.250	0	351
	L83 - PH	465	0	465	5,005	0	88	102	3.250	0	332
	MPH	MPH - LL	469	0	469	5,048	0	88	69	4.875	0
MPH - PH		282	0	282	3,035	0	106	94	5.075	0	593
MPH - PH Mezz		221	77	144	1,550	0	85	74	6.200	0	588
B	Sub-Total	109,505	5,947	103,558	1,114,689	1,103	No		287.25	5,466	51,150
	Project Totals - GCA (A + B)			123,081	1,324,833					5%	49%
	Total Parking Area			19,523	210,144						
	Total GLA (Excl Parking Area)			103,558	1,114,689						

PROJECT STATISTICS

383 Yonge St

Functional Areas

Underground	Area m ²	Area sf	Percentage %	Stall Count No	
Amenity/Gym	453	4,876	2.3%	Residential	188
Elevator/Shaft	1,180	12,701	6.0%	Non-Residential	46
Elevator Lobby	132	1,421	0.7%	Car Share	6
Retail Circulation	222	2,390	1.1%	Community Room	3
Service Corridor	33	355	0.2%		
Service Room	1,299	13,982	6.7%		
Stairs/ Storage	3,197	34,412	16.4%		
SWT	203	2,185	1.0%		
Washroom	80	861	0.4%		
Retail	1,382	14,876	7.1%		
Parking	11,342	122,084	58.1%		
Total	19,523 m ²	210,144 sf	100%	Total	243 No
	TRUE	TRUE			
Tower	Area m ²	Area sf	Percentage %	Suite Count No	
Amenity/Gym	1,520	16,361	1.5%	Studio	263
Amenity - Pool	325	3,498	0.3%	1 Bed	139
Corridor	5,319	57,258	5.1%	1 Bed + D	312
Elevator/Shaft	4,984	53,647	4.8%	2 Bed	219
Lobby	491	5,285	0.5%	2 Bed + D	166
Loading	469	5,048	0.5%	3 Bed	1
Management Office	47	506	0.0%	3 Bed + D	1
Retail Circulation	589	6,340	0.6%	PH - 3 Bed	1
BOH/Service Corridor	123	1,324	0.1%	PH - 4 Bed	1
Service Room	4,792	51,581	4.6%		
Stairs/Storage	2,853	30,709	2.8%		
Washroom	117	1,259	0.1%		
Community Room	258	2,777	0.2%		
Childcare Center	529	5,694	0.5%		
Institutional/Office (Excl Core)	8,904	95,842	8.6%		
Retail (Excl Core)	5,536	59,589	5.3%		
Residential	66,702	717,970	64.4%		
Total	103,558 m ²	1,114,689 sf	100%	Total	1103 No
	TRUE	TRUE			
				*Excl. 4 Guest Suites on L9	
				Site Stats	
				Site Area	3,769 m ²



8.0
PROJECT CASH FLOW

	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000
1 TORONTO, ONTARIO	1028	1029	1030	1031	1032	1033	1034	1035	1036	1037	1038	1039	1040	1041	1042	1043	1044	1045	1046	1047	1048	1049	1050	1051	1052	1053	1054	1055	1056	1057	1058	1059	1060	1061	1062	1063	1064	1065	1066	1067	1068	1069	1070	1071	1072	1073	1074	1075	1076	1077	1078	1079	1080	1081	1082	1083	1084	1085	1086	1087	1088	1089	1090	1091	1092	1093	1094	1095	1096	1097	1098	1099	1100	1101	1102	1103	1104	1105	1106	1107	1108	1109	1110	1111	1112	1113	1114	1115	1116	1117	1118	1119	1120	1121	1122	1123	1124	1125	1126	1127	1128	1129	1130	1131	1132	1133	1134	1135	1136	1137	1138	1139	1140	1141	1142	1143	1144	1145	1146	1147	1148	1149	1150	1151	1152	1153	1154	1155	1156	1157	1158	1159	1160	1161	1162	1163	1164	1165	1166	1167	1168	1169	1170	1171	1172	1173	1174	1175	1176	1177	1178	1179	1180	1181	1182	1183	1184	1185	1186	1187	1188	1189	1190	1191	1192	1193	1194	1195	1196	1197	1198	1199	1200	1201	1202	1203	1204	1205	1206	1207	1208	1209	1210	1211	1212	1213	1214	1215	1216	1217	1218	1219	1220	1221	1222	1223	1224	1225	1226	1227	1228	1229	1230	1231	1232	1233	1234	1235	1236	1237	1238	1239	1240	1241	1242	1243	1244	1245	1246	1247	1248	1249	1250	1251	1252	1253	1254	1255	1256	1257	1258	1259	1260	1261	1262	1263	1264	1265	1266	1267	1268	1269	1270	1271	1272	1273	1274	1275	1276	1277	1278	1279	1280	1281	1282	1283	1284	1285	1286	1287	1288	1289	1290	1291	1292	1293	1294	1295	1296	1297	1298	1299	1300	1301	1302	1303	1304	1305	1306	1307	1308	1309	1310	1311	1312	1313	1314	1315	1316	1317	1318	1319	1320	1321	1322	1323	1324	1325	1326	1327	1328	1329	1330	1331	1332	1333	1334	1335	1336	1337	1338	1339	1340	1341	1342	1343	1344	1345	1346	1347	1348	1349	1350	1351	1352	1353	1354	1355	1356	1357	1358	1359	1360	1361	1362	1363	1364	1365	1366	1367	1368	1369	1370	1371	1372	1373	1374	1375	1376	1377	1378	1379	1380	1381	1382	1383	1384	1385	1386	1387	1388	1389	1390	1391	1392	1393																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					

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STATEMENT OF ADJUSTMENTS

Vendor(s):	YSL Residences Inc.	
Purchaser(s):	2769742 Ontario Inc.	
Property:	357 1/2 Yonge Street and 357A Yonge Street, Toronto	
Adjusted as of:	Friday, December 18, 2020	
	Credit Purchaser	Credit Vendor
<u>SALE PRICE</u>		
Agreed Sale Price	\$7,600,000.00	
Exclusive of HST		
Credit Vendor (Sale Price):		\$7,600,000.00
<u>HST ON SALE PRICE</u>		
Purchaser is an HST Registrant		
No Adjustment		
<u>DEPOSIT</u>		
Credit Purchaser:	\$500,000.00	
<u>INTEREST ON DEPOSIT</u>		
No accrued interest		
Credit Purchaser :	\$0.00	
<u>REALTY TAXES - 357 A YONGE STREET</u>		
See Schedule A-1 attached		
2020 total taxes:	\$79,189.55	
Vendor has paid:	\$79,189.55	
Vendor's share for 352 days:	\$76,369.10	
Credit Vendor:		\$2,820.45
<u>REALTY TAXES - 357 1/2 YONGE STREET</u>		
See Schedule A-2 attached		
2020 total taxes:	\$82,311.93	
Vendor has paid:	\$82,311.93	
Vendor's share for 352days:	\$79,380.27	
Credit Vendor:		\$2,931.66
<u>DECEMBER RENT - 357 1/2 YONGE STREET</u>		
See Schedule B attached		
Total Monthly Rent:	\$20,170.21	
Paid to Vendor for month of December, 2020		
Vendor's share for 17 days:	\$11,061.08	
Credit Purchaser:	\$9,109.13	
<u>SECURITY DEPOSIT - 357 1/2 YONGE STREET</u>		
Paid by Tenant	\$11,770.00	
Credit Purchaser:	\$11,770.00	
<u>BALANCE DUE ON CLOSING:</u>		
Payable to Dale & Lessmann LLP, In Trust or as further directed:	\$7,084,872.98	
	\$7,605,752.11	\$7,605,752.11

Property Tax Lookup

[← Start Over](#)

2020

Property Tax Account Details

Assessment Roll No.

19-04-06-6-610-01000-0000-03

Property Address

357 A YONGE ST

Owner Name(s).

2502295 ONTARIO INC

Account Preferences

Payment Program

6-Instalments

Account Status

Last Payment Received

30-Nov-2020

\$83,916.79

Overdue Amount (Due Now) \$0.00

Our records indicate that there may be credits on a previous taxation year(s). To request a refund or obtain further details, please phone 416-395-6892 or email revref@toronto.ca (<mailto:revref@toronto.ca>).

Learn How to Make a Payment Online (<https://www.toronto.ca/services-payments/property-taxes-utilities/make-a-payment-online>)

➤ Summary of Billed Amounts

 Tax Year 2018 2019 2020

Property Tax Billing Details

Interim Bill Due Date	Amount
02-Mar-2020	\$11,522.92
01-Jun-2020	\$11,522.00
02-Jul-2020	\$11,522.00
Interim Billing total	\$34,566.92

Final Bill Due Date	Amount
04-Aug-2020	\$14,874.63
01-Sep-2020	\$14,874.00
01-Oct-2020	\$14,874.00

Final Bill Due Date	1334	Amount
Final Billing total		\$44,622.63

Property Tax Billing Total \$79,189.55

Other Charges

Due Date	Description	Amount
26-Feb-2020	WATER-103119	\$422.86

Other Charges Total \$422.86

➤ **Payment History (past 18 months)**

➤ **Change Mailing Address**

Comments and Suggestions

Your comments and suggestions are welcome and will assist us in continuously improving this online lookup. Please email RSPolicy@toronto.ca (<mailto:RSPolicy@toronto.ca>) with your feedback! For specific inquiries relating to your property tax, please **contact us** (<https://www.toronto.ca/services-payments/property-taxes-utilities/contact-us/>) at one of the listed options.

Contact Information

Call 311 - Tax & Utility Inquiry Line

Monday to Friday 8:30 a.m. to 4:30 p.m.

Outside City Limits:

416-392-CITY (2489)

City of Toronto

Revenue Services

General Correspondence

5100 Yonge St.

Toronto, ON M2N 5V7

TTY: 416-338-0TTY (0889)

1335

Fax: 416-696-3605

Email: propertytax@toronto.ca (mailto:propertytax@toronto.ca)

Related Information

Inquiry & Payment Counters (<https://www.toronto.ca/services-payments/property-taxes-utilities/counter-locations/>)

Sign Up for E-Billing (<https://www.toronto.ca/services-payments/property-taxes-utilities/property-tax/sign-up-for-e-billing/>)

Tax & Utility Certificate (<https://www.toronto.ca/services-payments/property-taxes-utilities/tax-utility-certificate-service/requesting-a-tax-utility-certificate/>)

Property Tax Lookup

[← Start Over](#)

2020

Property Tax Account Details

Assessment Roll No.

19-04-06-6-610-00900-0000-00

Property Address

357 / YONGE ST

Owner Name(s).

2502295 ONTARIO INC

Account Preferences

Payment Program

6-Instalments

Account Status

Last Payment Received

30-Nov-2020

\$87,048.01

Learn How to Make a Payment Online (<https://www.toronto.ca/services-payments/property-taxes-utilities/make-a-payment-online>)

➤ Summary of Rebates

➤ Summary of Billed Amounts

 Tax Year 2018 2019 **2020**

Property Tax Billing Details

Interim Bill Due Date	Amount
02-Mar-2020	\$12,013.00
01-Jun-2020	\$12,013.00
02-Jul-2020	\$12,012.97
Interim Billing total	\$36,038.97

Final Bill Due Date	Amount
04-Aug-2020	\$15,424.96
01-Sep-2020	\$15,424.00
01-Oct-2020	\$15,424.00
Final Billing total	\$46,272.96

Property Tax Billing Total \$82,311.93

Other Charges

1338

Due Date	Description	Amount
26-Feb-2020	WATER-103119	\$274.44

Other Charges Total \$274.44

➤ [Payment History \(past 18 months\)](#)

➤ [Change Mailing Address](#)

Comments and Suggestions

Your comments and suggestions are welcome and will assist us in continuously improving this online lookup. Please email RSPolicy@toronto.ca (<mailto:RSPolicy@toronto.ca>) with your feedback! For specific inquiries relating to your property tax, please [contact us](#) (<https://www.toronto.ca/services-payments/property-taxes-utilities/contact-us/>) at one of the listed options.

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TTY: 416-338-0TTY (0889)

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Email: propertytax@toronto.ca (<mailto:propertytax@toronto.ca>)

Related Information

[Inquiry & Payment Counters \(https://www.toronto.ca/services-payments/property-taxes-utilities/counter-locations/\)](https://www.toronto.ca/services-payments/property-taxes-utilities/counter-locations/)

Sign Up for E-Billing (<https://www.toronto.ca/services-payments/property-taxes-utilities/property-tax/sign-up-for-e-billing/>)

Tax & Utility Certificate (<https://www.toronto.ca/services-payments/property-taxes-utilities/tax-utility-certificate-service/requesting-a-tax-utility-certificate/>)

RENT

357 1/2 YONGE STREET, TORONTO

TENANT: Cash Money Cheque Cashing Inc.

Base Rent:	\$14,583.34
Property Tax Recovery:	\$3,427.08
Escalation:	\$2,159.79
HST:	\$2,621.40
TOTAL:	\$22,791.61

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Dale & Lessmann
LLP
Canadian Legal Counsel

Reply to: Dean Psarras
Direct Dial: 416-369-7810
Email: dpsarras@dalelessmann.com

June 10, 2022

Sent via E-mail and Courier

Cresford Holdings Limited
141 Riverview Drive
Toronto, Ontario
M4N 3C6

Attention: Daniel C. Casey & David Mann

Dear Mr. Casey:

Re: Capitalization of receivables of Oakleaf Consulting Ltd. (“Oakleaf Consulting”) and Cresford (Rosedale) Developments Inc. (“Cresford (Rosedale)”) into shares of 2502156 Ontario Limited (“250”) and sale of such shares to Concord Properties Developments Corp. (“Concord”)

Please find enclosed a Record Book in respect of the conversion of receivables of Oakleaf Consulting and Cresford (Rosedale), through a series of transfers, in accordance with a memorandum prepared by KPMG LLP on September 22, 2021, to Cresford Holdings Limited (“**Cresford Holdings**”) to capitalize its receivables from 250 into its shares of 250, which were subsequently sold to Concord in a share purchase transaction that closed on December 31, 2021. The Record Book includes the pre-acquisition documents with respect to the transfers of the receivables, share purchase closing documents, and corresponding authorizing resolutions. This letter serves as our report to you.

Pre-Acquisition Transfers of Receivables

We prepared promissory notes and assignments to document the transfer of receivables from Oakleaf Consulting, under a promissory note of Cresford (Yonge) Limited Partnership (“**Cresford (Yonge)**”) in the amount of \$15,000,000, to 250 for a fair market value of \$1.00, which was secured by a pledge of its 15,000 Class B Units of YG Limited Partnership (“**YG LP**”) under a share pledge agreement (“**Pledge Agreement**”). 250 subsequently seized Cresford (Yonge)’s 15,000 Class B Units of YG LP as Cresford (Yonge) was in default under the Pledge Agreement. Copies of the executed promissory notes, assignments, Pledge Agreement and corresponding authorizing resolutions with respect to such Oakleaf Consulting receivables can be found in the Record Book.

As instructed by you, the Limited Partnership Declaration of Cresford (Yonge) was cancelled. The Record Book contains a copy of the cancelled declaration.

We also prepared promissory notes and assignments to document the transfer of receivables from Oakleaf Consulting, under a promissory note of YG LP in the amount of \$18,992,620, to 250 for \$3,304,271 (“**250 Note 1**”), and receivables from Cresford (Rosedale),

under a promissory note of YG LP in the amount of \$19,290,990, to 250 for \$3,356,181 (“**250 Note 2**”). 250 Note 1 and 250 Note 2 were subsequently assigned to Cresford Holdings for notes as consideration. Cresford Holdings then capitalized its receivables from 250 into its shares of 250. Copies of the executed promissory notes, assignments and corresponding authorizing resolutions with respect to such Oakleaf Consulting and Cresford (Rosedale) receivables can be found in the Record Book.

Share Purchase of Cresford Holdings’ shares in 250

1. Share Purchase Agreement (“SPA”) & Cooperation Agreement

The Record Book contains an executed copy of the SPA which provides for the sale of 100% of all the issued and outstanding shares in the capital of 250 held by Cresford Holdings to Concord for CAD\$6,660,452.

The Record Book also contains an executed copy of the Cooperation Agreement pursuant to which Cresford Entities (as defined in the Cooperation Agreement) agreed to work cooperatively on certain steps ancillary to Concord’s acquisition of Cresford Holdings’ shares in 250 under the SPA.

Representations and warranties were provided by Cresford Holdings to Concord in the SPA. According to Section 3.3 of the SPA, the representations and warranties will survive for one (1) year from the Closing Date.

Please note that, as instructed by you, Cresford Holdings agreed: (i) on behalf of itself and its administrators, successors, and assigns, to fully and forever release and discharge Concord and its nominee, and each of their current and former affiliated parties, successors, officers, directors, partners, members, shareholders, agents, employees and assigns (collectively, the “Releasees”) from any and all claims, causes of action, and liabilities solely with respect to any matter arising out of or relating in any way to the purchase and sale of the shares of 250 (the “Release”); and (ii) the Release is a full and complete waiver and release of all claims relating thereto, including, but not limited to, claims of breach of contract, breach of the covenant of good faith and fair dealing, fraud and violation of public policy. Cresford Holdings also agreed to keep the Release confidential and not to reveal its contents except to enforce its terms or if otherwise required by law.

We confirm that we did not do any tax due diligence or provide tax advice to Cresford Holdings or its affiliates on this transaction.

2. Assignment and Assumption Agreements

The Record Book contains copies of the Assignment and Assumption Agreements that assign the SPA to 2848908 Ontario Inc. (“**284**”), and the Cooperation Agreement to Concord YSL GP Ltd. (“**Concord YSL**” together with 284, the “**Designated Assignees**”).

3. Instruments of Transfer and Share Certificate

The Record Book contains copies of the share transfer form of Cresford which transferred 100 common shares in the capital of 250 from Cresford to 284.

We will send Daniel Casey the 250 share certificate (C-2) issued to 284 to sign once we receive a proper address to send it to.

4. Resignation

The Record Book contains a copy of Daniel C. Casey's resignation as a director and officer of 250.

5. Post-Closing

Concord made the appropriate filings with governmental authorities in order to update the public records regarding the new officers and directors of 250. The Record Book contains the confirmation of filing of the Notice of Change.

6. Acknowledgment and Undertaking of Concord Entities

The Record Book contains a copy of the executed undertaking of Concord and its Designated Assignees, which provides that, in the event Concord, the Designated Assignees, or their affiliates, successors and related assigns (the "**Concord Entities**"), take control of 9615334 Canada Inc., or the Class A Units of YG LP, they will:

- (i) allow the claims and litigation of 9615334 Canada Inc. and YG LP against Maria Athanasoulis, 2620794 Ontario Inc. and Chris Panagiotopoulos to proceed, provided that the costs of all such proceedings shall be for the sole account of the Cresford Entities (as described in the undertaking), without contribution from the Concord Parties;
- (ii) allow one or more Cresford Entities to have care and control of such proceedings, provided that, to the extent that such claims implicate the projects marketed as 'Clover' or Yonge Street Living Residences (YSL), the Cresford Entities shall consult with the undersigned regarding relevant elements of such proceedings;
- (iii) hold the benefit of any such proceedings in trust for the Cresford Entities; and
- (iv) act in good faith and cooperate with the Cresford Entities in respect of the aforementioned proceeds.

* * *

We trust that this matter has been completed to your entire satisfaction. If you have any questions, please let us know.

Yours very truly,

DALE & LESSMANN LLP



Dean Psarras

DP/ea

Encls.
2706047.3

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FORM 77

**Notice of Disallowance of Claim, Right to Priority or Security or Notice of Valuation of Claim
(Subsection 135(3) of the *Bankruptcy and Insolvency Act*)**

TAKE NOTICE THAT:

As Licensed Insolvency Trustee acting IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC. (collectively, “**YSL**”), KSV Restructuring Inc. (the “**Trustee**”) has disallowed the unsecured claim of Maria Athanasoulis, in part, pursuant to subsection 135(2) of the *Bankruptcy and Insolvency Act* (the “**BIA**”), for the reasons set out below.

Your Proof of Claim, as filed with the Trustee, claims:

1. \$1 million in respect of damages for wrongful dismissal (the “**Wrongful Dismissal Claim**”); and
2. \$18 million in respect of damages for breach of an oral agreement that YSL would pay Ms. Athanasoulis 20% of the profits earned on the YSL project (the “**Profit Share Claim**”).

In determining your claims, the Trustee has reviewed and is relying on the following, which represents the support and record for your claim:

1. the Proof of Claim, as filed;
2. all material on the record in these proposal proceedings to date, together with all material on the record in the proceedings by the limited partners of YG Limited Partnership (the “**LPs**”) against YSL Residences Inc. et al. in Court file numbers CV-21-00661386-00CL and CV-21-00661530-00CL;
3. the partial arbitration award of Mr. William G. Horton (the “**Arbitrator**”) dated March 28, 2022 (the “**Partial Award**”);
4. all material filed and produced, and all testimony given, in the “Phase 1” arbitration (the “**Arbitration**”) before the Arbitrator; and
5. all responses received by the Trustee from counsel to the LPs and counsel to Ms. Athanasoulis in respect of any information requests of the Trustee.

Wrongful Dismissal Claim

Pursuant to the Partial Award, the Arbitrator held that: (i) YSL was a common employer of Ms. Athanasoulis; and (ii) Ms. Athanasoulis was constructively dismissed from her employment in December 2019. The Trustee accepts the findings of fact of the Arbitrator.

The records of the relevant Cresford entity reflect that Ms. Athanasoulis’ employment income was \$889,400 in each of 2017 and 2018.

The Trustee has confirmed that Ms. Athanasoulis received \$120,000 as a combined, aggregate settlement in respect of both her similar wrongful dismissal and profit share claims in: (a) the 480 Yonge Street Inc. and 480 Yonge Street Limited Partnership proceedings; and (b) The Clover on Yonge Inc. and The Clover on Yonge Limited Partnership proceedings. The Trustee has confirmed with PricewaterhouseCoopers Inc., the court officer in those other proceedings, that such settlement did not incorporate any value in respect of the profit share claim. The Trustee has also determined that Ms. Athanasoulis has not received any other payments in respect of her claims in any other Cresford entity insolvency proceedings.

The Trustee has also taken into account Ms. Athanasoulis' mitigation efforts subsequent to the wrongful termination of her employment and the advice of its counsel on the amount of damages generally awarded by Ontario courts given similar facts and circumstances.

Given the foregoing, the Trustee has determined to allow the Wrongful Dismissal Claim in the amount of \$880,000 as an unsecured claim.

The Trustee received objections from certain of the LPs to any allowance of the Wrongful Dismissal Claim and it has considered these objections in making its determination. The Trustee is of the view that the LPs have no standing to object to the Trustee's determination of the Wrongful Dismissal Claim for the reasons set out in the decision of Mr. Justice Osborne in respect of another claim in the proceedings in *YG Limited Partnership and YSL Residences Inc.*, 2022 ONSC 6548. The Trustee is aware that certain of the LPs have appealed this decision.

Profit Share Claim

The Trustee has determined to disallow the Profit Share Claim in full for several, independent reasons that follow.

Equity Not Debt

Pursuant to the Partial Award, the Arbitrator found that Ms. Athanasoulis had a profit share agreement (the "PSA") that entitled her to 20% of the profits earned on any of Cresford's current and future projects. The Arbitrator also found that: (a) profits were to be calculated, on a good faith basis, based on the *pro forma* budgets prepared by Cresford in respect of each project; (b) Ms. Athanasoulis' share of the profits was to be paid by the relevant owner that earned the profit; and (c) profits were to be shared when earned, usually at the completion of a project. The Trustee accepts the findings of fact of the Arbitrator.

Section 121 of the BIA provides as follows:

121 (1) All debts and liabilities, present or future, to which the bankrupt is subject on the day on which the bankrupt becomes bankrupt or to which the bankrupt may become subject before the bankrupt's discharge by reason of any obligation incurred before the day on which the bankrupt becomes bankrupt shall be deemed to be claims provable in proceedings under this Act.

An entitlement to a share of the profits earned by YSL (*i.e.*, the relevant owner) is not a "provable claim" pursuant to the BIA. It is not a debt obligation of YSL but rather, in substance, an equity entitlement. Profits are, by definition, the difference between the amount earned and the amount spent in buying, operating, or producing something. It is the amount remaining for distribution to

the owners of the enterprise. This is also reflected on YSL's *pro forma* budgets. As such, the Trustee has determined that the PSA, which is an agreement to share in the profits earned by the owner of the YSL project is, in substance, not a debt or liability to which YSL was subject on the day on which these proposal proceedings were commenced.

A claim based on a breach of the PSA that has not been reduced to a judgment debt is also not a "provable claim". The Partial Award also makes no finding as to whether or not the PSA has in fact been breached or the damages associated with such breach assuming one exists.

No Profits Earned by YSL

The Arbitrator held that Ms. Athanasoulis' share of profits resulting from the YSL project was to be paid by the relevant owner that earned the profit, meaning a profit must be earned by the owner of the YSL project for there to be any profit in which to share.

As of the date that these proposal proceedings were initiated, YSL had not completed the YSL project. Indeed, the initial excavation phase of the YSL project was not complete at that time and the construction schedule for the YSL project as of October 2019 contemplated that the YSL project would not be completed until 2025 at the earliest. Accordingly, as of the date of the proceedings, no profit had been earned by the YSL project and, therefore, there was no profit in which to share.

Without prejudice to the Trustee's determination that any claim based on the PSA is not a provable claim, to the extent that Ms. Athanasoulis relies upon the projected profitability of the YSL project as a contingent claim for a lost profit share, the Trustee values such a contingent and unliquidated claim at zero. The assumptions required to determine such a possible amount over such a long time horizon are far too speculative and the alleged damages far too remote to be capable of being considered a provable claim or the subject of any meaningful and reasonable computation.

In addition to the foregoing, the Trustee notes that an affiliate of Concord Properties Developments Corp. ("**Concord**"), the sponsor of the proposal filed and sanctioned by the Court in these proposal proceedings (the "**Proposal**"), became the owner of the YSL project upon implementation of the Proposal. Accordingly, even if the YSL project is successfully brought to completion, despite all of the intervening events challenging such an outcome, any profits earned on the YSL project will not accrue to the relevant owner, *i.e.*, YSL. Ms. Athanasoulis is not entitled to claim a profit-share under the PSA for amounts earned by Concord's affiliate who is not a party to the PSA.

Moreover, the LPs made a total capital contribution of \$14.8 million to the YG Limited Partnership in exchange for Class A Preferred Units. Pursuant to the limited partnership agreement in respect of the YG Limited Partnership, the LPs are entitled to a preferred return from the proceeds of the YSL project. Once the LPs are repaid their capital contribution plus their preferred return, any remaining proceeds from the YSL project would be paid to the Class B unit holder, being Cresford (Yonge) Limited Partnership, a Cresford entity. Depending on the resolution of the remaining disputed claims in these proposal proceedings, the most that would be available for distribution to the LPs is approximately \$16 million¹ which is less than the amount of their capital contribution

¹ Assuming that the CBRE, Zhang and Athanasoulis claims are all disallowed.

plus their preferred return. Accordingly, the disposition of the YSL project in these proceedings also has not resulted in any profit earned by Cresford (Yonge) Limited Partnership.

Ms. Athanasoulis provided evidence in the Arbitration that “profit” pursuant to her PSA is determined by taking revenue, minus costs, minus the amount returned to the LPs, “and the balance is your net profit”.² Again, on this basis, there is no profit earned by YSL.

Lastly, to the extent that Ms. Athanasoulis claims that she is entitled to a share of unrealized hypothetical gains on the YSL project as of the date of her dismissal, the Trustee notes that this is contrary to an essential term of the PSA established by the Arbitrator. The Arbitrator found that profits were to be calculated based on *pro formas*, but only payable when earned at the completion of the YSL project. There is no dispute that the *pro formas* would be revised continuously throughout the life of the YSL project in order to take into account actual events that transpired. Ms. Athanasoulis cannot claim a share in profits based on an unrealized vision of the YSL project that, as we now know, will never materialize. Such profits are not “earned” until the project is completed. Profits are not “earned” during the life of project because the paper value of the project may increase at a particular point in time. The earning of a profit and asset appreciation are two very different concepts. Furthermore, given that an essential term of the PSA requires profits to be calculated at project completion, any claim for damages for a breach of the PSA must take into account the actual profits earned by YSL upon completion of the project, which as noted above is zero.

Profit Share Claim is Subordinated

In connection with the Arbitration, Ms. Athanasoulis admitted three times under oath – in discovery, in direct examination, and on cross-examination – that any entitlement to a profit-share she may have would arise only after the LPs are repaid their original investment.

On examination for discovery on January 13, 2022, Ms. Athanasoulis stated:

Q. Did you discuss anything about how profit would be calculated?

A. It was going to be calculated -- you know, in my conversations with Dan, it would be calculated after paying the costs and any... and after paying the equity to... and specific to YSL and 33 Yorkville, it would be paid after the equity was repaid to the LP investors.

Q. You said specific to YSL and 33 Yorkville that you discussed with Dan that profit would be after equity paid to limited partners. So is it right if I understand that Clover and Halo, that was not the definition of profit that you discussed?

A. Clover and Halo didn't have limited partners. So it was after the equity was... like, the equity of -- Dan's equity was repaid.³

² Transcript of Direct Examination of Ms. Athanasoulis on February 22, 2022, page 153, lines 13-23.

³ Transcript of Discovery of Ms. Athanasoulis on January 13, 2022, qq. 211-212.

Ms. Athanasoulis confirmed the same understanding in her evidence in-chief during Phase 1 of the Arbitration:

Q. Okay. And turning down to the profit listed here on the, on the pro forma, in general terms, how was this calculated on the pro forma?

A. How is the profit calculated? So, basically, it takes your revenue, minuses your costs, minuses the amount returned on equity, and the balance is your net profit.

Q. And was Cresford consistent in how it assessed and how it calculated profits?

A. Yes.⁴

She also confirmed the same evidence on cross-examination at Phase 1 of the Arbitration:

Q. Once construction of a condominium is complete, you register the condominium with the Condominium Authority of Ontario. Do I have that right?

A. Correct. I mean, you register it with -- yes. You register it with the authorities that -- the city.

Q. Right. And we talked about registration before. I'm just trying to make sure we have it clear what that means. And then, once it's registered, you turn the building over to the condominium corporation for that particular property, right?

A. Yes.

Q. And you collect the balances due from purchasers, and you sell any remaining units that might be in the building?

A. Yes.

Q. And then you pay the trades and any fees that might be owing to the kind of management companies that you've described?

A. Sure. You would, you would be paying them along the way, yeah.

Q. And you repay the loans and return equity to investors?

A. Yes.

Q. And it's at this point that you can calculate the actual profits earned by the project, correct?

A. Okay, yes.⁵

⁴ Transcript of Direct Examination of Ms. Athanasoulis on February 22, 2022, page 153, lines 13-23.

⁵ Transcript of Cross-Examination of Ms. Athanasoulis on February 23, 2022, page 232, line 24 to page 234, line 3.

As the LPs will not be receiving a full return of their equity investment in the YSL project, it is unclear to the Trustee how Ms. Athanasoulis can make a successful claim for a share in profits amount when she has admitted repeatedly that her Profit Share Claim would be calculated after a full return of equity to the LPs.

AND FURTHER TAKE NOTICE that if you are dissatisfied with our decision in disallowing your claim in whole or in part (or a right to rank or your security or valuation of your claim), you may appeal to the court within the 30-day period after the day on which this notice is served, or within any other period that the court may, on application made within the same 30-day period, allow.

Dated at Toronto, this ____ day of December, 2022.

**KSV RESTRUCTURING INC.,
in its capacity as the proposal trustee
for YG LIMITED PARTNERSHIP AND
YSL RESIDENCES INC.**

by _____
Name: Robert Kofman
Title: President

IN THE MATTER OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED

Court of Appeal No. COA-24-CV-0468
Court File No. BK-21-02734090-0031

AND IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF YG LIMITED PARTNERSHIP AND YSL RESIDENCES INC.

COURT OF APPEAL FOR ONTARIO

Proceeding commenced at Toronto

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