

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE and ROYAL TIMBERS INC.**

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS
ACT*, R.S.O. 1990, C. B. 16, AS AMENDED

**MOTION RECORD
(APPROVAL AND VESTING ORDER – RESERVE BLOCKS)
(RETURNABLE MAY 29, 2017)**

May 24, 2017

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Appointed Receiver of Banwell Development
Corporation and Royal Timbers Inc.

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Court appointed Receiver of Banwell Development Corporation and Royal Timbers Inc.

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE and ROYAL TIMBERS INC.**

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS
ACT*, R.S.O. 1990, C. B. 16, AS AMENDED

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TAB "1"

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE and ROYAL TIMBERS INC.**

Respondents

APPLICATION UNDER SECTION 107 OF THE BUSINESS CORPORATIONS
ACT, R.S.O. 1990, C. B. 16, AS AMENDED

**NOTICE OF MOTION
(Approval of Conveyance of Reserve Blocks)
(returnable May 29, 2017)**

BDO CANADA LIMITED ("BDO"), in its capacity as court-appointed receiver (the "Receiver") of the assets, undertakings and properties of Banwell Development Corporation ("Banwell") and Royal Timbers Inc. ("Royal Timbers" and together with Banwell, the "Companies") will make a motion to Mr. Justice Thomas to be heard on Monday, May 29, 2017 at 10:00 a.m. or as soon after that time as the motion can be heard, at the Courthouse, 245 Windsor Avenue, Windsor, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR :

1. Orders substantially in the form attached as Schedule "A" and "B" to this Notice of Motion:
 - (a) abridging the time for and validating the method of service of the Motion Record, including the Supplementary Report dated May 24, 2017 to the Tenth Report to the Court submitted by the Receiver and directing that any further

service of same be dispensed with such that this motion is properly returnable on May 29, 2017;

- (b) approving the conveyance by the Receiver to The Corporation of the City of Windsor (the "**City**") of the lands described as Blocks 129, 131, 133, 135, 137, 139, 141, 143, 145 and 147, Plan 12M-533, Windsor (the "**Phase 2 Reserve Blocks**") and the lands described as Blocks 54, 55, 56, 57, 58, 59, 60, 61, 62 and 63, Plan 12M-546, Windsor (the "**Phase 4 Reserve Blocks**");
- (c) upon delivery of a Receiver's Certificate to the City, vesting in the City all of Banwell's rights, title and interest in and to the Phase 2 Reserve Blocks and Phase 4 Reserve Blocks free and clear of any and all claims and encumbrances; and
- (d) Such further and other relief as counsel may advise and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- (a) pursuant to the Order by which it was appointed as receiver, the Receiver has the power to, among other things, sell, convey, transfer, lease or assign any of the property, assets and undertaking of the Companies, or any parts thereof, without approval of the Court in respect of any transaction not exceeding \$50,000 provided that the aggregate consideration for all such transactions does not exceed \$200,000, and otherwise the Receiver must obtain Court approval;
- (b) the Order by which the Receiver was appointed as receiver empowers the Receiver to apply for a vesting Order to convey title to the Phase 2 Reserve Blocks and Phase 4 Reserve Blocks to the City free and clear of any liens and encumbrances affecting such lands;
- (c) the Receiver proposes to convey the Phase 2 Reserve Blocks and Phase 4 Reserve Blocks to the City in connection with the payment to the Receiver of the City's share of the servicing costs for the Phase 2 lands and Phase 4 lands;

- (d) the Phase 2 Reserve Blocks and Phase 4 Reserve Blocks were created to allow Banwell at a future date to recover from the City its share of the servicing costs for the Phase 2 lands and Phase 4 lands;
- (e) the Receiver is of the view that the conveyance of the Phase 2 Reserve Blocks and Phase 4 Reserve Blocks to the City upon receipt by the Receiver of the City's share of the servicing costs is appropriate and reasonable; and
- (f) Courts of Justice Act, R.S.O. 1990, Chapter C-43, s.100.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The Supplementary Report dated May 24, 2017 to the Tenth Report to the Court submitted by BDO Canada Limited, as Receiver of the Companies; and
- (b) Such further and other evidence as counsel may advise and this Honourable Court permit.

May 24, 2017

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Appointed Receiver of Banwell Development
Corporation and Royal Timbers Inc.

KEVIN D'AMORE
Applicant

BANWELL DEVELOPMENT CORPORATION,
928579 ONTARIO LIMITED, SCOTT D'AMORE
and ROYAL TIMBERS INC.
Respondents

Court File No: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

**NOTICE OF MOTION
(RETURNABLE MAY 29, 2017)**

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Lawyers for BDO Canada Limited,
Receiver of Banwell Development Corporation

TAB "A"

SCHEDULE "A"

Court File No. CV-11-17088

ONTARIO

SUPERIOR COURT OF JUSTICE

THE HONOURABLE MR.)	MONDAY, THE 29TH DAY
)	
JUSTICE THOMAS)	OF MAY, 2017

BETWEEN:

KEVIN D'AMORE

Applicant

- and -

BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE and ROYAL TIMBERS INC.

Respondents

APPLICATION UNDER SECTION 107 OF THE BUSINESS CORPORATIONS
ACT, R.S.O. 1990, C. B. 16, AS AMENDED

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as Court-appointed receiver of the assets, undertakings and properties of Banwell Development Corporation ("Banwell") and Royal Timbers Inc. pursuant to the Order of The Honourable Mr. Justice Thomas dated June 5, 2013 (the "**Receiver**"), for, *inter alia*, an order approving the conveyance (the "**Transaction**") by the Receiver to The Corporation of the City of Windsor (the "**City**") of the real property described on Schedule "A" (the "**Lands**") and vesting in the City all of Banwell's right, title and interest in and to the Lands, was heard this day at the Courthouse, 245 Windsor Avenue, Windsor, Ontario.

ON READING the Supplementary Report dated May 24, 2017 to the Tenth Report to the Court of the Receiver (the "**Supplementary Report**") and on hearing the submissions of counsel for the Receiver, and such other persons on the Service List as may be present, and on noting that no other persons appeared, although properly served as appears from the affidavit of Susan Jarrell sworn May ____, 2017, filed:

1. THIS COURT ORDERS that the time for and method of service of all motion confirmation forms, the motion record, including the notice of motion and the Supplementary Report, are hereby abridged and validated, as necessary, such that this motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Lands to the City.

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the City substantially in the form attached as **Schedule "B"** hereto (the "**Receiver's Certificate**"), all of Banwell's right, title and interest in and to the Lands shall vest absolutely in the City, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Thomas dated June 5, 2013; and (ii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**"), which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"** (the "**Permitted Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Lands are hereby expunged and discharged as against the Lands.

4. THIS COURT ORDERS that upon registration in the Land Registry Office for the Land Titles Division of Essex (No. 12) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the City as the owner of the Lands described in Schedule "A" hereto in fee

simple, and is hereby directed to delete and expunge from title to the Lands described in Schedule "A" hereto all of the Claims listed in **Schedule "C"** hereto.

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

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

7. THIS COURT ORDERS that, notwithstanding:

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

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

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

this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule A – Lands

The lands and premises legally described as:

- (a) Block 129 (Reserve), Plan 12M533, Windsor (PIN 01566-0695)
- (b) Block 131 (Reserve), Plan 12M533, Windsor (PIN 01566-0697)
- (c) Block 133 (Reserve), Plan 12M533, Windsor (PIN 01566-0699)
- (d) Block 135 (Reserve), Plan 12M533, Windsor (PIN 01566-0701)
- (e) Block 137 (Reserve), Plan 12M533, Windsor (PIN 01566-0703)
- (f) Block 139 (Reserve), Plan 12M533, Windsor (PIN 01566-0705)
- (g) Block 141 (Reserve), Plan 12M533, Windsor (PIN 01566-0707)
- (h) Block 143 (Reserve), Plan 12M533, Windsor (PIN 01566-0709)
- (i) Block 145 (Reserve), Plan 12M533, Windsor (PIN 01566-0711)
- (j) Block 147 (Reserve), Plan 12M533, Windsor (PIN 01566-0713)

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Schedule B

Court File No. CV-11-17088

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

KEVIN D'AMORE

Applicant

- and -

BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE and ROYAL TIMBERS INC.

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS*
ACT, R.S.O. 1990, C. B. 16, AS AMENDED**RECEIVER'S CERTIFICATE****RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice Thomas of the Ontario Superior Court of Justice (the "**Court**") dated June 5, 2013, BDO Canada Limited ("**BDO**") was appointed as the receiver (the "**Receiver**") of the assets, undertakings and properties of Banwell Development Corporation ("**Banwell**") and Royal Timbers Inc.

B. Pursuant to an Order of the Court dated May 29, 2017, the Court approved the conveyance by the Receiver to The Corporation of the City of Windsor (the "**City**") of the real property legally described on Schedule B1 hereto (the "**Lands**") and vesting in the City all of Banwell's right, title and interest in and to the Lands, which vesting is to be effective with respect to the Lands upon the delivery by the Receiver to the City of a certificate confirming the payment to the Receiver of the City's share of the servicing costs for the Lands.

THE RECEIVER CERTIFIES the following:

1. The Receiver has received the City's share of the servicing costs for the Lands;
2. This Certificate was delivered by the Receiver at _____[TIME] on _____[DATE].

BDO CANADA LIMITED solely in its capacity as Court-appointed receiver of Banwell Development Corporation and Royal Timbers Inc. and not in its personal capacity

Per: _____

Name:

Title:

Schedule B1 – Lands

The lands and premises legally described as:

- (a) Block 129 (Reserve), Plan 12M533, Windsor (PIN 01566-0695)
- (b) Block 131 (Reserve), Plan 12M533, Windsor (PIN 01566-0697)
- (c) Block 133 (Reserve), Plan 12M533, Windsor (PIN 01566-0699)
- (d) Block 135 (Reserve), Plan 12M533, Windsor (PIN 01566-0701)
- (e) Block 137 (Reserve), Plan 12M533, Windsor (PIN 01566-0703)
- (f) Block 139 (Reserve), Plan 12M533, Windsor (PIN 01566-0705)
- (g) Block 141 (Reserve), Plan 12M533, Windsor (PIN 01566-0707)
- (h) Block 143 (Reserve), Plan 12M533, Windsor (PIN 01566-0709)
- (i) Block 145 (Reserve), Plan 12M533, Windsor (PIN 01566-0711)
- (j) Block 147 (Reserve), Plan 12M533, Windsor (PIN 01566-0713)

KEVIN D'AMORE

Applicant

BANWELL DEVELOPMENT CORPORATION,
928579 ONTARIO LIMITED, SCOTT D'AMORE
and
and ROYAL TIMBERS INC.

Court File No: CV-11-17088

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Windsor

RECEIVER'S CERTIFICATE

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Lawyers for BDO Canada Limited,
Receiver of Banwell Development
Corporation and Royal Timbers Inc.

Schedule C – Claims to be deleted and expunged from title to the Lands

1. Instrument No. CE163177 – Charge in the principal amount of \$8,000,000 given by Banwell Development Corporation to Bank of Montreal registered on August 10, 2005.
2. Instrument No. CE569187 – Application to register court order registered on June 18, 2013.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Lands**

(unaffected by the Vesting Order)

- a) The reservations, limitations, provisions and conditions expressed in the original Agreement from the Crown and all statutory exceptions to title;
- b) Instrument No. CE166202 – Notice of Subdivision Agreement, registered on August 24, 2005;
- c) Instrument No. CE191966 – Notice of Subdivision Agreement, registered on January 4, 2006;
- d) Instrument No. CE193237 – Plan Document Agreement registered on January 12, 2006;
- e) Instrument No. 12M533 – Plan of Subdivision, registered on January 12, 2006.

KEVIN D'AMORE

Applicant

and

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE and ROYAL
TIMBERS INC.

Court File No: CV-11-17088

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Windsor

APPROVAL AND VESTING ORDER

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Lawyers for BDO Canada Limited,
Receiver of Banwell Development
Corporation and Royal Timbers Inc.

TAB "B"

SCHEDULE "B"

Court File No. CV-11-17088

ONTARIO

SUPERIOR COURT OF JUSTICE

THE HONOURABLE MR.)	MONDAY, THE 29TH DAY
)	
JUSTICE THOMAS)	OF MAY, 2017

BETWEEN:

KEVIN D'AMORE

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- and -

BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
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APPLICATION UNDER SECTION 107 OF THE BUSINESS CORPORATIONS
ACT, R.S.O. 1990, C. B. 16, AS AMENDED

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as Court-appointed receiver of the assets, undertakings and properties of Banwell Development Corporation ("Banwell") and Royal Timbers Inc. pursuant to the Order of The Honourable Mr. Justice Thomas dated June 5, 2013 (the "**Receiver**"), for, *inter alia*, an order approving the conveyance (the "**Transaction**") by the Receiver to The Corporation of the City of Windsor (the "**City**") of the real property described on Schedule "A" (the "**Lands**") and vesting in the City all of Banwell's right, title and interest in and to the Lands, was heard this day at the Courthouse, 245 Windsor Avenue, Windsor, Ontario.

ON READING the Supplementary Report dated May 24, 2017 to the Tenth Report to the Court of the Receiver (the "**Supplementary Report**") and on hearing the submissions of counsel for the Receiver, and such other persons on the Service List as may be present, and on noting that no other persons appeared, although properly served as appears from the affidavit of Susan Jarrell sworn May ____, 2017, filed:

1. THIS COURT ORDERS that the time for and method of service of all motion confirmation forms, the motion record, including the notice of motion and the Supplementary Report, are hereby abridged and validated, as necessary, such that this motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Lands to the City.

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the City substantially in the form attached as **Schedule "B"** hereto (the "**Receiver's Certificate**"), all of Banwell's right, title and interest in and to the Lands shall vest absolutely in the City, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Thomas dated June 5, 2013; and (ii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**"), which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"** (the "**Permitted Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Lands are hereby expunged and discharged as against the Lands.

4. THIS COURT ORDERS that upon registration in the Land Registry Office for the Land Titles Division of Essex (No. 12) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the City as the owner of the Lands described in Schedule "A" hereto in fee

simple, and is hereby directed to delete and expunge from title to the Lands described in Schedule "A" hereto all of the Claims listed in **Schedule "C"** hereto.

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

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

7. THIS COURT ORDERS that, notwithstanding:

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

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

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

this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule A – Lands

The lands and premises legally described as:

- (a) Block 54 (Reserve), Plan 12M546, Windsor (PIN 01566-0876)
- (b) Block 55 (Reserve), Plan 12M546, Windsor (PIN 01566-0877)
- (c) Block 56 (Reserve), Plan 12M546, Windsor (PIN 01566-0878)
- (d) Block 57 (Reserve), Plan 12M546, Windsor (PIN 01566-0879)
- (e) Block 58 (Reserve), Plan 12M546, Windsor (PIN 01566-0880)
- (f) Block 59 (Reserve), Plan 12M546, Windsor (PIN 01566-0881)
- (g) Block 60 (Reserve), Plan 12M546, Windsor (PIN 01566-0882)
- (h) Block 61 (Reserve), Plan 12M546, Windsor (PIN 01566-0883)
- (i) Block 62 (Reserve), Plan 12M546, Windsor (PIN 01566-0884)
- (j) Block 63 (Reserve), Plan 12M546, Windsor (PIN 01566-0885)

- 6 -

Schedule B

Court File No. CV-11-17088

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

KEVIN D'AMORE

Applicant

- and -

BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE and ROYAL TIMBERS INC.

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS*
ACT, R.S.O. 1990, C. B. 16, AS AMENDED**RECEIVER'S CERTIFICATE****RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice Thomas of the Ontario Superior Court of Justice (the "**Court**") dated June 5, 2013, BDO Canada Limited ("**BDO**") was appointed as the receiver (the "**Receiver**") of the assets, undertakings and properties of Banwell Development Corporation ("**Banwell**") and Royal Timbers Inc.

B. Pursuant to an Order of the Court dated May 29, 2017, the Court approved the conveyance by the Receiver to The Corporation of the City of Windsor (the "**City**") of the real property legally described on Schedule B1 hereto (the "**Lands**") and vesting in the City all of Banwell's right, title and interest in and to the Lands, which vesting is to be effective with respect to the Lands upon the delivery by the Receiver to the City of a certificate confirming the payment to the Receiver of the City's share of the servicing costs for the Lands.

THE RECEIVER CERTIFIES the following:

1. The Receiver has received the City's share of the servicing costs for the Lands;
2. This Certificate was delivered by the Receiver at _____[TIME] on _____[DATE].

BDO CANADA LIMITED solely in its capacity
 as Court-appointed receiver of Banwell
 Development Corporation and Royal Timbers
 Inc. and not in its personal capacity

Per: _____
 Name:
 Title:

Schedule B1 – Lands

The lands and premises legally described as:

- (a) Block 54 (Reserve), Plan 12M546, Windsor (PIN 01566-0876)
- (b) Block 55 (Reserve), Plan 12M546, Windsor (PIN 01566-0877)
- (c) Block 56 (Reserve), Plan 12M546, Windsor (PIN 01566-0878)
- (d) Block 57 (Reserve), Plan 12M546, Windsor (PIN 01566-0879)
- (e) Block 58 (Reserve), Plan 12M546, Windsor (PIN 01566-0880)
- (f) Block 59 (Reserve), Plan 12M546, Windsor (PIN 01566-0881)
- (g) Block 60 (Reserve), Plan 12M546, Windsor (PIN 01566-0882)
- (h) Block 61 (Reserve), Plan 12M546, Windsor (PIN 01566-0883)
- (i) Block 62 (Reserve), Plan 12M546, Windsor (PIN 01566-0884)
- (j) Block 63 (Reserve), Plan 12M546, Windsor (PIN 01566-0885)

KEVIN D'AMORE

Applicant

BANWELL DEVELOPMENT CORPORATION,
928579 ONTARIO LIMITED, SCOTT D'AMORE
and
and ROYAL TIMBERS INC.

Court File No: CV-11-17088

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Windsor

RECEIVER'S CERTIFICATE

MILLER THOMSON LLP
One London Place
255 Queens Avenue, Suite 2010
London, ON Canada N6A 5R8

Tony Van Klink LSUC#: 29008M
Tel: 519.931.3509
Fax: 519.858.8511

Lawyers for BDO Canada Limited,
Receiver of Banwell Development
Corporation and Royal Timbers Inc.

Schedule C – Claims to be deleted and expunged from title to the Lands

1. Instrument No. CE163177 – Charge in the principal amount of \$8,000,000 given by Banwell Development Corporation to Bank of Montreal registered on August 10, 2005.
2. Instrument No. CE163205 – Charge in the principal amount of \$282,800 given by Banwell Development Corporation to Simba Group Developments Limited and Patrick D'Amore registered on August 10, 2005.
3. Instrument No. CE 171657 – Postponement from Simba Group Developments Limited and Patrick D'Amore to Bank of Montreal registered on September 20, 2005.
4. Instrument No. CE171658 – Postponement from Simba Group Developments Limited and Patrick D'Amore to Bank of Montreal registered on September 20, 2005.
5. Instrument No. CE261562 – Notice from Banwell Development Corporation to Simba Group Developments Limited and Patrick D'Amore registered on February 28, 2007.
6. Instrument No. CE569187 – Application to register court order registered on June 18, 2013.
7. Instrument No. CE714325 – Transmission of Charge from Patrick D'Amore to Scott D'Amore registered on May 25, 2016.
8. Instrument No. CE715026 – Transfer of Charge from Simba Group Developments Limited and Scott D'Amore to Windsor Family Credit Union Limited registered on May 30, 2016.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Lands**

(unaffected by the Vesting Order)

- a) The reservations, limitations, provisions and conditions expressed in the original Agreement from the Crown and all statutory exceptions to title;
- b) Instrument No. CE195978 – Notice of Subdivision Agreement, registered on January 27, 2006;
- c) Instrument No. CE251614 – Plan Document Agreement registered on December 13, 2006;
- d) Instrument No. 12M546 – Plan of Subdivision, registered on December 13, 2006;
- e) Instrument No. CE468429 – Application to Annex Restrictive Covenant, registered on April 29, 2011.

KEVIN D'AMORE

Applicant

and

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE and ROYAL
TIMBERS INC.

Court File No: CV-11-17088

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Windsor

APPROVAL AND VESTING ORDER

MILLER THOMSON LLP

One London Place
255 Queens Avenue, Suite 2010
London, ON Canada N6A 5R8

Tony Van Klink LSUC#: 29008M
Tel: 519.931.3509
Fax: 519.858.8511

Lawyers for BDO Canada Limited,
Receiver of Banwell Development
Corporation and Royal Timbers Inc.

TAB "2"

Court File No. CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE AND ROYAL TIMBERS INC.**

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS*
ACT, R.S.O. 1990, C. B. 16, AS AMENDED

**SUPPLEMENTARY REPORT TO THE TENTH REPORT TO THE COURT SUBMITTED BY
BDO CANADA LIMITED,
AS RECEIVER OF BANWELL DEVELOPMENT CORPORATION
AND ROYAL TIMBERS INC.**

May 24^{kh}, 2017

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1. Introduction and Background	1
2. Terms of Reference	2
3. Purpose of the Supplementary Report	3
4. Robinet Road Services Cost Sharing	4
5. Recommendations	7

Appendices

- Appendix A** - City of Windsor Development, Projects and Right-of-Way report to City Council dated December 22, 2016

1. Introduction and Background

1.1 Introduction

- 1.1.1 This report is submitted by BDO Canada Limited, in its capacity as Receiver (“**BDO**” or the “**Receiver**”) of all assets, undertakings and properties (the “**Property**”) of Banwell Development Corporation (“**Banwell**”) and Royal Timbers Inc. (“**Royal Timbers**” and collectively with Banwell, the “**Companies**”).
- 1.1.2 Upon application of Bank of Montreal (“**BMO**”), BDO was appointed as Receiver by the Order of Mr. Justice Thomas dated June 5, 2013 (the “**Appointment Order**”).
- 1.1.3 The Receiver submitted a Tenth Report to the Court dated March 14, 2017 (the “**Tenth Report**”).
- 1.1.4 The Receiver’s recommendation with respect the sale of commercial lots owned by Banwell, located on Tecumseh Road East in Windsor, and defined in the Tenth Report as the “**Tecumseh Parcels**” was heard by Mr. Justice Thomas on March 27, 2017. By Order dated March 27, 2017 Mr. Justice Thomas approved the sale of the Tecumseh Parcels and vested all of Banwell’s right, title and interest in the Tecumseh Parcels in Goodwill Industries – Essex Kent Lambton Inc. (“**Goodwill**”).
- 1.1.5 The remainder of the relief sought by the Receiver in the Tenth Report is scheduled to be heard by Mr. Justice Thomas on May 29, 2017.
- 1.1.6 This supplementary report is prepared to provide additional information to the Court on the cost sharing arrangements with the City of Windsor for municipal services work undertaken by Banwell.
- 1.1.7 Unless otherwise defined, capitalized terms in this report have the same meaning as the Tenth Report.

2. Terms of Reference

- 2.1 In preparing this supplementary report to the Receiver's Tenth Report, the Receiver has relied upon unaudited and draft, internal financial information obtained from the Companies' books and records and discussions with former management and staff (the "**Information**"). The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information and expresses no opinion, or other form of assurance, in respect of the Information.

3. Purpose of the Supplementary Report

3.1 This constitutes the Receiver's Supplementary Report to the Tenth Report to the Court (the "**Tenth Report Supplement**") in this matter and is filed:

- (a) To provide this Court with information on:
 - (i) the status of the cost sharing arrangement with the City of Windsor (the "**City**") for municipal services installed by Banwell at the rear of lots located on the east side of Robinet Road (the "**Robinet Cost Sharing**"), and the proposed conveyance of certain one foot reserve blocks from Banwell to the City;
- (b) In support of an order of the Court:
 - (i) approving the conveyance by Banwell to the City of the one foot reserve blocks described as Blocks 129, 131, 133, 135, 137, 139, 141, 143, 145 and 147, Plan 12M-533 (the "**Phase 2 Reserve Blocks**") and the one foot reserve blocks described as Blocks 54, 55, 56, 57, 58, 59, 60, 61, 62 and 63, Plan 12M-546 (the "**Phase 4 Reserve Blocks**") and vesting title to the Phase 2 Reserve Blocks and Phase 4 Reserve Blocks in the City.

4. Robinet Road Services Cost Sharing

Background

- 4.1 In Section 5 of its Third Report to the Court dated November 25, 2013 (the "**Third Report**") the Receiver provided an overview of an arrangement between Banwell and the City, whereby Banwell would be reimbursed for a portion of the costs of installing municipal services at the rear of approximately 28 existing lots that front on the east side of Robinet Road (the "**Robinet Lots**" or singularly the "**Robinet Lot**"). This arrangement was defined earlier as the "Robinet Cost Sharing".
- 4.2 The Robinet Lots are approximately 280 feet deep, and back onto McRobbie Road, within each of Phases 2, 3 and 4 of the Royal Timbers subdivision. The Robinet Cost Sharing allows for the future severance by Robinet Road property owners (the "**Robinet Road Property Owners**") of the rear half of their lots, thus creating new building lots fronting onto McRobbie Road.
- 4.3 In conjunction with the application to sever the rear portion of the lot, a Robinet Road Property Owner would be required to pay Banwell for the proportionate share of servicing costs applicable to their lot.
- 4.4 In order to secure the City and Banwell's interests, and control access to the services, a one foot reserve block in favour of each of the City and Banwell abutting each of the Robinet Lots was created.
- 4.5 Subsequent to the Third Report, the Receiver determined that the Subdivision Agreement provided for the City to reimburse Banwell for the agreed upon share of servicing costs applicable to each phase, and for the City, in turn, to recover the costs on an individual basis as Robinet Road Property Owners sever the rear portion of their respective properties.

Phase 2

- 4.6 The Receiver retained the consulting engineers RC Spencer Associates Inc. ("**RC Spencer**") to continue to provide cost and technical information to the City in order

to finalize the cost sharing amount for Phase 2 of the Royal Timbers subdivision.

- 4.7 On December 22, 2016, the City Development, Projects & Right-of-Way department completed its report to City Council on the Robinet Cost Sharing applicable to Phase 2 of the Royal Timbers subdivision (the "**City of Windsor Phase 2 Robinet Report**"). The recommendations contained in the report were approved by City Council on February 13, 2017. The City of Windsor Phase 2 Robinet Report is attached as **Appendix A**.
- 4.8 By August 27, 2017, the City will pay \$595,876, plus GST of \$41,711.33 to BDO as Receiver of Banwell on account of the City's share of the servicing costs for the Phase 2 lands.
- 4.9 Where a Robinet Road Property Owner wishes to commence the severance process prior to August 27, 2017, the City has authorized the Receiver to collect the homeowner's proportionate share, as set out in Appendix B to the **City of Windsor Phase 2 Robinet Report**. The City will adjust the August 27, 2017 payment to the Receiver for any amounts received directly from the Robinet Road Property Owner.
- 4.10 In order to complete its obligations under the Robinet Cost Sharing Arrangement applicable to Phase 2, and receive payment from the City or the Robinet Road Property Owner as described above, the Receiver is required to convey the Phase 2 Reserve Blocks to the City.
- 4.11 Accordingly, the Receiver requests the approval of the Court to convey the Phase 2 Reserve Blocks to the City and vest the Phase 2 Reserve Blocks in the City upon receipt by the Receiver of the City's share of the servicing costs for the Phase 2 lands in the amount of \$595,876, plus HST in the amount of \$41,711.33.

Phase 3

- 4.12 By Order dated June 24, 2015 Mr. Justice Thomas approved the sale of Lots 103-106, Block 121 and Block 122 Plan 12M-533, Windsor (the "**Phase 3 Lands**") to Hadi Custom Homes Inc. ("**Hadi**") and vested all of Banwell's right, title and interest in the Phase 3 Lands in Hadi. The Phase 3 Lands had not been serviced

at the time of the sale to Hadi.

- 4.13 Subsequently, and as described in more detail in Section 5 of the Ninth Report of the Receiver to Court dated September 25, 2015 (the "**Ninth Report**"), the Receiver obtained the approval of the Court to convey the Robinet one foot reserve blocks applicable to the Phase 3 Lands to Hadi.

Phase 4

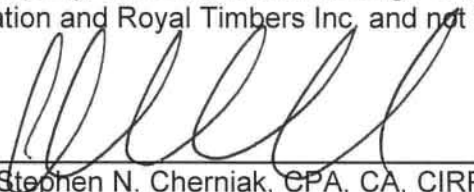
- 4.14 The Robinet Cost Sharing applicable to Phase 4 of the Royal Timbers subdivision has not yet been completed. RC Spencer will supply additional servicing cost information to the City as required, in order to finalize the Phase 4 Robinet Cost Sharing.
- 4.15 Once finalized, the Receiver will be required to convey the Phase 4 Reserve Blocks to the City.
- 4.16 In reviewing the land registrations for Phase 4, the Receiver noted that both one foot reserve blocks for each Robinet Road property are registered in the name of Banwell, rather than there being a one foot reserve block for each of the City and Banwell. This appears to have been an error in the original land registrations.
- 4.17 The City has confirmed that all of the Phase 4 Reserve Blocks are registered in Banwell's name and will need to be conveyed to the City when the Phase 4 Robinet Cost Sharing is finalized.
- 4.18 Accordingly, the Receiver requests the approval of the Court to convey the Phase 4 Reserve Blocks to the City and vest the Phase 4 Reserve Blocks in the City upon receipt by the Receiver of the City's share of the servicing costs for the Phase 4 lands.

5. Recommendations

- 5.1 The Receiver recommends and respectfully requests that this Court grant an Order:
- a) approving the conveyance by the Receiver to the City of the Phase 2 Reserve Blocks and Phase 4 Reserve Blocks and vesting title to the Phase 2 Reserve Blocks and Phase 4 Reserve Blocks in the City upon receipt by the Receiver of the City's share of the servicing costs for the Phase 2 lands and Phase 4 lands.

All of which is Respectfully Submitted this 24th day of May, 2017.

BDO Canada Limited in its capacity as Court Appointed Receiver of the property, assets and undertakings of Banwell Development Corporation and Royal Timbers Inc, and not in any personal capacity


Per: Stephen N. Cherniak, CPA, CA, CIRP
Licensed Insolvency Trustee
Senior Vice President

TAB "A"



Development, Projects & Right-of-Way

MISSION STATEMENT

"Our City is built on relationships – between citizens and their government, businesses and public institutions, city and region – all interconnected, mutually supportive, and focused on the brightest future we can create together"

REPORT #: S 225/2016	Report Date: 12/22/2016
Author's Contact: Amy Olsen Technologist II 519-255-6257 ext 6890 aolsen@citywindsor.ca	Date to Council: January 16, 2017
	Clerk's File #: ZS/10804

To: Mayor and Members of City Council

Subject: Royal Timbers Phase 2A-Banwell Development Corporation Cost Sharing/Oversizing/Servicing - Ward 7

RECOMMENDATION:

- I. THAT Council **APPROVE** payment to BDO Canada Limited (receiver of Banwell Development Corporation) on August 27, 2017 for oversizing cost to service privately owned lands (Robinet Benefiting Properties shown on Appendix 'A') as part of the Royal Timbers Phase 2A, up to the maximum amount of \$595,876.18 (plus 7% GST) less any payments made by the Robinet Benefiting Properties directly to BDO Canada Limited , and
- II. THAT Council, pending approval of the recommended 2017 5-year Capital Budget, **APPROVE** the following funding sources for the \$595,876 required for BDO:
 - a. \$93,908 from the New Infrastructure Development Project (7035119)
 - b. \$100,000 from the 2017 5-year capital budget project New Infrastructure Development Oversizing Infrastructure (ECP-041-07)
 - c. PRE-COMMITMENT of \$401,968 approved in principle in 2019 for New Infrastructure Development Oversizing Infrastructure Project (ECP-041-07); and
- III. THAT prior to the payment of costs referred to in Recommendation I, herein, BDO Canada Limited **BE REQUIRED** to convey Blocks 129, 131, 133, 135, 137, 139, 141, 143, 145 and 147 on 12M-533 (1 foot reserves) to the City, and
- IV. THAT Council **AUTHORIZE** the City Engineer to collect, after August 27, 2017, servicing costs from Phase 2A Robinet Benefiting Properties in accordance with the costs set out in Appendix 'B'; plus simple annual interest at the City's banker's

prime rate of interest with recoveries being directed to the New Infrastructure Development Project ID #7035119. The Right-of-Way permits shall be released only when the servicing costs and applicable interest set out herein have been paid in full to the City or BDO for the respective property, and

- V. THAT Council **AUTHORIZE** Administration to prepare by-laws to remove the one (1) foot reserves and declare Blocks 128-147 on 12M-533 to be part of the McRobbie Street once the corresponding address/roll number's total assessed costs are paid in full (Appendix 'B').

EXECUTIVE SUMMARY:

N/A

BACKGROUND:

McRobbie Road from Mulberry Road to Troup Crescent was serviced in accordance with a subdivision agreement between The Corporation of the City of Windsor and Banwell Development Corporation (Developer), approved by Council Resolution 666/2004 and registered as CE166202 (Subdivision Agreement). Subsequently, Banwell Development Corporation went into receivership and BDO Canada Limited is now the owner of Phase 2A of this subdivision (McRobbie Road). This phase includes services to the rear portion of privately owned lands on the west side of McRobbie and fronting on the east side Robinet Road (Robinet Benefiting Properties on Appendix 'A').

DISCUSSION:

The Robinet Benefiting Properties are extremely deep, in excess of 85m (280'). The Developer installed infrastructure on McRobbie which can service the rear portion of the Robinet Benefiting Properties. The Developer completed servicing of Phase 2A by constructing full municipal services including:

- Sanitary mainline sewer and private drain connections
- Storm mainline sewer and private drain connections
- Storm detention pond/pump station
- Water mainline (excluding private services)
- Local road (asphalt pavement, concrete curbs and gutters, sidewalks)
- Underground hydro / streetlights / utilities

In accordance with the Purchasing By-Law 93-2012 and the Subdivision Agreement, the public tender process was followed to award the contract for the works performed.

Under the Subdivision Agreement, the City has committed to pay the Developer the total assessed costs for the west side of McRobbie Road (as Appendix 'A' drawing of Phase 2A). The agreed amount is \$595,876.18 (plus GST), totaling \$637,587.51. The City is entitled to recover 100% of the GST, or \$41,711.33 prior to the statute barred date of October 1, 2018.

The City is required to pay these funds by August 27, 2017, less any payments made by the Robinet Benefiting Properties directly to BDO Canada, after the installation of municipal services and subject to availability of funds. Concurrently, once the City pays the Developer, the Developer conveys the one-foot reserves along the west side of McRobbie to the City in order to control access to the services.

Benefiting property owners will be notified by the City Engineer, of servicing costs approved by Council. Based on the Developer's Engineer letter (March 18, 2015), the costs to be recovered from the Robinet Benefiting Properties have been assessed and are detailed in Appendix 'B'.

A separate report to Council will be required for Phase 3 (McRobbie Road south of Mulberry Road) and Phase 4 (McRobbie Road north of Troup Crescent) Robinet Benefiting Properties. Phase 3 was constructed in 2016 with a maintenance date commencing no later than July 13, 2019. The report and payment for this phase will be required within three years of the established maintenance date. Construction of Phase 4 was completed in 2006 and remains on maintenance. The City is currently working through outstanding deficiencies with the Developer.

RISK ANALYSIS:

The risks of not recovering all costs from the Robinet Benefiting Properties are possible should some property owners choose not to develop, however unlikely due to the current economy.

FINANCIAL MATTERS:

As noted, the City is responsible for compensating the Developer for full municipal services and 50% of the land costs for McRobbie Road, which benefits the abutting Robinet Benefiting Properties. The Developer has completed the work in Phase 2A in 2014 and is seeking payment from the City of \$595,876.18 (not including GST).

As per the terms of the Subdivision Agreement, the City is required to pay the developer three years after the completion of the works - which is August 27, 2017, subject to availability of funds in the budgeted allocations for New Infrastructure Development. We recommend these funds be paid, less any payments made by the Robinet Benefiting Properties, directly to BDO Canada Limited by August 27, 2017.

Currently, the New Infrastructure Development project (ID#7035119) has \$93,908.00 in available funding, which is insufficient to make the payments. There are, however, funds being recommended as part of the 2017 5-year Capital Budget. Should Council approve the capital budget recommendations for the New Infrastructure Development – Oversizing Infrastructure (ECP-041-07) during budget deliberations there will be \$100,000 available in 2017 for this initiative and \$450,000 approved in principle in 2019. A pre-commitment of \$401,968 of the \$450,000 identified in 2019 will allow for the balance of necessary funding to be satisfied. No interest charges are expected to be incurred on the 2019 funds as the project is anticipated to stay in a surplus position until all other commitments are paid from this project, which will not materialize until beyond 2019.

Council should be aware that there are ramifications if the payment is deferred. Administration sought tax advice from the City's tax consultants, who determined that if the payment is deferred to beyond October 1, 2018, the City would be ineligible to claim the GST paid to BDO Canada or \$41,711.33.

As previously mentioned, there are two other phases in this development that will also require similar repayment for oversizing sewers and roads so other lands can be serviced, and will require ongoing funding by Council.

The City will recover the costs from the Robinet Benefiting Properties and replenish funds – to the New Infrastructure Development account (ID#7035119). It is expected that many of the Robinet Benefiting Property owners will seek approval to sever their lots and pay the servicing costs, thus recompensing the New Infrastructure Development account. As previously noted, there is a risk that some of these lots will not develop immediately and the City will not be able to recover that portion of the costs in the short term. Any Robinet Benefiting Properties who have not paid the servicing costs before August 27, 2017 will be required to pay the servicing costs to the City plus applicable interest. Simple annual interest will be charged at the City's banker's prime rate of interest from August 27, 2017 until the respective amounts owing are paid in full.

CONSULTATIONS:

Michael Dennis - Financial Planning Administrator
 Wira Vendrasco - Deputy City Solicitor
 Patrick Winters - Development Engineer
 Melissa Osborne – Senior Manager Asset Planning
 Adam Pillon - Supervisor of Right-of-Way
 Rosanna Pellerito – Manager of Risk and Insurance

CONCLUSION:

The intent of this report is to communicate the cost to City Council, seek approval for the stated payment as required three years after completion of the work (acceptance onto Maintenance in August 2014).

Subject to a pre-commitment of future funding, Administration is recommending approval for payment of the oversizing/servicing costs for Royal Timbers Subdivision Phase 2A in accordance with the provisions of the Subdivision Agreement with Banwell Development Corporation (BDO Canada Limited, receiver) and recovery from benefiting properties.

PLANNING ACT MATTERS:

N/A

APPROVALS:

Name	Title
Amy Olsen	Technologist II (A)
France Isabelle-Tunks	Senior Manager Development, Projects and Right-of-Way/Deputy City Engineer
Shelby Askin Hager	City Solicitor and Corporate Leader Economic Development and Public Safety

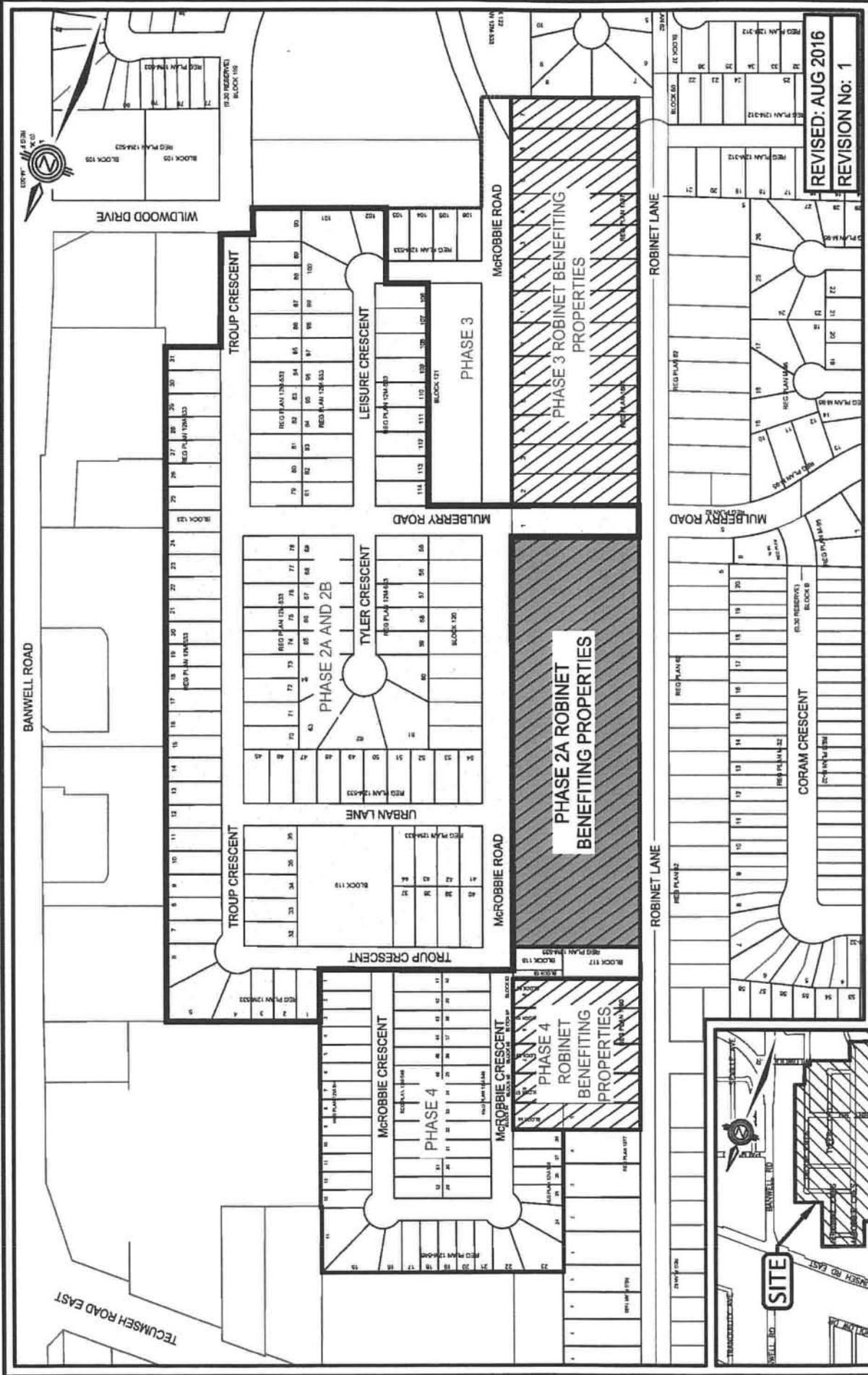
Name	Title
Joe Mancina	Chief Financial Officer/City Treasurer and Corporate Leader Finance and Technology
Mark Winterton	City Engineer and Corporate Leader Environmental Protection and Transportation
Onorio Colucci	Chief Administrative Officer

NOTIFICATIONS:

Name	Address	Postal Code
McLean, Gerald & Lynn	3040 Robinet Rd.	N8R 1P6
Colangeli, Sesto & Attilia	3050 Robinet Rd.	N8R 1P6
Hebert, Pierre & Rita	3060 Robinet Rd.	N8R 1P6
Czekierda, Wieslaw & Joanna	3074 Robinet Rd.	N8R 1P6
Lambert, John	3082 Robinet Rd.	N8R 1P6
Diprospero, Maria	3090 Robinet Rd.	N8R 1P6
Baldi, Giorgio	3106 Robinet Rd.	N8R 1P6
Sinclair, Michael & Lynn	3112 Robinet Rd.	N8R 1P6
Licausi, Susie	3120 Robinet Rd.	N8R 1P6
W. Van L. Construction	0 Robinet Rd. / 3134 Robinet Rd.	N8R 1P6

APPENDICES:

- 1 Appendix A - Drawing of Royal Timbers Phase II (C-3298)
- 2 Appendix B - Estimated Expenses and Recoveries
- 3 Appendix C - Best Practice 4.3.2 - Servicing Charges and Sewerage Fees

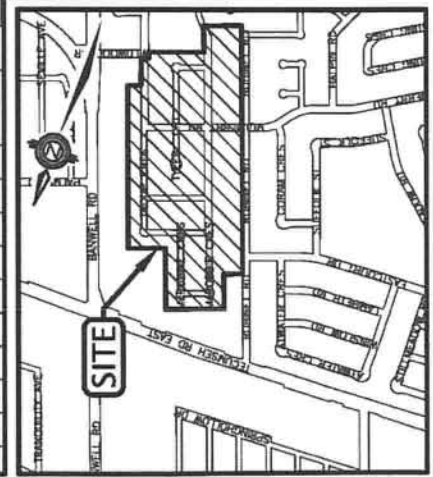


REVISED: AUG 2016
 REVISION No: 1

THE CORPORATION OF THE CITY OF WINDSOR - ENGINEERING DEPARTMENT
 ROYAL TIMBERS SUBDIVISION PHASE 2A ROBINET BENEFITING PROPERTIES
 APPENDIX 'B'

DWG. NO.	C-3298
DATE	MAY 2015
CHECKED BY:	PJU / JL
SCALE:	1:3500
DWN BY:	BC

Marian Drouillard
 Marian Drouillard, Manager of Geomatics



KEY PLAN N.T.S.

APPENDIX 'B'

Address 1	Roll Number	McRobbie Rd Frontage (m)	No. of Services	San. Sewer charge @ \$188.74/ln.	Storm Sewer/SWM charge @ \$434.76/ln	Watermain charge @ \$179.02/ln	Asphalt Pavement/Curb/Gutter/Sidewalk @ \$704.50/ln	San. Service charge @ \$1434.01/lot	Storm service charge @ \$1439.83./lot	Water service charge @ \$870.42/lot	Electrical Distribution & street lights charge @ \$4600/lot	Total Municipal Service cost	50% of Right-Of-Way land cost @ \$1.50/sq.ft.	Total Assessment
3040 Robinet Rd.	07-89-030(00)	24.13	1	\$4,554.30	\$10,490.76	\$4,319.75	\$16,999.59	\$1,434.01	\$1,439.83	\$870.42	\$4,600.00	\$44,708.65	\$3,917.75	\$48,626.40
3050 Robinet Rd.	07-890-31(00)	36.58	2	\$6,904.11	\$15,903.52	\$6,548.55	\$25,770.61	\$2,868.02	\$2,879.66	\$1,740.80	\$9,200.00	\$71,815.27	\$5,939.13	\$77,754.40
3060 Robinet Rd.	07-890-032(00)	33.4	2	\$6,303.92	\$14,520.98	\$5,979.27	\$23,530.30	\$2,868.02	\$2,879.66	\$1,740.80	\$9,200.00	\$67,022.95	\$5,422.82	\$72,445.77
3074 Robinet Rd.	07-890-033(00)	30.48	2	\$5,752.80	\$13,251.48	\$5,456.53	\$21,473.16	\$2,868.02	\$2,879.66	\$1,740.80	\$9,200.00	\$62,622.45	\$4,948.73	\$67,571.18
3082 Robinet Rd.	07-890-034(00)	30.48	2	\$5,752.80	\$13,251.48	\$5,456.53	\$21,473.16	\$2,868.02	\$2,879.66	\$1,740.80	\$9,200.00	\$62,622.45	\$4,948.73	\$67,571.18
3090 Robinet Rd.	07-890-035(00)	21.34	1	\$4,027.71	\$9,277.78	\$3,820.29	\$15,034.03	\$1,434.01	\$1,439.83	\$870.42	\$4,600.00	\$40,504.07	\$3,464.76	\$43,968.83
3106 Robinet Rd.	07-890-036(00)	21.34	1	\$4,027.71	\$9,277.78	\$3,820.29	\$15,034.03	\$1,434.01	\$1,439.83	\$870.42	\$4,600.00	\$40,504.07	\$3,464.76	\$43,968.83
3112 Robinet Rd.	07-890-037(00)	18.29	1	\$3,452.05	\$7,951.76	\$3,274.28	\$12,885.31	\$1,434.01	\$1,439.83	\$870.42	\$4,600.00	\$35,907.66	\$2,969.56	\$38,877.22
3120 Robinet Rd.	07-890-038(00)	24.38	1	\$4,601.48	\$10,599.45	\$4,364.51	\$17,175.71	\$1,434.01	\$1,439.83	\$870.42	\$4,600.00	\$45,085.41	\$3,958.34	\$49,043.74
0 Robinet Rd.	07-890-038(01)	36.55	3	\$6,898.45	\$15,890.48	\$6,543.18	\$25,749.48	\$4,302.03	\$4,319.49	\$2,611.26	\$13,800.00	\$80,114.36	\$5,934.26	\$86,048.62
TOTALS		276.97	16	\$52,275.32	\$120,415.48	\$49,583.17	\$195,125.37	\$22,944.16	\$23,037.28	\$13,926.56	\$73,600.00	\$550,907.33	\$44,968.85	\$595,876.18

SUBJECT: SERVICING CHARGES & SEWERAGE FEES

1. DEFINITION

“Sewerage Fees” are estimated costs to construct storm and sanitary mainline sewers, based on local improvement rates. “Local improvement rates” (per linear metre frontage) are established by Council Resolution 292/2003 and subject to change.

“Servicing Charges” represent a property owner’s portion of construction costs for municipal services, including applicable engineering and miscellaneous costs. Servicing charges include actual construction costs where known and/or sewerage fees where mainline sewer costs are unknown. “Municipal Services” include but are not limited to sanitary and storm mainline sewers, private drain connections, cleanouts, pavements, including curb and gutter, sidewalks, and streetlighting.

2. DRAWINGS

n/a

3. BEST PRACTICE

1. Servicing charges may be collected by the Engineering Department as a condition of a permit issued under By-law 25-2010. Servicing charges may also apply as follows:

- 1.1 A parcel not currently connected to municipal sanitary, storm or combined sewers is provided storm and/or sanitary private drain connections by the City of Windsor as part of sewer reconstruction works on the fronting or flanking street.
- 1.2 The owner of a parcel not currently connected to municipal sanitary, storm or combined sewers wishes to connect to the municipal sewer system.
- 1.3 During servicing of a developer’s lands, said developer constructs municipal services for a parcel, under different ownership, where services did not previously exist.
- 1.4 New services are constructed by local improvement under Ontario Regulation 586/06 or as amended.

2. Under 1.1 above, the property owner shall:

- Be notified by the City in writing of applicable charges, payment options and payment deadlines after which interest will accrue.
- Obtain from the Engineering Department a street opening permit to connect to the private drain connections.
- Pay, prior to the issuance of a permit, actual costs for private drain connections and cleanouts based on the unit price costs established under the City’s contract for the work. After the payment deadline, simple interest will apply at prime interest rate at the time of payment.
- Pay, prior to the issuance of a permit, sewerage fees in accordance with local improvement rates in place at the time of payment. Sewerage fees are not subject to interest charges.

3. Under 1.2 above, the property owner shall:

- Obtain from the Engineering Department a street opening permit to construct private drain connections on the public right-of-way.
- Pay, prior to the issuance of said permit, sewerage fees in accordance with local improvement rates in place at the time of payment. Sewerage fees are not subject to interest charges.

4. Under 1.3 above, the property owner shall:



ENGINEERING BEST PRACTICE – BP4.3.2

- Be notified by the City in writing of applicable charges, payment options and payment deadlines after which interest will accrue.
- Obtain a street opening permit from the Engineering Department to connect to the private drain connections.
- Pay, prior to the issuance of a permit, the actual proportionate construction and engineering costs incurred by the developer for municipal services beyond the limits of the development. After the payment deadline, simple interest will apply at prime interest rate at the time of payment
- If actual costs are not known, sewerage fees will apply at local improvement rates..

5. Under 1.4 above, the property owner shall:

- Be notified by the City in writing of the costs assessed to the property through the local improvement process.
- Pay in accordance with the Special Charges By-law passed by Council by the payment deadline provided by the City.
- Pay any portion of the charges above not paid by the payment deadline, on the property's tax roll over 10 years, including applicable interest charges.
- Obtain from the Engineering Department a street opening permit to connect to the private drain connections.

4. **RELATED BEST PRACTICES**

n/a

5. **RELATED CITY STANDARDS**

n/a

Mario Sonego
City Engineer or Designate

February 13, 2013
Date

KEVIN D'AMORE

and

BANWELL DEVELOPMENT CORPORATION,
928579 ONTARIO LIMITED, SCOTT D'AMORE
and ROYAL TIMBERS INC.
Respondents

Applicant

Court File No: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

**MOTION RECORD
(APPROVAL AND VESTING ORDER –
RESERVE BLOCKS
(RETURNABLE MAY 29, 2017)**

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