

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE ) WEDNESDAY, THE 21<sup>ST</sup> DAY  
 )  
JUSTICE PATTILLO ) OF APRIL, 2021

**BETWEEN:**

**CENTURION MORTGAGE CAPITAL CORPORATION**

Plaintiff

- and -

**BRIGHTSTAR NEWCASTLE CORPORATION, BRIGHTSTAR SENIORS  
LIVING CORPORATION, THE ESTATE OF ALAN CHAPPLE, JOHN BLACKBURN,  
JAMES BUCKLER and LAWSON GAY**

Defendants

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by BDO Canada Limited, in its capacity as court-appointed receiver and manager (the “**Receiver**”) over certain lands and premises owned by Brightstar Newcastle Corporation (the “**Debtor**”), including the lands and premises municipally known as Unit 101<sup>1</sup> at 21 Brookhouse Drive, Newcastle, Ontario, for an order approving the sale transaction (the “**Transaction**”) contemplated by an Agreement of Purchase and Sale dated February 8, 2021 (the “**Sale Agreement**”) between the Receiver and Roger and Jill Fayle (collectively, the “**Purchaser**”), and appended to the First Report of the Receiver dated April 14, 2021 (the “**First Report**”), and vesting in the Purchaser the right, title and interest of the Debtor in and to the property municipally known as Unit 101, 21 Brookhouse Drive, Newcastle, Ontario

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<sup>1</sup> Unit 101 includes the condominium unit, 1 parking space and 1 locker.

and legally described in **Schedule “A”** hereto (collectively, the “**Purchased Assets**”), was heard this day at Toronto via Zoom videoconference.

**ON READING** the First Report and on hearing the submissions of counsel for the Receiver, Centurion Mortgage Capital Corporation and Maple Terrazzo Marble & Tile Partnership, and such other counsel as were present; no one appearing for any other person on the service list, although properly served as appears from the affidavit of Amy Casella sworn April 14, 2021, filed:

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

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

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Durham (No. 40) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Property, and is hereby directed to delete and expunge from title to the Property all of the instruments 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 sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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 the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

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

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada 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.



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## **Schedule A – Purchased Assets**

PIN 27312-0001

UNIT 1, LEVEL 1, DURHAM STANDARD CONDOMINIUM PLAN NO. 312 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE AS IN DR1802470; MUNICIPALITY OF CLARINGTON

PIN 27312-0128

UNIT 50, LEVEL A, DURHAM STANDARD CONDOMINIUM PLAN NO. 312 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN DR1802470; MUNICIPALITY OF CLARINGTON

PIN 27312-0173

UNIT 95, LEVEL A, DURHAM STANDARD CONDOMINIUM PLAN NO. 312 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN DR1802470; MUNICIPALITY OF CLARINGTON

**Schedule B – Form of Receiver’s Certificate**

Court File No. CV-20-00650557-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**BETWEEN:**

**CENTURION MORTGAGE CAPITAL CORPORATION**

Plaintiff

- and -

**BRIGHTSTAR NEWCASTLE CORPORATION, BRIGHTSTAR SENIORS  
LIVING CORPORATION, THE ESTATE OF ALAN CHAPPLE, JOHN BLACKBURN,  
JAMES BUCKLER and LAWSON GAY**

Defendants

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Ontario Superior Court of Justice (the “**Court**”) dated November 25, 2020, BDO Canada Limited was appointed as the receiver and manager (the “**Receiver**”) over certain lands and premises owned by Brightstar Newcastle Corporation (the “**Debtor**”), including the lands and premises municipally known as Unit 101<sup>2</sup> at 21 Brookhouse Drive, Newcastle, Ontario (the “**Property**”).

B. Pursuant to an Order of the Court dated April 21, 2021, the Court approved the Agreement of Purchase and Sale between the Receiver and Roger and Jill Fayle (collectively, the “**Purchaser**”) dated February 8, 2021 (the “**Sale Agreement**”), and provided for the vesting in the Purchaser of the right, title and interest of the Debtor in and to the purchased assets as described in the said order (collectively, the “**Purchased Assets**”), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser

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<sup>2</sup> Unit 101 includes the condominium unit, 1 parking space and 1 locker.

of a certificate confirming (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the purchase price for the Purchased Assets;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

BDO Canada Limited., in its capacity as court-appointed receiver and manager of the property known as Unit 101, 21 Brookhouse Drive, Newcastle, Ontario

Per: \_\_\_\_\_

Name: Gary Cerrato

Title: Senior Vice-President

## **Schedule B – Property**

PIN 27312-0001

UNIT 1, LEVEL 1, DURHAM STANDARD CONDOMINIUM PLAN NO. 312 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE AS IN DR1802470; MUNICIPALITY OF CLARINGTON

PIN 27312-0128

UNIT 50, LEVEL A, DURHAM STANDARD CONDOMINIUM PLAN NO. 312 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN DR1802470; MUNICIPALITY OF CLARINGTON

PIN 27312-0173

UNIT 95, LEVEL A, DURHAM STANDARD CONDOMINIUM PLAN NO. 312 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN DR1802470; MUNICIPALITY OF CLARINGTON



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

<b>Instrument No.</b>	<b>Date</b>	<b>Instrument</b>
DR1225975	2013/11/14	Charge in the amount of \$250,000 granted by Brightstar Newcastle Corporation in favour of Brightstar Seniors Living Corporation
DR1234323	2013/12/16	Transfer of Charge from Brightstar Seniors Living Corporation in favour of 2153491 Ontario Inc.
DR1399636	2015/09/04	Charge in the amount of \$750,000 granted by Brightstar Newcastle Corporation in favour of Jason Boccinfuso
DR1423350	2015/11/18	Transfer of Charge from Jason Boccinfuso to Jason Boccinfuso and 1791029 Ontario Inc.
DR1432633	2015/12/15	Postponement by 2153491 Ontario Inc. in favour of Jason Boccinfuso and 1791029 Ontario Inc.
DR1474136	2016/05/17	Charge in the amount of \$4,565,000 granted by Brightstar Newcastle Corporation in favour of Centurion Mortgage Capital Corporation
DR1474137	2016/05/17	Notice Assignment of Rents General by Brightstar Newcastle Corporation in favour of Centurion Mortgage Capital Corporation
DR1474138	2016/05/17	Postponement by Jason Boccinfuso and 1791029 Ontario Inc. in favour of Centurion Mortgage Capital Corporation
DR1474139	2016/05/17	Postponement by 2153491 Ontario Inc. in favour of Centurion Mortgage Capital Corporation
DR1493303	2016/07/13	Charge in the amount of \$4,100,000 granted by Brightstar Newcastle Corporation in favour of The Guarantee Company of North America
DR1493304	2016/07/13	Postponement by Centurion Mortgage Capital Corporation in favour of The Guarantee Company of North America
DR1493305	2016/07/13	Postponement by Jason Boccinfuso and 1791029 Ontario Inc. in favour of The Guarantee Company of North America

DR1493306	2016/07/13	Postponement by 2153491 Ontario Inc. in favour of The Guarantee Company of North America
DR1623323	2017/08/03	Charge in the amount of \$596,466 granted by Brightstar Newcastle Corporation in favour of The Corporation of the Municipality of Clarington
DR1667164	2017/12/15	Charge in the amount of \$2,500,000 granted by Brightstar Newcastle Corporation in favour of 1791029 Ontario Inc.
DR1667165	2017/12/15	Postponement by 2153491 Ontario Inc. in favour of 1791029 Ontario Inc.
DR1684772	2018/02/27	Postponement by Centurion Mortgage Capital Corporation in favour of Veridian Connections Inc.
DR1684773	2018/02/27	Postponement by The Guarantee Company of North America in favour of Veridian Connections Inc.
DR1684774	2018/02/27	Postponement by Jason Boccinfuso and 1791029 Ontario Inc. in favour of Veridian Connections Inc.
DR1684775	2018/02/27	Postponement by The Corporation of the Municipality of Clarington in favour of Veridian Connections Inc.
DR1684776	2018/02/27	Postponement by 1791029 Ontario Inc. in favour of Veridian Connections Inc.
DR1684777	2018/02/27	Postponement by 2153491 Ontario Inc. in favour of Veridian Connections Inc.
DR1870231	2020/02/06	Construction Lien in the amount of \$50,735 by Maple Terrazzo Marble & Tile Partnership
DR1880004	2020/03/17	Certificate registered by Maple Terrazzo Marble & Tile Partnership
DR1909472	2020/07/14	Caution re. Agreement of Purchase and Sale from Brightstar Newcastle Corporation to Wilkinson Construction Services Inc.
DR1936758	2020/10/19	Caution re. Agreement of Purchase and Sale from Brightstar Newcastle Corporation to Wilkinson Construction Services Inc.
DR1976833	2021/02/25	Condominium Lien in the amount of \$1515.99 by Durham Standard Condominium Corporation No. 312

**CENTURION MORTGAGE CAPITAL CORPORATION - AND - BRIGHTSTAR NEWCASTLE CORPORATION ET AL.**

**Applicant**

**Respondents**

Court File No. CV-20-00650557-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceedings Commenced at TORONTO

**APPROVAL AND VESTING ORDER**

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**Lawyers for BDO Canada Limited,  
Court-appointed Receiver**