



Clerk's Stamp:

COURT FILE NUMBER	1503-14313
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	EDMONTON
PLAINTIFF	M5 CONSTRUCTION LTD.
DEFENDANTS	FAUST HARBOUR DEVELOPMENTS LTD., ROBERT McRAE, SIERRA SITE WORKS LTD., BRIAN MEANEY and FACTORS WESTERN INC.
PLAINTIFF BY COUNTERCLAIM	FACTORS WESTERN INC.
DEFENDANTS BY COUNTERCLAIM	M5 CONSTRUCTION LTD. and FAUST HARBOUR DEVELOPMENTS LTD.
PARTY FILING THIS DOCUMENT	FAUST HARBOUR DEVELOPMENTS LTD. and ROBERT McRAE
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP 2900 Manulife Place 10180 – 101 Street Edmonton, AB T5J 3V5 Attention: Brian Summers Phone: 780-423-7312; Fax: 780-423-7276 Email address: brian.summers@dentons.com File#: 570698-1/BWS

**WRITTEN SUBMISSIONS on behalf of the DEFENDANTS FAUST HARBOUR DEVELOPMENTS LTD.
AND ROBER McRAE with respect to the RECEIVER'S APPLICATION
returnable TUESDAY, August 29, 2017 at 10:00 am.**

1. Position of the Defendants, Faust Harbour Developments Ltd. and Robert McRae

It is the position of the Defendants, Faust Harbour Developments Ltd. ("Faust Harbour") and Faust Harbour's shareholder Robert McRae that the order applied for by the Receiver ought not to be granted as the Receiver is not making a real and bona fide attempt to sell the Faust Harbour Lands, but rather is just making a nominal effort so that the Plaintiff, Factors Western may apply to purchase the lands under a credit bid as soon as possible.

2. Marketing of the Faust Harbour Lands.

The Faust Harbour Lands are summer recreational properties on Lesser Slave Lake. A 60 day listing in the fall is not an adequate exposure of the Faust Harbour Lands to achieve the highest and best price for those lands. That is especially so considering we are coming into the fall and winter seasons.

The Receiver stated reason for this listing is "... Factors Western, as the largest secured creditor, has advised the Receiver that it is desirous of an expeditious sale process (found at subparagraph 25(e) of the Receiver's First Report). It is submitted that this is improper. The Receiver should not be basing its

decision on how best to market the Faust Harbour Lands based upon the wishes and wants of a creditor intent on making a credit bid.

Rather than basing its marketing decision on the wishes of Factors Western, the Receiver should have obtained the advice from a professional on what manner of sale is best to achieve the highest price possible; and if it is a listing what an appropriate listing period would be to adequately expose the property to the market, taking into account that we are coming into the fall and winter seasons. The advice of that professional should be put into evidence by the Receiver. No evidence has been provided in this case as to what manners of sale have been considered by the Receiver; whether a listing with a realtor is in fact the best method to sell the lands; and for what period of time the property needs to be listed. No evidence has been provided as to what advertising would be undertaken by the listing agent. No evidence has been provided as to what marketing steps would be taken in this case with respect to advertising and seeking purchasers.


If the carrying costs for the Faust Harbour Lands are significant such that it impacts on how long the listing should be, those carrying costs should be disclosed in the Receiver's Report.

Conclusion

One is left with the impression that this Receiver is just going through the motions to accommodate the wishes of Factors Western. That is contrary to what is expected of a court appointed Receiver.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

DENTONS CANADA LLP

By: 

Brian Summers,
Lawyer for the Defendants, Faust Harbour
Developments Ltd. and Robert McRae