

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE

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THURSDAY, THE 27TH

JUSTICE NEWBOULD

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DAY OF OCTOBER, 2016

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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 GOLF TOWN CANADA HOLDINGS
INC., GOLF TOWN CANADA INC. AND
GOLF TOWN GP II INC.

Applicants

ASSIGNMENT ORDER

THIS MOTION, made by Golf Town Canada Holdings Inc., Golf Town Canada Inc. ("**GT Canada**"), Golf Town GP II Inc., Golf Town Operating Limited Partnership ("**Golf Town LP**") and Golfsmith International Holdings LP (collectively, the "**Golf Town Entities**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order approving the assignment of certain real property leases (the "**Assignment**") to Golf Town Limited (formerly 9918167 Canada Inc.) (the "**Purchaser**") as contemplated by a Purchase Agreement dated as of September 14, 2016 (the "**Purchase Agreement**") between GT Canada and Golf Town LP (together, the "**Vendors**") and the Purchaser was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavits of David Roussy sworn September 13, 2016 and October 21, 2016, the affidavit of Robert White sworn September 23, 2016 and the third report (the "**Third Report**") of FTI Consulting Canada Inc., in its capacity as monitor of the Golf Town Entities (the "**Monitor**") in the within proceedings, and on hearing the submissions of counsel

for the Golf Town Entities, the Purchaser, certain landlords in respect of the Assigned Leases, the Monitor and such other counsel as were present and wished to be heard:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the 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** that capitalized terms used and not otherwise defined herein shall have the meanings given to them, as applicable, in the Approval and Vesting Order granted in these proceedings on September 30, 2016 (as amended, the “**Approval and Vesting Order**”) or the Purchase Agreement.

ASSIGNMENT OF AGREEMENTS

3. **THIS COURT ORDERS** that upon delivery of the Monitor’s Certificate referred to in the Approval and Vesting Order (the “**Monitor’s Certificate**”), all of the rights and obligations of the Vendors under the real property leases set out in Schedule “A” hereto, including all associated or related agreements, schedules, appendices, addendum, amendments, supplements, restatements or other modifications (each an “**Assigned Lease**” and collectively, the “**Assigned Leases**”) shall be assigned to the Purchaser pursuant to section 11.3 of the CCAA.
4. **THIS COURT ORDERS** that upon delivery of the Monitor’s Certificate, the Purchaser shall be entitled to all of the rights and benefits and subject to all of the obligations and restrictions as tenant pursuant to the terms of the Assigned Leases and registrations thereof and may enter into and upon and hold and enjoy each such premises contemplated by the Assigned Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with the terms of the Assigned Leases, without any interruption from the Vendors, any landlord under an Assigned Lease or any other person claiming through or under the Vendors or a landlord under the Assigned Leases.
5. **THIS COURT ORDERS** that the assignment of the Assigned Leases to the Purchaser pursuant to this Order is valid and binding upon all of the counterparties to the Assigned Leases

notwithstanding any restriction or prohibition contained in any such Assigned Leases relating to the assignment thereof, including, without limitation, any provision requiring the consent of any party to the assignment.

6. **THIS COURT ORDERS** that the Vendors' right, title and interest in and to the Assigned Leases shall vest absolutely in the Purchaser as Purchased Assets in accordance with the provisions of the Approval and Vesting Order, provided that, except as may otherwise be agreed to by the Purchaser and the applicable counterparty to an Assigned Lease (a "**Landlord**"), nothing in the Approval and Vesting Order shall affect the rights and remedies of such Landlord against the Purchaser that may exist or arise under or in respect of an Assigned Lease.

7. **THIS COURT ORDERS** that each Landlord is prohibited from exercising any right or remedy as against the Purchaser by reason of any defaults thereunder arising from the assignment of the Assigned Lease, the insolvency of the Vendors, the commencement of these CCA proceedings or proceedings in respect of affiliates of the Vendors pursuant to chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 ("**Chapter 11**"), or the Vendors having breached a non-monetary obligation under the Assigned Lease, unless such non-monetary breach arises or continues after the Assigned Lease is assigned to the Purchaser, such non-monetary default is capable of being cured by the Purchaser, and the Purchaser has failed to remedy the default after having received notice of such default pursuant to the terms of the Assigned Lease. For clarification purposes, no Landlord shall rely on a notice of default sent to the Vendors to terminate an Assigned Lease as against the Purchaser.

8. **THIS COURT ORDERS** that all monetary defaults in relation to an Assigned Lease existing prior to Closing, if applicable, other than those arising by reason only of the insolvency of the Vendors or their affiliates, the commencement of the CCA or Chapter 11 proceedings, or the failure to perform a non-monetary obligation under the Assigned Lease, shall be paid to the applicable Landlord no later than three (3) business days following the delivery of the Monitor's Certificate.

9. **THIS COURT ORDERS** the Vendors to send a copy of this Order to each Landlord to an Assigned Lease.

10. **THIS COURT ORDERS** that, notwithstanding anything contained in this Order, nothing shall derogate from the obligations of the Purchaser to assume the Assumed Liabilities and to perform its obligations in respect of the Assigned Leases pursuant to the Purchase Agreement.

11. **THIS COURT ORDERS** that the Monitor is hereby authorized and directed to take such actions as it deems necessary or appropriate in the circumstances to assist the Vendors in the assignment and transfer of the Assigned Leases.

GENERAL

12. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, or in any other foreign jurisdiction, to give effect to this Order and to assist the Golf Town Entities, the Monitor and their respective 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 Golf Town Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding or to assist the Golf Town Entities and the Monitor and their respective agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

OCT 27 2016

PER / PAR: 

**SCHEDULE A
ASSIGNED LEASES**

Store No.	City and Province	Address	Lease Date	Landlord / Notice Party
503	Woodbridge, ON	55 Colossus Dr., Unit 122	Feb. 7, 2000	RioTrin Properties (Vaughan 2) Inc. c/o RioCan Real Estate Investment Trust
504	Calgary, AB	47 Shawville Blvd. SE	Sept. 23, 2000	Telsec Property Corporation and Dallas Development Corporation.
505	Edmonton, AB	1940 99th St. NW	Jan. 11, 2001	Riokim Holdings (Alberta) Inc. c/o Riocan Management Inc.
507	Richmond, BC	9751 Bridgeport Rd., Unit 130	Apr. 9, 2001	Airport Gateway Plaza Ltd. c/o Cape Developments Corp.
515	St. Hubert, QC	1571 Boulevard des Promenades	Apr. 10, 2003	Capital Property Development CPD Inc.
519	Montreal, QC	6745 Metropolitaine Est	July 4, 2000	Marche de la Tour St-Leonard
525	London, ON	1250 Fanshawe Park Rd. W, Unit B3	Mar. 28, 2005	Calloway REIT (London N) Inc., Calloway REIT (SW Ontario) Inc., and Canadian Property Holdings (Ontario) Inc. c/o Smart Centres Management Inc.
527	Calgary, AB	11450 Sarcee Trail	May 15, 2006	Trinity Properties Alberta Limited and 2113362 Ontario Limited c/o RioCan Property Services
536	Saskatoon, SK	3015 Clarence Ave. S, Unit 110	Nov. 3, 2006	Saskashop Centres Inc. c/o Smart Centres Management Inc.
549	Toronto, ON	147 Laird Dr., Unit 600	Dec. 22, 2006	Calloway REIT (Leaseside) Inc.
560	Edmonton, AB	5000 Emerald Dr., #300	Sept. 26, 2011	1445006 Alberta Ltd. c/o One Properties Limited Partnership

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Court File No: CV-16-11527-00CL

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

ASSIGNMENT ORDER

GOODMANS LLP
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7

Robert J. Chadwick LSUC#: 35165K
rchadwick@goodmans.ca

Melaney Wagner LSUC#: 44063B
mwagner@goodmans.ca

Bradley Wiffen LSUC#: 64279L
bwiffen@goodmans.ca

Tel: (416) 979-2211
Fax: (416) 979-1234

Lawyers for the Applicants