

COURT FILE NUMBER 1801-04745

COURT COURT OF QUEEN'S BENCH OF
ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF HILLSBORO VENTURES INC.

DEFENDANT CEANA DEVELOPMENT SUNRIDGE INC.

DOCUMENT AFFIDAVIT OF BAHADUR (BOB) GAIDHAR

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF
PARTY FILING THIS
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AFFIDAVIT OF BAHADUR (BOB) GAIDHAR
Affirmed on July 2, 2019

I, **BAHADUR (BOB) GAIDHAR**, of the City of Calgary, in the Province of Alberta, MAKE OATH AND SAY THAT:

1. I am a shareholder, director and the chief executive officer of the Defendant Corporation, Ceana Development Sunridge Inc. ("**Ceana Sunridge**") herein and as such have a personal knowledge of matters herein deposed to except where stated otherwise.
2. I received the Application of the appointment of a receiver and manager scheduled to be heard on July 3, 2019 at 3:00 pm.
3. I state that I oppose the Application.
4. I attach hereto as **Exhibit "A"** to this Affidavit, a copy of the title to the subject lands of this action as it presently stands.
5. I confirm that Ceana Sunridge was extended financing by Hillsboro Ventures Inc. ("Hillsboro") by way of three mortgages, but those monies were not totally advanced there is not owing \$8,000,000.
6. I attach hereto as **Exhibit "B"** to my Affidavit an accounting of all monies had and received from Hillsboro.
7. The court will note there was a mortgage granted originally and registered for \$3,000,000. However, that mortgage was funded only in part, being \$2,432,500 resulting in under funding of \$567,500.
8. The underfunded amount of \$567,500 is not accounted for.
9. There was a second mortgage advanced by Hillsboro and registered in the sum of \$2,000,000.

10. This mortgage, although registered for \$2,000,000 was advanced only in part. The sum of \$699,999.97, or essentially \$700,000, was not funded. This amount was not registered into the trust account of counsel for the Plaintiff in the sum of \$699,999.97 is not accounted for.
11. A third mortgage was registered by Hillsboro, ostensibly in the sum of \$1,500,000 but that mortgage was not advanced in full.
12. That money was underfunded in the sum of \$759,227.51. Although we believe that amount was placed in trust, those amounts were never advanced.
13. The principle amounts supposedly in the sum of \$6,500,000 were funded only in the amount of \$4,473,272.52. The total underfunding was \$2,026,727.48.
14. As well, there was an imposition of excessive or incorrect fees in the sum of \$650,125.
15. The purpose of the mortgage advances was to advance construction on the building set on the lands, Exhibit "A" above. No construction has occurred in that building since about December 2017 because insufficient amounts were advanced by the Plaintiff.
16. I attach hereto as **Exhibit "C"** to my Affidavit, a copy of an appraisal obtained in April 2018 which set out the value of the property in its completed state.
17. If completed, this property should sell for approximately \$25,585,000.
18. When this project was originally spec out, the original financing was to be by the first mortgage, Chinook Credit Union. They intended to advance \$9,000,000. That \$9,000,000 would have completed the purchase of the lands and completed the construction of the first phase which consisted of four buildings immediately located on the street. Funds from the pre-sold sales would have permitted a construction of the larger building which is located on the west side of the lands, away from the street if the \$9,000,000 would not have covered all of that.
19. The credit union advanced approximately \$4,000,000 when a builders' lien was registered against the premises. That lien should have been removed from the title by either payment of money into court or arrangement lien bond, but it was not done so.
20. The delay in the removal of the lien has resulted in the refusal of Chinook Credit Union to advance further monies.
21. Hillsboro was a lender of last resort as the previously advanced had been repaid.
22. The original mortgage of \$3,000,000 was only advanced in part. Because there was inadequate funding, the general contractor lien as did other trades. The additional mortgages by Hillsboro were never fully advanced and there was therefore not enough money to discharge the liens or to carry on with the construction.
23. I have spent the last year seeking alternate financing so that the construction could proceed as most of the four buildings on the east side of the property have been pre-sold.
24. Hillsboro also put caveats against mine and my wife's personal residence and the building where my office is located in Westwinds. This prevented us from borrowing additional funds to complete the Sunridge project.
25. On April 5, 2018, Hillsboro commenced Statement of Claim for foreclosure that commenced this action.
26. On September 25, 2018 the Defendants filed a Statement of Defence in this action, along with an Affidavit of Bob (Bahadur) Gaidhar.

27. On September 27, 2018, the Defendants herein filed a Counterclaim against the Plaintiff, Hillsboro Ventures Inc., naming Keith Ferrel (director of Hillsboro) personally and Borden Ladner Gervais LLP, all as Defendants by Counterclaim.
28. In the meantime, Hillsboro had postponed its larger first mortgage of \$3,000,000 to its other mortgages of \$2,000,000 and \$1,500,000, essentially protecting them. We suggested this was marshalling and an attempt to disadvantage the lien claimants.
29. I attach hereto as **Exhibit "D"** to my Affidavit, a letter from the Plaintiff's former lawyer in regards to the three mortgages with comments from our own accountant confirming that the monies that were claimed advanced were not in fact advanced.
30. I further attach hereto as **Exhibit "E"** to my Affidavit, additional documents pointing out the deficiencies in funding that should have been advanced that were not and which has resulted in serious financial difficulty for the Defendants.
31. I attach hereto as **Exhibit "F"** to my Affidavit, a commentary including a brief review of the financial statements and material received from my accountant in regards to the financial documents received, emphasizing that the financial statements claiming that the advance of money are irreconcilable with reality.
32. I attach hereto as **Exhibit "G"** to my Affidavit, a listing of the monitoring fees totalling more than \$3,000 per month which were not part of the original contract and were never agreed to by the Defendants. No monitoring is necessary as we had our own QS assessor that gave us periodic reports.
33. I attach hereto as **Exhibits "H" and "I"** to my Affidavit, statements that refer to the \$2,000,000 mortgage and the \$1,500,000 mortgage, each of which is demanding \$3,000 per month monitoring fee or \$2,625 monitoring fee, again which were never agreed to, not part of the original contract and which have resulted in extraordinary and excessive costs.
34. I attach hereto as **Exhibit "J"** to my Affidavit, a copy of correspondence from BLG dated August 25, 2017 addressed to Fast Track Commercial, our general contractor, undertaking and agreeing that they held in their trust account \$2,440,000 "to be used only for the purpose of the development of the project and no other uses". This turned out to be a complete fiction and was followed up by our lawyer's letter of September 12, 2018.
35. Hillsboro had intervened with our general contractor, promising to pay or actually paying our general contractor to complete additional work, which services were provided in the face of a lien, which caused us additional damage and increased the eventual lien fund. This was done in an underhanded an improper fashion.
36. I attach hereto as **Exhibit "K"** to my Affidavit, a copy of correspondence from Fast Track Commercial, our general contractor, confirming impropriety on the part of Hillsboro in that Hillsboro seemed to be writing correspondence to our steel supplier, Alpha Steel, ostensibly with authorization from our general contractor in regards to the advance of steel and payment of money. The letter demanded a retraction and apology which was not forthcoming.
37. I further attach hereto as **Exhibit "L"** to my Affidavit, correspondence from Keith Ferrel addressed to me, Bob Gaidhar, with notes attached, in which he says "I am just about at the end of the BULL I am putting up with Bob have you signed the papers OR NOT You & I are going to meet this afternoon AND I going clarify how life works". I consider this to be threats of violence against my person.
38. As well, there were other reasons for our Defence and Counterclaim which are set out therein.

39. It has become obvious to me that Hillsboro was seeking to take over this project based on frivolous and incorrect information as it is a very valuable development if it can be completed.
40. I have reviewed the draft Order of Receivership. It may appoint a receiver, but it fails to grant authority to the receiver to actually complete the construction.
41. I attach hereto as **Exhibit "M"** to my Affidavit, a copy of Mr. Keith Ferrel's most recent offer of settlement to the Defendants.
42. I attach hereto as **Exhibit "N"** to my Affidavit, a copy of my lawyer's letter in response to Mr. Ferrel's offer attached above.
43. I attach hereto as **Exhibit "O"** to my Affidavit, Mr. Ferrel's response, demanding \$2,000,000 stating "anything less than is will not work to go forward on your side". The grammatical errors are his own.
44. I make this Affidavit in opposition of the Plaintiff's Application for receivership and in opposition of an amendment of the Statement of Claim without costs.
45. I also make this Affidavit in support of an Application for an adjournment of these proceedings for at least fourteen (14) days until such time as we have a full opportunity to review all of the evidence and present all of the evidence before this honourable court.

AFFIRMED BEFORE ME at Calgary, Alberta,
this 2nd day of July, 2019.


(Commissioner for Oaths in and for
the Province of Alberta)

TANYA ROSE FERNANDEZ
Commissioner for Oaths in and for
the Province of Alberta
Commission Expires April 20, 2021


BAHADUR (BOB) GAIDHAR