



January 13, 2020

Important Update on Recommendation Regarding Settlement

Pursuant to the Order of the Honourable Mr. Justice Hailey of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated March 21, 2019 (the "**Order**") Miller Thomson LLP ("**Representative Counsel**") was appointed to represent all individuals and/or entities ("**Investors**") that hold an interest in a syndicated mortgage, administered by Hi-Rise Capital Ltd. ("**Hi-Rise**"), in respect of the property municipally known as 263 Adelaide Street West, Toronto, Ontario (the "**Property**") owned by Adelaide Street Lofts Inc. ("**Adelaide**") and the proposed development known as the "Adelaide Street Lofts", in connection with the negotiation and implementation of a settlement with respect to such investments. A copy of the Order can be found on the 'Documents' section of Representative Counsel's website (the "**Website**"), available at <https://www.millerthomson.com/en/hirise/>.

In accordance with the Order, Representative Counsel established an Official Committee of Investors (the "**Official Committee**"), with which Representative Counsel consults regularly and from which it takes instruction in respect of this matter.

Representative Counsel writes this update further to our communication dated December 2, 2019 entitled "Important Update on Judicial Mediation and Settlement" (the "**Last Update**"), a copy of which is posted on the 'Communications' section of the Website, and to provide Investors with the following status update on this proceeding.

Delivery of Representative Counsel's Fourth Report

1. As you may know, Representative Counsel delivered its Fourth Report dated January 9, 2019 (the "**Fourth Report**") to all Investors.
2. A copy of the Fourth Report is posted under the 'Documents' section of the Website.
3. A hard copy of the Fourth Report will also be delivered to all Investors by regular mail. You can expect to receive a hard copy of the Fourth Report in the week of January 13, 2020.
4. Please read the Fourth Report for full details regarding the Settlement, Lanterra Transaction and the Minutes (as such terms are defined in the Fourth Report).

Hi-Rise Vote on the Settlement

1. Since delivering the Fourth Report, we have received numerous inquiries from Investors regarding the next vote to be conducted by Hi-Rise in respect of the Settlement described in the Fourth Report.

2. Please be advised as follows:

- (a) Hi-Rise expects to circulate an information package and details regarding the vote (the "**Voting Package**") to all Investors in the week of January 20, 2020. This means that you can expect to receive the Voting Package from Hi-Rise during the week of January 20, 2020.
- (b) The Voting Package will provide you with details of the Settlement and details/instructions on how to submit your vote.
- (c) At this time, Hi-Rise expects to set the voting deadline for January 31, 2020. Details regarding the deadline will also be set out in the Voting Package delivered to Investors by Hi-Rise.
- (d) Once Representative Counsel receives a copy of the Voting Package, we will post a copy of same on our Website. We will also address any questions you may have regarding the voting procedure.

Registered vs. Non-Registered Investors

Since delivering the Fourth Report, we have received numerous inquiries from Investors regarding the difference between Registered vs. Non-Registered Investors, and inquiries as to why Registered Investors will be paid in full where as Non-Registered Investors will not be receiving full repayment on closing of the Lanterra Transaction. The reasons for this are as follows.

1. There is a second mortgage registered on title to the Property in favour of both Hi-Rise and Community Trust Company (originally Canadian Western Trust) (the "**Second Mortgage**").
2. Community Trust Company's interest in the Second Mortgage ranks ahead of Hi-Rise Capital Ltd.'s interest.
3. At the time that you entered into this investment, there were two ways in which you could have invested. In other words, Investors participate through this Second Mortgage in two different ways, as follows:

Registered Investors

- (a) Registered Investors – these are Investors that participate in the Second Mortgage through Community Trust Company and hold their investments through a registered plan such as an RRSP. If you are a Registered Investor, your Loan Participation Agreement with Hi-Rise will indicate as follows, among other things:

"As a registered investor, you participate in this second mortgage through Canadian Western Trust. As between the second mortgagees, Hi-Rise Capital Ltd. is subordinated to Canadian Western Trust. In the event of an insolvency

or liquidation of the borrower, the claims of Canadian Western Trust will rank senior to the claims of Hi-Rise Capital Ltd.”

- (b) An example of a Loan Participation Agreement in respect of a Registered Investor is attached as **Appendix “A”** to this Communication, with the relevant excerpts highlighted.
- (c) This means that at the time of entering into the Loan Participation Agreement and investing in Hi-Rise, you agreed that your claim in Hi-Rise, and specifically, the return of your investment in a liquidation/insolvency scenario would receive priority treatment over Non-Registered Investors (described below).
- (d) In light of these proceedings and the current liquidation scenario, Registered Investors will be paid first from the Settlement proceeds. Given that there are sufficient Settlement proceeds to pay all of the Registered Investors’ claims, Registered Investors will be repaid in full on account of their investments.

Non-Registered Investors

- (e) Non-Registered Investors – these are Investors that participate in the Second Mortgage through Hi-Rise Capital Ltd. If you are a Non-Registered Investor, your Loan Participation Agreement with Hi-Rise will indicate that you are a “Subordinated Investor”, and specifically states, among other things:

“As a non-registered investor, you participate in this second mortgage through Hi-Rise Capital Ltd. As between the second mortgagees, Hi-Rise Capital Ltd. is subordinated to Canadian Western Trust. In the event of an insolvency or liquidation of the borrower, the claims of Hi-Rise Capital Ltd. will rank junior to the claims of Canadian Western Trust.”

- (f) An example of a Loan Participation Agreement in respect of a Non-Registered Investor is attached as **Appendix “B”** to this Communication, with the relevant excerpts highlighted.
- (g) This means that at the time of entering into the Loan Participation Agreement and investing in Hi-Rise, you did not invest in Hi-Rise through a registered plan such as a RRSP. As a Non-registered Investor, you agreed to subordinate your claim in Hi-Rise, and specifically, the return of your investment in a liquidation/insolvency scenario, to the claims of Registered Investors. In other words, you agreed to rank behind (or receive payment after) Registered Investors in a liquidation scenario.
- (h) In light of these proceedings and the current liquidation scenario, Non-Registered Investors will be paid after Registered Investors from the Settlement proceeds. After Registered Investors are paid, there are not enough Settlement proceeds left to pay all of the Non-Registered Investors in full. Accordingly, Non-Registered

Investors will share from the balance of the Settlement proceeds equally on closing, but, will not receive full payment.

Recommendation of Representative Counsel

Notwithstanding that Non-Registered Investors will not be paid in full, Representative Counsel still recommends that all Investors (both Registered and Non-Registered) vote in favour of the Settlement for the reasons set out in the Fourth Report.

All Investors will receive payment after closing of the transaction. This means that there will not be a long waiting period for Investors to receive payment.

Communications to Representative Counsel

We understand that since receiving the Fourth Report, many Investors will have questions regarding the Settlement and the Vote. Representative Counsel has been receiving many emails and telephone calls from Investors directly, and many Investors have the same questions.

In order to manage the volume of inquiries and to effectively respond to all Investors, we ask that all Investors submit inquiries to Representative Counsel through email at HiRiseCapital@millerthomson.com.

Representative Counsel reviews all emails received through this email address, and will respond to inquiries through further communications to Investors (which will be emailed to all Investors and posted on the Website). Thank you.

Yours Truly,

Miller Thomson LLP,
solely in its capacity as
Representative Counsel

APPENDIX "A"

LOAN PARTICIPATION AGREEMENT

Participation Agreement #10-1010

THIS PARTICIPATION AGREEMENT MADE

BETWEEN

HI-RISE CAPITAL LTD.
(hereinafter called "HRC")

OF THE FIRST PART

-AND-

PERSON(S) AND/OR ENTITY AS PER THE MORTGAGE ADMINISTRATION AGREEMENT
TO WHICH THIS AGREEMENT IS ATTACHED
(hereinafter called the "Participant")

OF THE SECOND PART

WHEREAS HRC has given to the Participant the opportunity to participate in a certain loan which is a participating loan, (hereinafter called the "Loan") made or to be made to the borrower hereinafter set out (hereinafter called the "Borrower") upon the terms set out in the Participant's Participation documentation between the Borrower and HRC;

AND WHEREAS HRC and the Participant agree that the relationship between HRC and the Participant shall be governed by the following terms and conditions:

Name of Borrower: Adelaide Street Lofts Inc.

Participant's Participation: Amount set out in the Mortgage Administration Agreement

Participating Lender: Hi-Rise Capital Ltd.

Priority in Mortgage Loan: *There is a second mortgage registered against the subject property in the name of both Hi-Rise Capital Ltd. and Canadian Western Trust. Canadian Western Trust will hold an interest of \$9,500,000.00 ahead of Hi-Rise Capital Ltd. As a registered investor, you participate in this second mortgage through Canadian Western Trust. As between the second mortgagees, Hi-Rise Capital Ltd. is subordinated to Canadian Western Trust. In the event of an insolvency or liquidation of the borrower, the claims of Canadian West Trust, will rank senior to the claims of Hi-Rise Capital Ltd..*

Project Name: Adelaide Street Lofts (the "Project")

Security: *2nd Mortgage
I understand that during the course of this investment, the Borrower anticipates obtaining additional construction financing for the Property which is expected to take priority. I hereby understand, consent, and agree that other charges/ mortgages and/or development agreement may be registered in priority to the charge of the Property.*

Prior Mortgages: 1st Mortgage (Refer to Disclosure Documents)

Amount of Loan: \$40,000,000
(I understand that the mortgage shall be initially registered indicating a face value of \$40,000,000 and from time to time, the loan amount will increase upon the completion of certain development and construction milestones on the Property by the Borrower, eventually replaced by construction/project financing).

Term of the Mortgage/Investment: 4 Years
Maturity Date: (February 1, 2018) - At the Borrower's option (to be exercised in writing not less than one (1) month prior to Maturity Date); the Borrower may extend the Maturity Date by twenty-four (24) additional months.

Initial 

APPENDIX "B"

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(hereinafter called "HRC")

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-AND-

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Participating Lender: Hi-Rise Capital Ltd.

Priority in Mortgage Loan: Subordinated Investor
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As a non-registered investor, you participate in this second mortgage through Hi-Rise Capital Ltd. As between the second mortgagees, Hi-Rise Capital Ltd. is subordinated to Canadian Western Trust. In the event of an insolvency or liquidation of the borrower, the claims of Hi-Rise Capital Ltd. will rank junior to the claims of Canadian Western Trust.*

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