

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

CAN IV PACKARD SQUARE LLC, a
Delaware limited liability company,
Plaintiff,

Case No. 16-990-CB

Hon. Archie C. Brown

v.
PACKARD SQUARE LLC, a
Michigan corporation,
Defendant.

**ORDER ON JOINT MOTION TO APPROVE AMENDED
RECEIVERSHIP LOAN DOCUMENTS AND BUDGET**

Held in Ann Arbor, Michigan
On November 16, 2017

Before the Court is the Receiver's and Plaintiff's Joint Motion to Approve Amended Receivership Loan Documents and Budget. Objections have been filed and argued in Court.

This Court appointed McKinley, Inc., on November 1, 2016, to act as Receiver over the property commonly known as 2502-2568 Packard Road, Ann Arbor, MI 48104.

After detailed review of the Receiver's Reports, and the claimed objections by Defendant, the Court finds that the Receiver has acted within the instructions and orders of this Court.

The Receiver now claims that the projected cost to complete the Project exceeds the Receiver Loan amount (previously approved in the amount of \$17,766,816.00), in part, due to Defendant's unrealistic original construction budget, the costs to repair deficient work that needed to be repaired, and the time and costs needed to develop good will amongst the construction industry as a whole to return suppliers and sub-contractors to the job site.

Plaintiff has acknowledged that it will lend additional monies to complete the construction of the Project and operate the project to its completion based upon the terms and conditions as set forth in the proposed amended loan documents.

Receiver argues that he negotiated a Guaranteed Maximum Price Contract ("GMP") with the general contractor, O'Brien Construction Company, Inc. Receiver claims that the GMP, which amends the previous construction contract, will allow for completion of the construction in a cost-effective manner given that the general contractor agreed that the contract sum shall not exceed \$25,698,267.00.

The Receiver requests that the Court approve an amendment to increase the Receiver Loan Balance from \$17,766,816.00 to the sum of \$37,458,498.86.

IT IS ORDERED that the Receiver may execute the Amended Receivership Loan Documents that are revised to a maximum principal amount of \$37,458,498.86, in the form attached as Exhibit #4 to the Brief in Support of the Joint Motion to Approve Receivership Loan Documents and Budget.

IT IS FURTHER ORDERED that the revised budget in the form attached as exhibit #2 to the Receiver's Affidavit, found in the Brief in Support of the Joint Motion to Approve Receivership Loan Documents and Budget is approved.



Archie C Brown
Trial Court Judge