

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF Simcoe Condominium Corporation Number 32

Applicant

**AFFIDAVIT OF BARBARA BURTON,
SWORN DECEMBER 21, 2011**

I, BARBARA BURTON, of the City of Orillia, in the County of Simcoe, MAKE OATH AND SAY:

1. I am a legal assistant with Lewis Downey, solicitors for the Applicant, and as such have knowledge of the matters hereinafter deposed to.

2. I have been involved in the administrative and secretarial aspects of legal work for Simcoe Condominium Corporation Number 32 commencing after the developer, Inducon Development Corporation, declared bankruptcy in 1992. When the condominium units were being sold Inducon would sometimes take vendor take back mortgages which were registered on title. Following Inducon Development Corporation becoming bankrupt it became extremely difficult to deal with the Trustee, KPMG Inc., to obtain mortgage discharges. Even if evidence was provided to KPMG Inc. that the mortgages were paid in full it would not issue a discharge. There remain several small mortgages on title from the period 1980 to 1982. I have attempted to recall some instances of such difficulties and did stumble across a letter from the firm Goodman Phillips & Vineberg, dated March 26, 1998, to Mr. Hewson Bourne at Bourne, Jenkins &

Mulligan respecting this issue. Attached as **Exhibit "A"** to this my Affidavit is a copy of the said letter wherein the Trustee's solicitors stated,

"granting a discharge of a mortgage, which was purportedly paid off well before the 1992 bankruptcy of Inducon is beyond the scope of the Trustee's mandate. Accordingly, it has been and remains the Trustee's position to not grant requests of such discharges.

The Trustee will not take a position if you should wish to bring an application pursuant to the Mortgages Act to clean up title to the property."

3. I make this Affidavit in support of an Application and for no other improper purpose.

Sworn Before me at the)
City of Orillia, in the County)
of Simcoe, this 21st day)
of December, 2011.)

Barbara Burton
BARBARA BURTON

[Signature]
A Commissioner, etc.

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GOODMAN PHILLIPS & VINEBERG

BARRISTERS & SOLICITORS

250 YONGE STREET • SUITE 2400 • TORONTO ONTARIO CANADA M5H 2M6
TELEPHONE (416) 979 2211 • TELECOPIER (416) 979 1234

DIRECT LINE: (416) 597-4194
E-mail: EMPEYB@TOR.GPV.COM

March 26, 1998

Our File No.: 921362

Via Telecopier

Bourne, Jenkins & Mulligan
Old Fire Hall
P. O. Box 368
27 Peter Street North
Orillia, Ontario
L3V 6J8

Attention: C. Hewson Bourne, O.C.

THIS IS EXHIBIT.....^{11A4}.....REFERRED
TO IN THE AFFIDAVIT OF
.....BARBARA BURTON.....
SWORN THIS.....day of.....DECEMBER
20.....
.....
A Commissioner, etc.

Dear Sirs:

Re: Inducon Development Corporation

As discussed with you yesterday, your letter of March 11, 1998 has been forwarded to us by the Trustee for reply.

Unfortunately for your client, granting a discharge of a mortgage, which was purportedly paid off well before the 1992 bankruptcy of Inducon is beyond the scope of the Trustee's mandate. Accordingly, it has been and remains the Trustee's position to not grant requests for such discharges.

The Trustee will not take a position if you should wish to bring an application pursuant to the *Mortgages Act* to clean up title to the property. If personal service is not required, we will accept service on behalf of our client. For your reference, the official name for the Trustee is "Trustee of the Estate of Inducon Development Corporation, a bankrupt". If you find it necessary to send material to the Trustee directly, please address such correspondence to:

Trustee of the Estate of
Inducon Development Corporation, a bankrupt
KPMG Inc.
Mississauga Executive Parkway
Suite 1500
Mississauga, Ontario
L4Z 1S1

Attention: Richard A. Morawetz.

1-905-949-7800

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GOODMAN PHILLIPS & VINEBERG

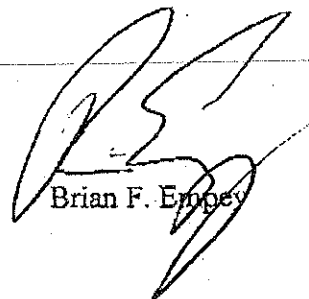
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Any correspondence addressed to us in our capacity as solicitors for the Trustee should be to the attention of the undersigned.

We trust this is of assistance.

Yours very truly,

GOODMAN PHILLIPS & VINEBERG



Brian F. Empey

BFE:et

cc: Richard A. Morawetz

Applicant

Court File No.: 11-1269

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Barrie

AFFIDAVIT OF BARBARA BURTON
(sworn December 21, 2011)

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LSUC Number: 32935H
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