

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

In re:

CASE NO. CACE 24-005243

HERON POND CONDOMINIUM
ASSOCIATION, INC.

Petitioner.

v.

HERON POND CONDOMINIUM
ASSOCIATION, INC.,

Defendant/Respondent

**RECEIVER'S MOTION FOR AUTHORITY TO PAY INVOICES OF TRI-STAR
CONSTRUCTION, INC. AS GENERAL CONTRACTOR TO THE ASSOCIATION**

Daniel J. Stermer, not individually, but solely in his capacity as Court-appointed Receiver (the "Receiver") for Heron Pond Condominium Association, Inc. (the "Plaintiff" or "Association"), pursuant to the Court's *Order Granting Verified Petition for Appointment of Receiver*, entered on April 26, 2024, respectfully moves for entry of the proposed order attached as **Exhibit B**, authorizing, but not directing, the payment of certain invoices submitted by Tri-Star Construction, Inc. ("Tri-Star"), as general contractor to the Association for work related to the rehabilitation project commenced at the property in Pembroke Pines, Florida (the "Property"). In support of this Motion, the Receiver states:

1. On April 16, 2024, the Plaintiff, Heron Pond Condominium Association, Inc. (the "Plaintiff"), commenced this action by the filing of a *Verified Petition For Appointment of a Receiver* against the Association.

2. On April 26, 2024, the Court entered an *Order Granting Verified Petition for Appointment of Receiver* (the "Order Appointing Receiver"), thereby appointing Daniel J.

Stermer., as Receiver for the Association.

3. Paragraph 24(c) of the Order Appointing Receiver provides that the “Receiver shall oversee the maintenance of the buildings, appurtenances and grounds of the real Property substantially in accordance with their current condition, making such repairs and renovations as are necessary and appropriate to ensure the life, health and safety of the occupants...”

4. Moreover, paragraph 24(i) of the Order Appointing Receiver provides that the “Receiver may, in the Receiver’s sole and absolute discretion, pay those expenses incurred in the normal and ordinary course of business of the Receivership Entity and/or the Receivership Estate in which it was incurred prior to the Receiver taking control of the Receivership Entity and/or Receivership Estate...”

5. On or about March 2023, the Association, by and through its Board of Directors at the time, and Tri-Star, entered into a Construction Contract, as amended by that certain Addendum to Construction Agreement, pursuant to which Tri-Star would perform work related to the rehabilitation of certain of the common elements of the Property.

6. The rehabilitation work performed by Tri-Star of Buildings 2, 3 and 10 (the “Buildings”) located within the Property has assisted the Property, the Association, and the Receiver in maintaining the safety and integrity of the Buildings during the Receivership to maximize the value of the Receivership Estate for the benefit of all stakeholders and to protect the residents located thereupon.

7. To be sure and for full transparency, a significant portion of the work performed by Tri-Star on Buildings 2, 3 and 10 pre-date the appointment of the Receiver. The Receiver, however, in his sole discretion and pursuant to paragraph 24(i) of the Order Appointing Receiver, believes that the work performed pre-dating the Receivership has maximized the value of and

materially benefited the Receivership Estate.

8. Tri-Star's invoices and supporting documentation for some of the work performed in Buildings 2, 3 and 10 are attached hereto as **Composite Exhibit A**. The total incurred fees and costs to date is \$330,207.26. Tri-Star and the Association agreed to a predetermined and fixed price for certain specific work to be performed, namely \$179,667.00 for each Building for balcony reconstruction, bay window reconstruction, and stair reconstruction but the City of Pembroke Pines, through its Building Department, requested and required that significant additional work would be required at the Buildings with such additional work not included in the predetermined and fixed price as agreed to between Tri-Star and the Association, with such additional work determined by the Engineer of record for the rehabilitation projects as exterior demolition proceeded.

9. Thus, the Receiver seeks authority, but not direction, to pay Tri-Star up to the total sum of \$330,207.26 for its fees and costs forthwith, using funds available in the Association's Special Assessment Bank Account at Truist Bank (the "Special Assessment") and/or funds previously forwarded to Tri-Star in the form of a deposit for a second contract were work has not been commenced. These funds were levied by the Association's Board of Directors in December 2023 for the specific purpose of funding the rehabilitation project. As of July 15, 2024, the book balance of the Special Assessment account is \$265,848.48. As of June 30, 2024, only \$450,929.66 of the \$3 million special assessment has been collected.¹

10. The invoiced fees and costs are fully consistent with and in furtherance of the letter and intent of the Receivership Order. Tri-Star may submit one more additional invoice(s) for work rehabilitation work performed subsequent to the last invoice issued and the Receiver will prepare

¹ The Association has billed Unit Owners for \$1,729,026.71 and there is an outstanding balance of \$1,228,083.75 to be billed from the original December 2023 Special Assessment.

and file further motion(s) with this Court seeking authority to pay same.

11. The filing of this Motion shall not in any way prejudice nor waive any claims or defenses the Association may have against Tri-Star, or affect any aspect of the litigation pending against Tri-Star² which was transferred to this Court before Judge Tuter on June 5, 2024 pursuant to the *Agreed Order Granting Motion to Transfer*, and is stayed pending further order of this Court.

WHEREFORE, the Receiver respectfully requests that the Court enter an Order granting this motion and authorizing, but not directing, the Receiver to pay certain invoices of Tri-Star Construction, Inc., as detailed herein up to the total amount of \$330,207.26 using funds available pursuant to the Special Assessment and/or previously provided to Tri-Star as a deposit and providing any additional relief justice requires.

Dated: July 29, 2024

Respectfully submitted,

BERGER SINGERMAN LLP
Counsel for Receiver
313 North Monroe Street, Suite 301
Tallahassee, FL 32301
Tel. (850) 561-3010
Fax (850) 561-3013

By: /s/ *Brian G. Rich*

Brian G. Rich
Florida Bar No. 38229
brich@bergersingerman.com
Michael J. Niles
Florida Bar No. 107203
mniles@bergersingerman.com

² Pending litigation: CACE24000488--*Gabriel Coifman v. Heron Pond Condo Association, et al*; CACE23021349--*Armory Housing Corp. v. Heron Pond Condo Association, et al*; CACE23021148--*Las Auracarius LLC. v. Heron Pond Condo Association, et al*; CACE23020826--*Susana Rognone v. Heron Pond Condo Association, et al*; CACE23-019617--*Clarissa Florival v. Heron Pond Condo Association, et al*; CACE23019893--*Angel Cortes v. Heron Pond Condo Association, et al*; CACE23022619--*Porto Seguro, LLC v. Heron Pond Condo Association, et al*; CACE23020265--*Ocean 1212, LLC v. Heron Pond Condo Association, et al*; CACE23021351—*Yuga Corp v. Heron Pond Condo Association, et al*.

CERTIFICATE OF ELECTRONIC FILING AND SERVICE

I **HEREBY CERTIFY** that on this 29th day of July 2024, the foregoing was filed electronically through the Florida Court's E-Filing Portal, which will send notice of electronic filing to all electronic service parties.

By: /s/ *Brian G. Rich*
Brian G. Rich

COMPOSITE EXHIBIT A

INVOICE

DATE: 01/26/2024
Date

TO: Board Members
Heron Pond Condominium
8400 SW 1st. Street
Pembroke Pines FL.
33025

INVOICE #
100

CUSTOMER ID:
0202401

SALESPERSON	JOB	PAYMENT TERMS	DUE DATE
Alex Rios	Heron Pond	7 days after	02/03/2024

Repair Description	Building Sections	Quantity	Price per Item	Total	% Progress
Balcony reconstruction	Exhibit 1 "Green Line"	8	Set price \$	-	80%
Bay Window reconstruction	Exhibit 1 "Orange Line"	4	Set price \$	-	70%
Stairs reconstruction	Exhibit 1 "Orange Line"	4	Set price \$	-	20%
Demolition	Exhibit 1 "Red Line"	5,418.4	\$ 8.00 \$	43,347.20	98%
Wall Framing	Exhibit 1 "Red Line"				98%
2x4 New Stud	ea	386.0	35 \$	13,510.00	
Buttom Plate	lf	116.1	78 \$	9,055.80	
Top Plate	ea	126.0	78 \$	9,828.00	
Floor Truss	ea	27.0	162 \$	4,374.00	
Lookout Joist or Truss	lf	75.0	14 \$	1,086.75	
Lookout or FireBlock	lf	150.0	11 \$	1,653.00	
Post 4x4 #2 SP	LF	1.0	12.99 \$	12.99	
Wood Beam 2x4 #2 SP	lf	94.6	11.02 \$	1,042.49	
Wood Beam 2x12 #2 SP	lf	153.5	14.49 \$	2,224.22	
Strap NVRT12 W/(7) 16d	ea	351.0	31.06 \$	10,902.06	
Tension-Tie Galvanized DTT1Z	ea	308.0	25.00 \$	7,700.00	
Anchors 1/2	ea	330.0	10.75 \$	3,547.50	
Insulation	Exhibit 2 "Pink"	641	3.5	2641.63	12%
Exterior Sheeting	Exhibit 2 "Blue"	1478.87	6.99	10,337.30	17%

Note;

Scope of work price for Buildings 2,3 and 10 is **\$179,667.00** for a total amount of \$539,000.00

Scope of work is full balcony reconstruction, bay windows and stairs.

Price includes railing, structural repair, stucco and demo.

Trash containers included for the scope demo

Additional Extra Work is requested by **Pembroke Pines City** to determine safety cost and project feasibility.

Additional Extra Work was determine as per **engineering inspection** after demolition.

Additional extra work is to be performed as per **Construction Agreement**.

Extra Work is to be bill per price item and details on **Exhibit "A"** of the Construction Agreement.

Invoice Subtotal	\$121,262.93
Sales Tax	
TOTAL	\$0.00

MAKE ALL CHECKS PAYABLE TO TRI-STAR CONSTRUCTION, INC.

Thank you for your business!

INVOICE

DATE: 04/20/2024
Date

TO: Board Members
Heron Pond Condominium
8400 SW 1st. Street
Pembroke Pines FL.
33025

INVOICE #
101

CUSTOMER ID:
0202401

SALESPERSON	JOB	PAYMENT TERMS	DUE DATE
Alex Rios	Heron Pond	7 DAYS	04/27/2024

BUILDING 3

Repair Description	Building Sections	Quantity	Price per Item	Total	
Balcony reconstruction		16	Set price	\$ -	
Bay Window reconstruction		8	Set price	\$ -	
Stairs reconstruction		4	Set price	\$ -	
Demolition		4,829.4	\$ 8.00	\$ 38,635.16	
Wall Framing				\$ 57,347.28	
2x4 New Stud	ea	504.0	\$ 35.00	\$ 17,640.00	
Buttom Plate	ea	25.0	\$ 78.00	\$ 1,950.00	
Top Plate	ea	130.0	\$ 78.00	\$ 10,140.00	
Floor Truss	ea	48.0	\$ 162.00	\$ 7,776.00	
Lookout Joist ot Truss	ea	-	\$ 14.49	\$ -	
Lookout or FireBlock	ea	179.0	\$ 11.02	\$ 1,972.58	
Post 4x4 #2 SP	lf	16.0	\$ 12.99	\$ 207.84	
Wood Beam 2x4 #2 SP	lf	8.0	\$ 12.55	\$ 100.40	
Wood Beam 2x12 #2 SP	lf	168.8	\$ 14.49	\$ 2,446.20	
Strap NVRT12 W/(7) 16d	ea	221.0	\$ 31.06	\$ 6,864.26	
Tension-Tie Galvanized DTT1Z	ea	330.0	\$ 25.00	\$ 8,250.00	
Insulation	SF	1423.30	\$ 3.50	\$ 4,981.56	
Exterior Sheeting	SF	1,609.1	\$ 6.99	\$ 11,247.90	
Dumpsters				\$ 8,902.00	
The work price for Buildings 2,3 and 10 is \$179,667.00 for a total amount of \$539,000.00. The scope of the work is full balcony reconstruction, bay windows and stairs. Price includes railing, structural repair, stucco and demo. Trash containers included for the scope demo. Additional Extra Work is requested by Pembroke Pines City to determine safety cost and project feasibility. Additional Extra Work was determined as per engineering inspection after demolition. Additional extra work is to be performed as per the Construction Agreement. Extra Work is to be bill per price item and details on Exhibit "A" of the Construction Agreement.				Invoice Subtotal	\$121,113.90
				Sales Tax	
				TOTAL	\$121,113.90

MAKE ALL CHECKS PAYABLE TO TRI-STAR CONSTRUCTION, INC.

Thank you for your business! Tri-star construction inc. | 18520 nw 67 Ave 274, miami lakes | Phone: 305-615-0582 | Fax: 239-578-6780

INVOICE

DATE: 04/26/2024
Date

TO: Board Members
Heron Pond Condominium
8400 SW 1st. Street
Pembroke Pines FL.
33025

INVOICE #
103

CUSTOMER ID:
0202401

SALESPERSON	JOB	PAYMENT TERMS	DUE DATE
Alex Rios	Heron Pond	7 DAYS	05/10/2024

BUILDING 10

Repair Description	Building Sections	Quantity	Price per Item	Total
Balcony reconstruction		16	Set price	\$ -
Bay Window reconstruction		8	Set price	\$ -
Stairs reconstruction		4	Set price	\$ -
Demolition		1,713.9	\$ 8.00	\$ 13,710.93
Wall Framing				11,292.17
2x4 New Stud	ea	134.0	\$ 35.00	\$ 4,690.00
Buttom Plate	ea	14.0	\$ 78.00	\$ 1,092.00
Top Plate	ea	24.0	\$ 78.00	\$ 1,872.00
Floor Truss	ea	19.0	\$ 162.00	\$ 3,078.00
Lookout Joist ot Truss	ea	-	\$ 14.49	\$ -
Lookout or FireBlock	ea	28.0	\$ 11.02	\$ 308.56
Post 4x4 #2 SP	lf	15.8	\$ 12.99	\$ 205.24
Wood Beam 2x4 #2 SP	lf	-	\$ 12.55	\$ -
Wood Beam 2x12 #2 SP	lf	3.2	\$ 14.49	\$ 46.37
Strap NVRT12 W/(7) 16d	ea	-	\$ 31.06	\$ -
Tension-Tie Galvanized			\$	\$
DTT1Z	ea	-	\$ 25.00	\$ -
Insulation	SF	0.00	\$ 3.50	\$ -
Exterior Sheeting	SF	-	\$ 6.99	\$ -
Dumpsters				\$ 4,325.00
<p>The work price for Buildings 2,3 and 10 is \$179,667.00 for a total amount of \$539,000.00. The scope of the work is full balcony reconstruction, bay windows and stairs. Price includes railing, structural repair, stucco and demo. Trash containers included for the scope demo. Additional Extra Work is requested by Pembroke Pines City to determine safety cost and project feasibility. Additional Extra Work was determined as per engineering inspection after demolition. Additional extra work is to be performed as per Construction Agreement. Extra Work is to be bill per price item and details on Exhibit "A" of the Construction Agreement.</p>				
Invoice Subtotal				\$29,328.10
Sales Tax				

MAKE ALL CHECKS PAYABLE TO TRI-STAR CONSTRUCTION, INC.

Thank you for your business! Tri-star construction inc. | 18520 nw 67 Ave 274, miami lakes | Phone: 305-615-0582 | Fax: 239-578-6780

TOTAL

\$29,328.10

Tri Star Construction			5/23/2024
Invoice	104		
Scope Of Work Building 2			

Repair Description	Building Sections	Quantity	Price per Item	Total
Balcony reconstruction		16	Set price	\$ -
Bay Window reconstruction		8	Set price	\$ -
Stairs reconstruction		4	Set price	\$ -
Demolition		-	\$ 8.00	\$ -
Wall Framing				-
2x4 New Stud	ea	-	\$ 35.00	\$ -
Buttom Plate	ea	-	\$ 78.00	\$ -
Top Plate	ea	-	\$ 78.00	\$ -
Floor Truss	ea	-	\$ 162.00	\$ -
Lookout Joist of Truss	ea	-	\$ 14.49	\$ -
Lookout or FireBlock	ea	-	\$ 11.02	\$ -
Post 4x4 #2 SP	lf	-	\$ 12.99	\$ -
Wood Beam 2x4 #2 SP	lf	-	\$ 12.55	\$ -
Wood Beam 2x12 #2 SP	lf	-	\$ 14.49	\$ -
Strap NVRT12 W/(7) 16d	ea	-	\$ 31.06	\$ -
Tension-Tie Galvanized DTT1Z	ea	-	\$ 25.00	\$ -
Insulation	SF	4147.28	\$ 3.50	\$ 14,515.49
Exterior Sheeting	SF	3,650.5	\$ 6.99	25,517.33
Dumpsters				

Invoice Subtotal	\$40,032.82
Sales Tax	
TOTAL	\$40,032.82

Note:
 Scope of work price for Buildings 2,3 and 10 is **\$179,667.00** for a total amount of \$539,000.00

Scope of work is full balcony reconstruction, bay windows and stairs.
 Price includes railing, structural repair, stucco and demo.
 Trash containers included for the scope demo
 Additional Extra Work is requested by **Pembroke Pines City** to determine safety cost and project feasibility.
 Additional Extra Work was determine as per **engineering inspection** after demolition.
 Additional extra work is to be performed as per **Construction Agreement**.
 Extra Work is to be bill per price item and details on **Exhibit "A"** of the Construction Agreement.

Please make all checks payable to Tri Star Consturction
 Total due in 90 days. Overdue accounts subject to a service charge of 1.5% per month.

Tri Star Construction

6/28/2024

Invoice

106

Scope Of Work Building 3

Repair Description	Building Sections	Quantity	Price per Item	Total
Balcony reconstruction		16	Set price	\$ -
Bay Window reconstruction		8	Set price	\$ -
Stairs reconstruction		4	Set price	\$ -
Demolition		-	\$ 8.00	\$ -
Wall Framing				1,853.31
2x4 New Stud	ea	2.0	\$ 35.00	\$ 70.00
Buttom Plate	ea	-	\$ 78.00	\$ -
Top Plate	ea	3.0	\$ 78.00	\$ 234.00
Floor Truss	ea	3.0	\$ 162.00	\$ 486.00
Lookout Joist of Truss	ea	-	\$ 14.49	\$ -
Lookout or FireBlock	ea	1.0	\$ 11.02	\$ 11.02
Post 4x4 #2 SP	lf	-	\$ 12.99	\$ -
Wood Beam 2x4 #2 SP	lf	-	\$ 12.55	\$ -
Wood Beam 2x12 #2 SP	lf	3.4	\$ 14.49	\$ 49.27
Strap NVRT12 W/(7) 16d	ea	17.0	\$ 31.06	\$ 528.02
Tension-Tie Galvanized DTT1Z	ea	19.0	\$ 25.00	\$ 475.00
Insulation	SF	1809.69	\$ 3.50	\$ 6,333.92
Exterior Sheeting	SF	1,471.0	\$ 6.99	10,282.29
Dumpsters				
Invoice Subtotal				\$18,469.51
Sales Tax				
TOTAL				\$18,469.51

Note;

Scope of work price for Buildings 2,3 and 10 is \$179,667.00 for a total amount of \$539,000.00

Scope of work is full balcony reconstruction, bay windows and stairs.

Price includes railing, structural repair, stucco and demo.

Trash containers included for the scope demo

Additional Extra Work is requested by **Pembroke Pines City** to determine safety cost and project feasibility.

Additional Extra Work was determine as per **engineering inspection** after demolition.

Additional extra work is to be performed as per **Construction Agreement**.

Extra Work is to be bill per price item and details on **Exhibit "A"** of the Construction Agreement.

Please make all checks payable to Tri Star Consturction

Total due in 90 days. Overdue accounts subject to a service charge of 1.5% per month.

EXHIBIT B

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

In re:

CASE NO.: CACE 24-005243

HERON POND CONDOMINIUM
ASSOCIATION, INC.

Petitioner.

v.

HERON POND CONDOMINIUM
ASSOCIATION, INC.,

Defendant/Respondent

**ORDER GRANTING RECEIVER'S MOTION FOR AUTHORITY TO PAY
INVOICES OF TRI-STAR CONSTRUCTION, INC. AS GENERAL
CONTRACTOR TO THE ASSOCIATION**

THIS CAUSE came before the Court for hearing on _____ at _____ .m., upon the *Receiver's Motion for Authority to Pay Invoices of Tri-Star Construction, Inc. as General Contractor to the Association* (the "Motion") filed by the Court-appointed Receiver, Daniel J. Stermer ("Receiver"). The Motion seeks authority to pay Tri-Star Construction, Inc. for fees and costs incurred to date and additional work to be performed. The Court, having considered the Motion and having reviewed the Court file, including the *Order Granting Verified Petition For Appointment of Receiver* (the "Receivership Order"), and being otherwise fully advised in the premises, it is hereupon,

ORDERED AND ADJUDGED that:

1. The Motion is hereby **GRANTED**.
2. The Receiver is authorized, but not directed, to pay Tri-Star Construction, Inc. up to the total sum of \$330,207.26 for its fees and costs forthwith, using funds available in the Association's Special Assessment Bank Account at Truist Bank and/or funds on deposit with Tri-

Star Construction, Inc.

DONE AND ORDERED in Chambers at Broward County, Florida on

_____.

Honorable Jack Tuter
Circuit Court Judge

cc: All counsel of record