

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

COMFORT CAPITAL INC., THE BANK OF NOVA SCOTIA TRUST COMPANY, E. MANSON INVESTMENTS LTD., FENFAM HOLDINGS INC., 593651 ONTARIO LTD., 1031436 ONTARIO INC., ALRAE INVESTMENTS INC., BARRY SPIEGEL, SHARON NIGHTINGALE, DAVID SUGAR, PHYLLIS SUGAR, NATIONAL TIRE LTD., 1119778 ONTARIO LIMITED, 1415976 ONTARIO LIMITED, ALRAE INVESTMENTS INC., BAMBURGH HOLDINGS LTD., BEVERLEY GORDON, DIANE GRAFSTEIN, RICHARD GRUNEIR, B. & M. HANDELMAN INVESTMENTS LTD., RIDGEWAY OCCUPATIONAL CONSULTANTS INC., YERUSHA INVESTMENTS INC., MIHAL TYLMAN, A. ELIEZER KIRSHBLUM, 593651 ONTARIO LIMITED, THE BANK OF NOVA SCOTIA TRUST COMPANY IN TRUST FOR BAILEY LEVENSON, THE BANK OF NOVA SCOTIA TRUST COMPANY IN TRUST FOR ROSEMONDE KELLY, ANNE HANDELMAN, YERUSHA INVESTMENTS INC., CELMAR INVESTMENTS CORP., BEVERLEY GORDON, PHILGOR INVESTMENTS LTD., BRILLIANT INVESTCORP INC., MAXOREN INVESTMENTS, 2227046 ONTARIO LIMITED, DAST PROPERTIES LIMITED, TOVA MARKOVZKI, JOSEPH SUCKONIC and B. & M. HANDELMAN INVESTMENTS LIMITED

Applicants

- and -

**ANNIE YERETSIAN, 2399029 ONTARIO INC.,
2457674 ONTARIO INC., MOSS DEVELOPMENT LTD.
and TERRY WILSON**

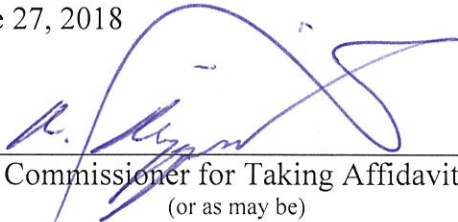
Respondents

AFFIDAVIT OF LAURA MICOLI

I, Laura Micoli, of the City of Toronto, in the Province of Ontario, MAKE OATH AND
SAY:

1. I am a Law Clerk with the law firm of Dickinson Wright LLP, Lawyers for the Applicants and, as such, have knowledge of the following matters.
2. Attached as **Exhibit "A"** are copies of mortgage statements dated April 30, 2018 given by Canada Capital Corporation Inc. and Canada Investment Corporation to the Receiver.
3. Attached as **Exhibit "B"** are copies of emails from David Preger to Caitlin Fell dated June 22, 2018 and June 26, 2018.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario on June 27, 2018



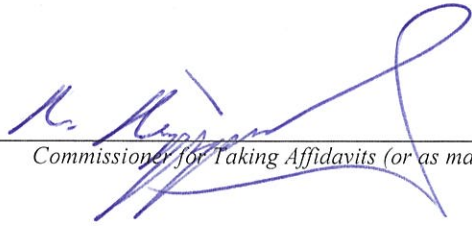
Commissioner for Taking Affidavits
(or as may be)

6357BR



LAURA MICOLI

THIS IS **EXHIBIT "A"** REFERRED
TO IN THE AFFIDAVIT OF LAURA MICOLI
SWORN BEFORE ME THIS 27TH DAY OF JUNE, 2018

A handwritten signature in blue ink, appearing to read 'Ms. Higgins', is written over a horizontal line.

Commissioner for Taking Affidavits (or as may be)

CANADA CAPITAL CORPORATION INC.

MORTGAGE STATEMENT

APRIL 30, 2018

RE: 7 High Point road, Toronto, On.

Principal and Interest as of April 30, 2018	\$ 9,335,412.67
Administrative Fees: 67 months	\$ 22,713.00
Three Months Interest Fee Section 17 Mortgage Act :	\$ 12,125.07
Power of Sale Fees:	\$ 1500.00
Late /Non-Payment Fees: \$250 x 67	\$ 16,750.00
Legal fees and Costs in Addition H.S.T. And Additional disbursements closing: :	\$ 5,700.00
Title Insurance on closing:	\$ 4,264.92
Home Insurance on Closing :	\$ 13,392.00
Home Insurance from April 2012 to April 2018 Appx. On Account	\$ 248,000.00

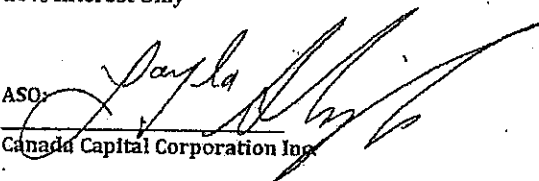
25 MALLARD ROAD, TORONTO, ON. M3B 1S4

Litigation Legal Fees to date On account \$ 470,000.00
January 2012 to April 30, 2018

Maintenance of Property: \$ 81,812.42
February 2012 to March 2018

Total amount Required for Discharge: \$ 10,211,670.07

Per diem: \$ 2,797.71
10% Interest Only

ASO: 
Canada Capital Corporation Inc.

CANADA INVESTMENT CORPORATION

MORTGAGE STATEMENT

April 30, 2018

RE: 13 SERVICED VACANT LOTS (CALDWELL DRIVE, ORO-MEDONTE, ON.)

Principal & Interest as of June 11, 2013:	\$ 1,331,641.88
Interest From June 11, 2013 to April 30, 2018 :	\$ 1,063,595.16
NSF / Late Fees (67 X \$250.00) :	\$ 16,750.00
3 Months Interest pursuant to section 17 Mortgage Act:	\$ 71,857.11
Legal Fees Prior to issuance of Notice of Sale:	\$ 7,662.80
Power of Sale fee:	\$ 1500.00
Administration Costs related to Property: Legal fees and Disbursements for issuance of Notice of Sale :	\$ 5,085.00 \$ 2000.00

Total Amount Required for Discharge : \$ 2,500,919.95

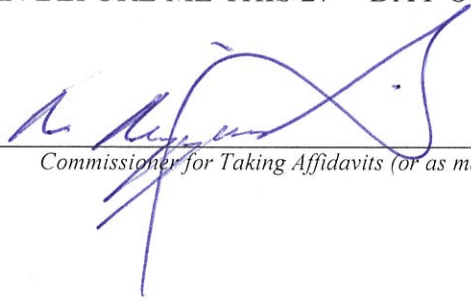
Per diem: \$ 822.22

ASO :


Canada Investment Corporation

25 MALLARD ROAD, TORONTO, ON. M3B 1S4

THIS IS **EXHIBIT "B"** REFERRED
TO IN THE AFFIDAVIT OF LAURA MICOLI
SWORN BEFORE ME THIS 27TH DAY OF JUNE, 2018

A handwritten signature in blue ink, appearing to be 'N. Nguyen', is written over a horizontal line. The signature is stylized and somewhat illegible.

Commissioner for Taking Affidavits (or as may be)

David P. Preger

From: David P. Preger <DPreger@dickinson-wright.com>
Sent: Friday, June 22, 2018 10:58 AM
To: cfell@btzlaw.ca
Subject: CanLII - 2017 ONCA 490 (CanLII)

<https://www.canlii.org/en/on/onca/doc/2017/2017onca490/2017onca490.html?searchUrlHash=AAAAAAAAAAAEAGDE5OTMgQ2FuTEIJIDg1NDUgKE9OIENBKQAAAAEAEC8xOTkzb25jYTEwMDAwMzEB&resultIndex=15>

1220510 Ontario Inc. v. Radium-O Developments Ltd., 2017 ONCA 490 (CanLII)

COURT OF APPEAL FOR ONTARIO

CITATION: 1220510 Ontario Inc. v. Radium-O Developments Ltd., 2017 ONCA 490

DATE: 20170613

DOCKET: C63210

MacPherson, Blair and MacFarland JJ.A.

BETWEEN

1220510 Ontario Inc.

Applicant/Respondent by

Counter-Application (Respondent)

and

Radium-O Developments Ltd.

Respondent/

David P. Preger

From: David P. Preger <DPreger@dickinson-wright.com>
Sent: Friday, June 22, 2018 10:57 AM
To: cfell@btzlaw.ca
Subject: CanLII - 2010 ONSC 116 (CanLII)

<https://www.canlii.org/en/on/onsc/doc/2010/2010onsc116/2010onsc116.html>

Irwin Mintz, in trust v. Mademont Yonge Inc., 2010 ONSC 116 (CanLII)

CITATION: Irwin Mintz, in trust v. Mademont Yonge Inc., 2010 ONSC 116

COURT FILE NO.: CV-09-

383528

DATE: 20100218

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:)	
)	
IRWIN MINTZ, IN TRUST)	<i>Shawn Pulver</i> , for the Applicant
Applicant))	<i>Christine Jonathan</i> , for the Respondents
– and –))	
MADEMONT YONGE INC. and))	
PAUL MONTGOMERY)))	
Respondents		

Pepall j.

Reasons for decision

Introduction

David P. Preger

From: David P. Preger
Sent: Tuesday, June 26, 2018 12:48 PM
To: 'Caitlin Fell'
Cc: Steven Weisz; 'Eric Golden'; 'brosen@rosengoldberg.com'; Sahar Cadili
Subject: Three months interest claims
Attachments: TORONTO-#1408565-1-Application Record (Part 2).PDF; TORONTO-#1408566-1-Application Record (Part 3).PDF
Importance: High

Caitlin,

You have asked me to direct you to where in the mortgages provision is made for the 3 months interest claim. Although the law is clear that there need be no express provision for same, you will see it at para 14 of p. 426 of the attached Application Record (Part 2) in relation to Bridge and at para 31 of p. 586 of the attached Application Record (Part 3) in relation to Loyalist.

But here is why it does not matter. According to Saunders J. in *O'Shanter Development Co. v. Gentra Canada Investments Inc.*, 1995 CanLII 10674 (ON SC): "Section 17 of the Mortgages Act is incorporated into every Ontario mortgage."

COMFORT CAPITAL INC. et al.
Applicants

-and-

ANNIE YERETSIAN et al.
Respondents

Court File No. CV-18-592103-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF LAURA MICOLI

DICKINSON WRIGHT LLP

Barristers & Solicitors

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Commerce Court Postal Station

Toronto, Ontario, M5L 1G4

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Lawyers for the Applicants