

B. & M. HANDELMAN INVESTMENTS LIMITED ET AL.  
Applicants

-and-

SKYMARK PROPERTIES 1 CORPORATION ET AL  
Respondent

MAR 19/08 Court File No. CV-18-593698-00CL

19 March 08

Two orders shall go  
as per the drafts filed & signed  
and as per the attached written  
reasons.

McEST

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

APPLICATION RECORD

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Lawyers for the Applicants



Court File Number: CU-18-593698-00CL

Superior Court of Justice  
Commercial List

**FILE/DIRECTION/ORDER**

B + M Handelman Investments et al  
Plaintiff(s)

AND

Sky mark Properties et al  
Defendant(s)

Case Management  Yes  No by Judge: \_\_\_\_\_

Counsel	Telephone No:	Facsimile No:
See Counsel sheet - attached		

- Order  Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)

- Adjourned to: \_\_\_\_\_
- Time Table approved (as follows):

Applicants seek the appointment of a receiver over the subject property. The Resp. Sky mark seeks a one week adjournment on the basis that it has a financing agreement in place. It provided a copy of that agreement to the Court. Likelihood of success this would constitute good reason for a brief

19 March 18

Date

McE...

Judge's Signature

Additional Pages 3

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**FILE/DIRECTION/ORDER**

Judges Endorsment Continued

adjournment I am not prepared to grant one in this case for the following reasons:

- ① The proposed agreement is not accompanied by an affidavit;
- ② It has not been signed by Skymark;
- ③ It is subject to the payment of ops taxes and there is no evidence that this has or can be done. The ops realty taxes are significant and in the \$400,000 range;
- ④ There are significant fees and no evidence of payment or ability to pay;
- ⑤ There are other conditions concerning an appraisal / Phase 1 report and no evidence of when or if these can be completed.

Overall, I see nothing in the financing agreement that suggests a reasonable and legitimate ability

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**FILE/DIRECTION/ORDER**

Judges Endorsment Continued

to close in the near future.

Further, the last payment on the of/s mortgage was made in Oct/17. BIA notices were served on in Jan, 18 and demands have been made.

The <sup>in</sup> <sup>sobri</sup> tenant also supports the Application. It has been in litigation with Skymark and has a consent judgment against Skymark concerning the Embury acct and other related relief.

Last the consent given to Skymark, Mr Ara Missahi was recently arrested for alleged fraudulent activity concerning real estate properties.

In all of these circumstances it is my view that a Receiver ought to be appointed now to protect the asset and look to market the property.

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FILE/DIRECTION/ORDER

Judges Endorsment Continued

7  
opposite

a Reviewer I have reviewed the draft order with counsel. It is reasonable & shall go as per the draft filed & signed. There is no objection to the form.

I have also reviewed the sales process and sealing draft order. It shall also go as per the draft filed & signed. Seal is reasonable given the sensitive financial information in accordance to the the Sierra Club decision.

MEEST