

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Comant Capital Inc et al
Plaintiff(s)

AND

Feretsa 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): _____

On Feb 28/18 I heard this Application wherein the Applicants sought to appoint Rosen Goldberg Inc as Receiver with respect to the properties noted in the Application (six in total). I granted this order along with other related ^{in relief in} as per the order I signed that day with reasons to follow. I now provide these reasons

6 March 18
Date

[Signature]
Judge's Signature

Additional Pages _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

The loans in question remain in default. There are outstanding realty taxes on all six properties which are ongoing. BIA notices were served on the Respondents/borrowers. There has been no response. The Respondents have not filed any materials in response to the Application. Despite promises of payment by one of the Respondents and Mr. Arc Messaphi's payments have been made.

Insofar as the High Point loan is concerned, the lender have a right to appoint a Receiver as per the terms of the Amended and Restated Minutes of Settlement.

Messrs. Brooker & Belmont's clients seek an adjournment to March 16/18 as their clients allege to have legitimate offers of financing. No materials

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

have been glad to support these claims and the Applicants' solicitors and Mr Stame question the legitimacy and reliability of these alleged commitments. In these circumstances it is my view that further delay are unwarranted and prejudicial to the Applicants.

Messrs Belmont and Broder also question service of the Applicants' materials. These issues do not affect their clients and any issues can be dealt with by way of the careback clause. This is particularly so with respect to the Malmo loanⁱⁿ wherein Mr Belmont raised service issues that may or may not be of any significance. The fact remains that I am aware of a potential priority dispute as there is ongoing

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

litigation concerning the Malmo project
This can obviously be dealt with
at a later date.

I should also note that Mr. Apel
objects on behalf of the Respondent
Yretson and submits his client
would like to redeem. Like the
other Resps there is nothing stopping
this Respondent from doing so.

Furthermore, the Receiver will take
some time to get up to speed.
If any of the Respondents wish
to pursue purchasing any of the
properties there is time to do so
with the Receiver in place. Otherwise,
the current unacceptable situation
would be allowed to continue and
equity would continue to erode.
The time has come to secure the
properties and monetize the properties.

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

in a fair manner.

Last I should note as I advised Counsel that I discussed with Justice Carbett who has dealt with a case involving the High Point Property and he was content to have me proceed with the Application to appoint a Receiver.

As noted, the order was signed as per the draft copy filed on Feb 28/18.

McEint

10 It is worth noting that there is apparently a mortgage in possession in that case, but given Justice Carbett's view and the outstanding ongoing realty taxes a Receiver is warranted.