Court File No. CV-25-00736332-00CL

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:

B & M HANDELMAN INVESTMENTS LIMTED, CAROL HANDELMAN, BEVERLEY GORDON, 4055845 CANADA INC., BAMBURGH HOLDINGS LTD., AMANDA SALEM, MARVIN TEPERMAN, HILDA ZAHLER, AURELIA OSTRO, EITAN OSTRO, JEFFREY GERTNER, M & B BARANEK LIMITED, WERGER HOLDINGS INC., ROBERT BERGER, JANET GOLFMAN, GARY LIPTON, GERALD MALDOFF, STARGLOW INTERNATIONAL INC., 593651 ONTARIO LTD., RIDGESTAR DEVELOPMENTS INC., 1031436 ONTARIO INC., 1008118 ONTARIO LIMITED, RCMF MORTGAGE INVESTMENTS INC., C & K MORTGAGE SERVICES INC. and CANADIAN WESTERN TRUST COMPANY

Applicants

- and -

CENTREVILLE HOMES (ESSA ROAD) INC., CENTREVILLE (SHELBURNE) INC. and CENTREVILLE HOMES (PICKERING) INC.

Respondents

FACTUM OF THE APPLICANTS

March 20, 2025

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TO: **SERVICE LIST**

PART I – OVERVIEW

1. The Applicants apply for the appointment of Rosen Goldberg Inc. as receiver and manager (in such capacities, the "**Receiver**") of all of the assets, undertakings and property of the Respondents (collectively, the "**Debtors**" and, individually, a "**Debtor**"), acquired for, or used in relation to a business carried on by the Debtors, including three vacant residential development properties in Barrie, Shelburne and Pickering.

2. The Applicants also move for an order granting leave to add Mapleview Barrie Inc. (the "**Second Barrie Debtor**" and a "**Debtor**") as a party Debtor to the within application so that Rosen Goldberg Inc.'s appointment as Court-appointed receiver extends to the assets, undertakings and property of the Second Barrie Debtor, in addition to all of the other Debtors.

3. Collectively, the Applicants advanced seven separate secured loans to the Debtors (collectively, the "**Loans**" and, individually, a "**Loan**"), each of which is secured by, among other things, a charge over real property owned by one of the Debtors.

4. Monthly payments of interest are no longer being received under any of the Loans, and all of the Loans are past maturity.

5. Between December 2024 and March 2025, notices of intention to enforce security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (the "**BIA**") were delivered to the Debtors. Despite the expiry of the 10 day statutory notice period under the *BIA*, the Debtors have made no payments under the Loans.

6. As of January 20, 2025, the amount owing under the Loans (excluding legal fees), excluding the Loan to the Second Barrie Debtor, collectively, was $15,028,858.53.

7. As of March 7, 2025, the amount owing under the Loan to the Second Barrie Debtor (excluding legal fees) was $6,213,333.50.

PART II – SUMMARY OF FACTS

I. The Debtors

8. The Debtors are single purpose Ontario corporations, each of which is controlled by Cesare Bauco ("**Mr. Bauco**").[1]

II. Loans and Security

A. The First Barrie Property

9. The Debtor Centerville Homes (Essa Road) Inc. (the "**First Barrie Debtor**") is the owner of property municipally known as 521 and 525 Essa Road, in Barrie, Ontario (the "**First Barrie Property**").[2] The First Barrie Property is a 1.0939 acre vacant parcel located on the northwest side of Essa Road, west of Highway 400 and east of Town Line Road. It is proposed for the development of 36 back-to-back townhomes and 12 traditional townhomes.[3]

i. First Mortgage Loan

10. Pursuant to a commitment letter given by Rescom Capital ("**Rescom**")[4] dated January 16, 2020, the Applicants B & M Handelman Investments Limited, Carol Haberman, Beverley Gordon, 4055845 Canada Inc., Bamburgh Holdings Ltd., Amanda Salem, Marvin Teperman, Hilda Zahler, Aurelia Ostro, Eitan Ostro, Jeffery Gerner, M & B Baranek Limited, Werger Holdings Inc., Robert Berger, Janet Golfman, Gary Lipton, Gerald Madoff, Starglow International Inc., 593651 Ontario Ltd., Ridgestar Developments Inc., 1031436 Ontario and 1008118 Ontario Limited (collectively, "**B & M Handelman et al.**") extended a Loan in the principal amount of $2,460,000.00 to the First Barrie Debtor.[5]

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[1] Corporate Profile Reports of Centreville Homes (Essa Road) Inc. Centreville (Shelburne) Inc. and Centreville Homes (Pickering) Inc., Exhibit 1, Affidavit of Gary Gruneir sworn January 31, 2025 ("**Gruneir Affidavit**"), Application Record of the Applicants ("**AR**"), Tab 2, p. 50; Corporate Profile Report of Mapleview Barrie Inc., Exhibit 1, Supplementary Affidavit of Gary Gruneir sworn March 19, 2025 ("**Gruneir Supplementary Affidavit**"), Motion Record of the Applicants ("**MR**"), Tab 2, p. 52.

[2] Parcel Register, Exhibit 11, Gruneir Affidavit, AR, Tab 2, p. 154.

[3] Gruneir Affidavit at para 8, AR, Tab 2, p. 39.

[4] C & K Mortgage Services Inc. ("**C & K**") carries on business as Rescom Capital.

[5] Commitment Letter, Exhibit 2, Gruneir Affidavit, AR, Tab 2, p. 72.

11. As security for the Loan, B & M Handelman et al. hold, among other security:

(a) a first-ranking charge registered on title to the First Barrie Property on March 11, 2020;[6]

(b) a first-ranking assignment of rents registered on title to the First Barrie Property on March 11, 2020;[7]

(c) a first-ranking general security agreement, securing all of the personal property of the First Barrie Debtor, dated March 2, 2020;[8] and

(d) a joint and several guarantee and postponement of claim given by Centreville Development Corporation ("**CDC**") and Mr. Bauco dated March 2, 2020.[9]

12. The Loan was renewed and amended pursuant to a renewal commitment given by Rescom dated January 17, 2024.[10]

13. The renewal term matured on January 1, 2025.[11]

ii. Second Mortgage Loan

14. Pursuant to a commitment letter given by Rescom dated July 18, 2024, the Applicant RCMF Mortgage Investments Inc. ("**RCMF**") extended a Loan in the principal amount of $750,000.00 to the First Barrie Debtor.[12]

15. As security for the Loan, RCMF holds, among other security:

[6] Charge, Exhibit 3, Gruneir Affidavit, AR, Tab 2, p. 79.
[7] Notice of Assignment of Rents, Exhibit 3, Gruneir Affidavit, AR, Tab 2, p. 79.
[8] General Security Agreement, Exhibit 4, Gruneir Affidavit, AR, Tab 2, p. 102.
[9] Guarantee and Postponement of Claim of CDC and Mr. Bauco, Exhibit 5, Gruneir Affidavit, AR, Tab 2, p. 110.
[10] Renewal Commitment, Exhibit 6, Gruneir Affidavit, AR, Tab 2, p. 115.
[11] Renewal Commitment, Exhibit 6, Gruneir Affidavit, AR, Tab 2, p. 115.
[12] Commitment Letter, Exhibit 7, Gruneir Affidavit, AR, Tab 2, p. 118.

(a) a second-ranking charge registered on title to the First Barrie Property on July 25, 2024;[13]

(b) a second-ranking assignment of rents registered on title to the First Barrie Property on July 25, 2024;[14]

(c) a second-ranking general security agreement, securing all of the personal property of the First Barrie Debtor, dated July 24, 2024;[15] and

(d) a joint and several guarantee and postponement of claim given by CDC and Mr. Bauco dated July 24, 2024.[16]

16. The Loan matured on February 1, 2025.[17]

17. Apart from the above-noted instruments, there are no other financial encumbrances registered on title to the First Barrie Property.[18]

B. The Shelburne Property

18. The Debtor Centerville (Shelburne) Inc. (the "**Shelburne Debtor**") is the owner of property municipally known as 600 Main Street East, in Shelburne, Ontario (the "**Shelburne Property**").[19] The Shelburne Property is a 5.58 acre parcel located on the north side of Main Street East, west of Dufferin Road 124 and east of Owen Sound Street. It is proposed for the development of 58 unit townhouses.[20]

i. First Mortgage Loan

[13] Charge, Exhibit 8, Gruneir Affidavit, AR, Tab 2, p. 124.
[14] Notice of Assignment of Rents, Exhibit 8, Gruneir Affidavit, AR, Tab 2, p. 124.
[15] General Security Agreement, Exhibit 9, Gruneir Affidavit, AR, Tab 2, p. 141.
[16] Guarantee and Postponement of Claim of CDC and Mr. Bauco, Exhibit 10, Gruneir Affidavit, AR, Tab 2, p. 149.
[17] Charge, Exhibit 8, Gruneir Affidavit, AR, Tab 2, p. 124.
[18] Parcel Register of First Barrie Property, Exhibit 11, Gruneir Affidavit, AR, Tab 2, p. 154.
[19] Parcel Register of Shelburne Property, Exhibit 22, Gruneir Affidavit, AR, Tab 2, p. 270.
[20] Gruneir Affidavit at para 19, AR, Tab 2, p. 41.

19. Pursuant to a commitment letter given by Rescom dated April 4, 2022, the Applicants C & K and Canadian Western Trust Company ("**CWT**") extended a Loan in the principal amount of $5,570,000.00 to the Shelburne Debtor.[21]

20. As security for the Loan, C & K and CWT hold, among other security:

(a) a first-ranking charge registered on title to the Shelburne Property on June 10, 2022;[22]

(b) a first-ranking assignment of rents registered on title to the Shelburne Property on June 10, 2022;[23]

(c) a first-ranking general security agreement, securing all of the personal property of the Shelburne Debtor, dated June 8, 2022;[24]

(d) a guarantee and postponement of claim given by CDC dated June 8, 2020;[25] and

(e) a guarantee and postponement of claim given by Mr. Bauco dated June 8, 2020.[26]

21. The Loan was renewed and amended pursuant to a renewal commitment given by Rescom dated June 19, 2023.[27]

22. The renewal term matured on July 1, 2024.[28]

ii. Second Mortgage Loan

[21] Commitment Letter, Exhibit 13, Gruneir Affidavit, AR, Tab 2, p. 185.
[22] Charge, Exhibit 14, Gruneir Affidavit, AR, Tab 2, p. 192.
[23] Notice of Assignment of Rents, Exhibit 14, Gruneir Affidavit, AR, Tab 2, p. 192.
[24] General Security Agreement, Exhibit 15, Gruneir Affidavit, AR, Tab 2, p. 210.
[25] Guarantee and Postponement of Claim of CDC, Exhibit 16, Gruneir Affidavit, AR, Tab 2, p. 218.
[26] Guarantee and Postponement of Claim of Mr. Bauco, Exhibit 16, Gruneir Affidavit, AR, Tab 2, p. 218.
[27] Renewal Commitment, Exhibit 17, Gruneir Affidavit, AR, Tab 2, p. 227.
[28] Renewal Commitment, Exhibit 17, Gruneir Affidavit, AR, Tab 2, p. 227.

23. Pursuant to a commitment letter given by Rescom dated May 18, 2023, C & K extended a Loan in the principal amount of $1,000,000.00 to the Shelburne Debtor.[29]

24. As security for the loan, C & K holds, among other security:

(a) a second-ranking charge registered on title to the Shelburne Property on June 21, 2023;[30]

(b) a second-ranking general security agreement, securing all of the personal property of the Shelburne Debtor, dated June 19, 2023;[31]

(c) a guarantee and postponement of claim given by CDC dated June 19, 2023;[32] and

(d) a guarantee and postponement of claim given by Mr. Bauco dated June 19, 2023.[33]

25. The Loan matured on July 1, 2024.[34]

26. Apart from the above-noted instruments, there are no other financial encumbrances registered on title to the Shelburne Property.[35]

C. The Pickering Property

27. The Debtor Centerville Homes (Pickering) Inc. (the "**Pickering Debtor**") is the owner of property municipally known as 313 Toynevale Road, in Pickering, Ontario (the "**Pickering Property**").[36] The Pickering Property is a 2.498 acre vacant parcel located south of Highway 401, west of Whites Road and east of Port Union Road. It is proposed for the development of 8 single family detached lots with 45 feet of frontage and of 5 single family detached lots with 50 feet of frontage.

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[29] Commitment Letter, Exhibit 18, Gruneir Affidavit, AR, Tab 2, p. 230.
[30] Charge, Exhibit 19, Gruneir Affidavit, AR, Tab 2, p. 236.
[31] General Security Agreement, Exhibit 20, Gruneir Affidavit, AR, Tab 2, p. 250.
[32] Guarantee and Postponement of Claim of CDC, Exhibit 21, Gruneir Affidavit, AR, Tab 2, p. 261.
[33] Guarantee and Postponement of Claim of Mr. Bauco, Exhibit 21, Gruneir Affidavit, AR, Tab 2, p. 261.
[34] Charge, Exhibit 19, Gruneir Affidavit, AR, Tab 2, p. 236.
[35] Parcel Register of Shelburne Property, Exhibit 22, Gruneir Affidavit, AR, Tab 2 p. 270.
[36] Parcel Register of Pickering Property, Exhibit 33, Gruneir Affidavit, AR, Tab 2, p. 353.

i. First Mortgage Loan

28. Pursuant to a commitment letter given by Rescom dated June 21, 2022, C & K and CWT extended a Loan in the principal amount of $6,000,000.00 to the Pickering Debtor.[37]

29. As security for the Loan, C & K and CWT hold, among other security:

(a) a first-ranking charge registered on title to the Pickering Property on August 12, 2022;[38]

(b) a first-ranking assignment of rents registered on title to the Pickering Property on August 12, 2022;[39]

(c) a first-ranking general security agreement, securing all of the personal property of the Pickering Debtor, dated August, 2022;[40] and

(d) a guarantee and postponement of claim given by Mr. Bauco dated August, 2022.[41]

30. The Loan was renewed and amended pursuant to a renewal commitment given by Rescom dated November 23, 2023.[42]

31. The renewal term matured on September 1, 2024.[43]

ii. Second Mortgage Loan

32. Pursuant to a commitment letter given by Rescom dated November 23, 2023, RCMF extended a Loan in the principal amount of $500,000.00 to the Pickering Debtor.[44]

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[37] Commitment Letter, Exhibit 24, Gruneir Affidavit, AR, Tab 2, p. 278.
[38] Charge, Exhibit 25, Gruneir Affidavit, AR, Tab 2, p. 285.
[39] Notice of Assignment of Rents, Exhibit 25, Gruneir Affidavit, AR, Tab 2, p. 285.
[40] General Security Agreement, Exhibit 26, Gruneir Affidavit, AR, Tab 2, p. 302.
[41] Guarantee and Postponement of Claim of Mr. Bauco, Exhibit 27, Gruneir Affidavit, AR, Tab 2, p. 310.
[42] Renewal Commitment, Exhibit 28, Gruneir Affidavit, AR, Tab 2, p. 315.
[43] Renewal Commitment, Exhibit 28, Gruneir Affidavit, AR, Tab 2, p. 315.
[44] Commitment Letter, Exhibit 29, Gruneir Affidavit, AR, Tab 2, p. 318.

33. As security for the Loan, RCMF holds, among other security:

(a) a second-ranking charge registered on title to the Pickering Property on January 8, 2024;[45]

(b) a second-ranking assignment of rents registered on title to the Pickering Property on January 8, 2024;[46]

(c) a second-ranking general security agreement, securing all of the personal property of the Pickering Debtor, dated January 3, 2024;[47] and

(d) a guarantee and postponement of claim given by Mr. Bauco dated January 3, 2024.[48]

34. The Loan matured on September 1, 2024.[49]

35. Apart from the above-noted instruments, there are no other financial encumbrances registered on title to the Pickering Property.[50]

D. The Second Barrie Property

36. The Second Barrie Debtor is the owner of a 10.713 acre parcel located on the south side of Mapleview Drive, east of Yonge Street (the "**Second Barrie Property**"). The Second Barrie Property is draft approved for the development of 26 single detached lots and 59 townhouse lots.[51]

i. First Mortgage Loan

[45] Charge, Exhibit 30, Gruneir Affidavit, AR, Tab 2, p. 324.
[46] Notice of Assignment of Rents, Exhibit 30, Gruneir Affidavit, AR, Tab 2, p. 324.
[47] General Security Agreement, Exhibit 31, Gruneir Affidavit, AR, Tab 2, p. 340.
[48] Guarantee and Postponement of Claim of Mr. Bauco, Exhibit 32, Gruneir Affidavit, AR, Tab 2, p. 348.
[49] Charge, Exhibit 30, Gruneir Affidavit, AR, Tab 2, p. 324.
[50] Parcel Register of Pickering Property, Exhibit 33, Gruneir Affidavit, AR, Tab 2, p. 353.
[51] Parcel Register of Second Barrie Property, Exhibit 6, Gruneir Supplementary Affidavit, MR, Tab 2, p. 95.

37. Pursuant to a commitment letter given by Rescom dated December 15, 2023, RCMF extended a Loan in the principal amount of $6,200,000.00 to the Second Barrie Debtor.[52]

38. As security for the Loan, RCMF holds, among other security:

(a) a first-ranking charge registered on title to the Second Barrie Property on February 2, 2024;[53]

(b) a first-ranking assignment of rents registered on title to the Second Barrie Property on February 2, 2024;[54]

(c) a first-ranking general security agreement, securing all of the personal property of the Second Barrie Debtor, dated January 29, 2024;[55] and

(d) a guarantee and postponement of claim given by Mr. Bauco dated January 29, 2024.[56]

39. The Loan matured on March 1, 2025.[57]

40. Apart from the above-noted instruments, there is a second-ranking charge in the amount of $1,350,000.00 registered on December 15, 2021 in favour of Wingfield Mortgage Corp.[58]

III. Delivery of Notices of Intention to Enforce Security

41. On December 23, 2024, Rescom delivered notices of intention to enforce security pursuant to section 244 of the *BIA* on behalf of the Applicants who are lenders under the Loans to the Shelburne Debtor and the Pickering Debtor.[59]

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[52] Commitment Letter, Exhibit 2, Gruneir Supplementary Affidavit, MR, Tab 2, p. 60.
[53] Charge, Exhibit 3, Gruneir Supplementary Affidavit, MR, Tab 2, p. 66.
[54] Notice of Assignment of Rents, Exhibit 3, Gruneir Supplementary Affidavit, MR, Tab 2, p. 66.
[55] General Security Agreement, Exhibit 4, Gruneir Supplementary Affidavit, MR, Tab 2, p. 82.
[56] Guarantee and Postponement of Claim of Mr. Bauco, Exhibit 5, Gruneir Supplementary Affidavit, MR, Tab 2, p. 90.
[57] Charge, Exhibit 3, Gruneir Supplementary Affidavit, MR, Tab 2, p. 66.
[58] Parcel Register of Second Barrie Property, Exhibit 6, Gruneir Supplementary Affidavit, MR, Tab 2, p. 95; Wingfield Mortgage Corp. Mortgage and Amendment, Exhibit 7, Gruneir Supplementary Affidavit, MR, Tab 2, p. 97.
[59] Notices of Intention to Enforce Security, Exhibit 35, Gruneir Affidavit, AR, Tab 2, p. 361.

42. On January 8, 2025, Rescom delivered a notice of intention to enforce security pursuant to section 244 of the *BIA* on behalf of B & M Handelman et al. under the first mortgage Loan to the First Barrie Debtor.[60]

43. On March 7, 2025, Rescom delivered a notice of intention to enforce security pursuant to section 244 of the *BIA* on behalf of RCMF under the first mortgage Loan to the Second Barrie Debtor.[61]

44. Despite the expiry of the 10 day statutory notice period under the *BIA*, the Debtors have made no payments under the Loans.[62]

45. As of January 20, 2025, the following amounts were owing under the following Loans (excluding legal fees) and *per diem* interest was accruing thereon:[63]

Loan	**Amount Owing**	***Per Diem* Interest Accrual**
First Mortgage Loan to First Barrie Debtor	$2,507,580.76	$779.06
Second Mortgage Loan to First Barrie Debtor	$750,250.00	*
First Mortgage Loan to Shelburne Debtor	$5,466,755.18	$1,637.25
Second Mortgage Loan to Shelburne Debtor	$1,035,541.19	$414.30
First Mortgage Loan to Pickering Debtor	$4,747,802.60	$1,454.39
Second Mortgage Loan to Pickering Debtor	$520,928.80	$213.28
TOTAL	**$15,028,858.53**	**$4,498.28**

* Interest paid up to February 1, 2025

[60] Notice of Intention to Enforce Security, Exhibit 35, Gruneir Affidavit, AR, Tab 2, p. 361.
[61] Notice of Intention to Enforce Security, Exhibit 9, Gruneir Supplementary Affidavit, MR, Tab 2, p. 106.
[62] Gruneir Affidavit at para 46, AR, Tab 2, p. 46.
[63] Loan Statements, Exhibit 36, Gruneir Affidavit, AR, Tab 2, p. 368.

46. As of March 7, 2025, the amount owing under the Loan to the Second Barrie Debtor (excluding legal fees) was $6,213,333.50.[64]

PART III – ISSUES

47. The issues before the Court are:

(a) whether leave to amend the Notice of Application in this proceeding, to add the Second Barrie Debtor as a Respondent in the form attached as Schedule "A" to the Notice of Motion, should be granted; and

(b) whether it is just or convenient for the Court to appoint Rosen Goldberg Inc. as receiver and manager over the Debtors on the terms of the proposed receivership order.

PART IV – LAW AND ARGUMENT

A. Leave to Amend the Notice of Application to Add the Second Barrie Debtor as a Respondent Should be Granted

i. The Law Regarding Amending a Notice of Application

48. Rule 26.01 provides that on motion at any stage of an action, the court **shall** grant leave to amend a pleading on such terms as are just, unless prejudice would result that could not be compensated for by costs or an adjournment [emphasis added].[65]

49. Rule 26.02(c) provides that a party may amend the party's pleading with leave of the court.[66]

50. Rule 14.09 provides that an originating process that is not a pleading may be struck out or amended in the same manner as a pleading. Therefore, Rule 26 is applicable with respect to amending the Notice of Application.[67]

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[64] Notice of Intention to Enforce Security, Exhibit 9, Gruneir Supplementary Affidavit, MR, Tab 2, p. 106.
[65] Rule 26.01, *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.
[66] Rule 26.02(c), *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.
[67] Rule 14.09, *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

ii. Dispensing with Service of the Amended Notice of Application

51. Rule 26.04 provides, *inter alia*, that an amended pleading must be served forthwith on all other parties, unless the court orders otherwise.

52. As all interested parties have been provided with a copy of the Applicants' Motion Record, which contains a copy of the proposed Amended Notice of Application, there is no reason to further serve the parties with a copy of the Amended Notice of Application if and when leave to amend is granted.[68]

B. Rosen Goldberg Inc. Should be Appointed as Receiver and Manager over the Debtors

i. Test to Appoint Receiver

53. Pursuant to section 243(1) of the BIA and section 101 of the *Courts of Justice Act*, the Court may appoint a receiver and manager where it is "just or convenient" to do so.

54. In determining whether it is just or convenient to appoint a receiver, the Court must have regard to "all of the circumstances, but in particular the nature of the property and the rights and interest of all parties in relation thereto".

55. In making this determination, courts have been informed by the following factors, among others:[69]

(a) the need to preserve and maximize the return on the subject property;

(b) the relationship between the debtor and its creditors;

(c) the risk of the lender's security deteriorating; and

(d) loss of confidence in the debtor's management.

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[68] Rule 26.04, *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

[69] *BCIMC Construction Fund Corporation et al v. The Clover on Yonge Inc.,* 2020 ONSC 1953 at para 45.

56. The applicant need not to establish that it will suffer irreparable harm if the proposed receiver is not appointed.[70] Where, as here, a debtor has expressly agreed to the appointment of a receiver in the event of default, the court should not ordinarily interfere with the contract between the parties.[71]

57. It is well established that the extraordinary nature of a receiver "is significantly reduced when dealing with a secured creditor who has the right to a receivership under its security arrangements." The appointment of a receiver "becomes even less extraordinary when dealing with a default under a mortgage".[72]

ii. It is Just and Convenient to Appoint Rosen Goldberg Inc. as Receiver and Manager over the Debtors

58. In the case at bar, it is just and convenient to appoint Rosen Goldberg Inc. as receiver and manager over all of the Debtors, including the Second Barrie Debtor, given that:

(a) the Loans are in financial default;

(b) notwithstanding the issuance of the section 244 *BIA* notices, the indebtedness owing under the Loans has not been repaid;

(c) the statutory notice period under the BIA has long expired;

(d) the security documents given in connection with the Loans contain contractual entitlements to appoint a receiver upon default;

(e) a Court-supervised receiver will have regard for the interests of the Applicants, the Debtors, the second-ranking chargee of the Second Barrie Property and Mr. Bauco and CDC, as guarantors of the Loans, and will facilitate a fair and

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[70] *Bank of Montreal v. Carnival National Leasing Limited*, 2011 ONSC 1007 at paras 24 and 28.
[71] *United Savings Credit Union v. F & R Brokers Inc.*, 2003 BCSC 640 at para 16.
[72] *BCIMC Construction Fund Corporation et al v. The Clover on Yonge Inc.*, 2020 ONSC 1953 at paras 43-44.

transparent sale process for the disposition of the First Barrie Property, the Shelburne Property, the Pickering Property and the Second Barrie Property; and

(f) adding the Second Barrie Debtor to the within receivership proceeding will achieve greater efficiencies than having a separate receivership proceeding for the Second Barrie Debtor, only.

PART V – ORDER REQUESTED

59. For the reasons set out above, the Applicants respectfully request:

(a) an Order granting leave to amend the Notice of Application in this proceeding to add the Second Barrie Debtor as a Respondent in the form attached as Schedule "A" to the Notice of Motion and dispensing with service of the Amended Notice of Application; and

(b) an Order appointing Rosen Goldberg Inc. as receiver and manager of the Debtors, including the First Barrie Property, the Shelburne Property, the Pickering Property and the Second Barrie Property.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, this 20th day of March, 2025.

talya bertler

David Preger and Talya Bertler

Dickinson Wright LLP
Lawyers for the Applicants

SCHEDULE "A"
LIST OF AUTHORITIES

1. *BCIMC Construction Fund Corporation et al v The Clover on Yonge Inc*, 2020 ONSC 1953
2. *Bank of Montreal v Carnival National Leasing Limited,* 2011 ONSC 1007
3. *United Savings Credit Union v. F & R Brokers Inc.*, 2003 BCSC 640

SCHEDULE "B"
TEXT OF STATUTES, REGULATIONS & BY-LAWS

***Bankruptcy and Insolvency Act*, RSC 1985, c B-3**

Court may appoint receiver
243 (1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

(a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;

(b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or

(c) take any other action that the court considers advisable.

***Courts of Justice Act*, R.S.O. 1990, c. C.43**

Injunctions and receivers
101 (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so. R.S.O. 1990, c. C.43, s. 101 (1); 1994, c. 12, s. 40; 1996, c. 25, s. 9 (17).

Terms
(2) An order under subsection (1) may include such terms as are considered just. R.S.O. 1990, c. C.43, s. 101 (2)

B & M HANDELMAN INVESTMENTS LIMTED et al.
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-and-

CENTREVILLE HOMES (ESSA ROAD) INC. et al.
Respondents

Court File No. CV-25-00736332-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERICAL LIST

PROCEEDING COMMENCED AT
TORONTO

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