



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

COURT FILE NO.: CV-24-00714813-00CL

DATE: April 23, 2025

NO. ON LIST: 2

TITLE OF PROCEEDING: Hillmount Capital Mortgage Holdings et al v 1703306 Ontario Inc et al

BEFORE: JUSTICE STEELE

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**PARTICIPANT INFORMATION**

**For Other Party Counsel:**

Name of Person Appearing	Name of Party	Contact Info
Harry Korosis	Lawyer for Gr8Space 4U LTD	<a href="mailto:hkorosis@lcwlawyers.com">hkorosis@lcwlawyers.com</a>

**For Other, Responding Party:**

Name of Person Appearing	Name of Party	Contact Info
Catherine Francis	Lawyer for Receiver Zeifman Partners	<a href="mailto:cfrancis@foglers.com">cfrancis@foglers.com</a>

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**ENDORSEMENT OF JUSTICE STEELE:**

- [1] The Receiver brings a motion seeking two vesting orders (in respect of 2 properties located at 186 and 191 Hodgkins Avenue, Thorold, Ontario, sold to the same buyer), approval of the Receiver's Second report, approval of fees and disbursements, an order sealing confidential appendices and discharge.

- [2] The motion is not opposed.
- [3] The buyer, GR8SPACE4U Inc., who is also the second mortgagee on the properties, supports the sale, and does not otherwise take a position.
- [4] I am satisfied that the requested orders be granted.
- [5] The test for whether to approve the sale transaction is set out in *Royal Bank v. Soundair*, 1991 CanLII 2727:
- a. Whether the Receiver has made a sufficient effort to get the best price and has not acted improvidently;
  - b. The interests of all parties;
  - c. The efficacy and integrity of the process by which offers are obtained; and
  - d. Whether there has been unfairness in the working out of the process.
- [6] The Receiver, with the assistance of Royal LePage, ran a robust marketing and sale process. The Receiver recommends approval of the 201 Sale Agreement. While the properties were ultimately sold for less than the appraised value, the properties were marketed extensively through multiple methods. The initial list price for the properties were based on the original appraisals but were reduced when updated appraisal were received. The properties have been listed for an extended period and there has been very little interest. I am satisfied that the *Soundair* test has been met.
- [7] The Receiver seeks an order sealing the confidential appendices pending completion of the sale of the properties. The confidential appendices contain the two appraisal reports, the agreement of purchase and sale unredacted, and the report of the agent-broker.
- [8] Subsection 137(2) of the *Courts of Justice Act* provides that the Court may order that any document filed in a civil proceeding be treated as confidential, sealed, and not form part of the public record.
- [9] It is common to temporarily seal commercially sensitive material when assets are to be sold under a court process. Courts have acknowledged that there is a public interest in the “general commercial interest of preserving confidential information” and in maximizing recoveries in an insolvency: *Sherman Estate v. Donovan*, 2021 SCC 25, at para. 41.
- [10] The requested sealing order is limited in scope and in time. The proposed sealing order balances the open court principle and legitimate commercial requirements for confidentiality in the circumstances. In my view, the benefits of the requested sealing

order outweigh the negative impact on the “open court” principle. As noted, the confidential appendices contain appraisals and the purchase price for the proposed sale. The disclosure of the confidential appendices could have a detrimental impact on any future sale process should one be required if, for example, the proposed transaction does not close. No stakeholder will be materially prejudiced by the requested sealing order, which applies to only a limited amount of information.

- [11] I am satisfied that the limited nature and scope of the proposed sealing order is appropriate and satisfies the *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41, at para. 53, requirements, as modified in *Sherman Estate*, at para. 38.
- [12] The Receiver is directed to provide the sealed confidential appendices to the Court clerk at the filing office in an envelope with a copy of this endorsement and the signed order (with the relevant provisions highlighted) so that the confidential appendices can be physically sealed. Counsel is further directed to apply, at the appropriate time, for an unsealing order, if necessary.
- [13] The Receiver seeks approval of its fees and disbursements and those of its counsel. Fee affidavits have been filed.
- [14] When considering whether to approve professional accounts, the court will consider the overall value contributed, taking into consideration (a) the nature, extent and value of the assets, (b) the complications encountered, (c) the degree of assistance provided by the debtor, (d) the time spent, (e) the receiver’s knowledge, experience and skill, (f) the diligence and thoroughness displayed, (g) the responsibilities assumed, (h) the results of the receiver’s efforts, and (i) the cost of comparable services when performed in a prudent and economical manner: *Bank of Nova Scotia v. Diemer*, 2014 ONCA 851, at paras. 33 and 44-45.
- [15] I am satisfied that the fees and disbursements, including estimated fees to completion, are fair and reasonable.
- [16] The Receiver seeks approval of its Third Report and the activities set out therein.
- [17] The Court has the jurisdiction to review and approve the activities of a court-appointed receiver as set out in the receiver’s reports: *Bank of America Canada v. Willann Investments Ltd.*, 1996 CanLII 2782 (ONCA).
- [18] The Court in *Re Target Canada Co.*, 2015 ONSC 7574, at paras. 22-23, identified several good policy and practical reasons for monitors in CCAA proceedings to routinely seek court approval of their reports and activities. These policy and practical reasons also apply in receivership proceedings where the receiver seeks approval of its report and activities: *Re Hangfen Evergreen Inc.*, 2017 ONSC 7161, at para. 15.

- [19] I am satisfied that the activities of the Receiver set out in the Third Report were reasonable, necessary and undertaken in good faith pursuant to the Receiver's duties and powers and should be approved.
- [20] To the extent that there are any residual funds, after repayment of Receiver's Certificates, the Receiver will distribute such funds to GR8SPACE4U Inc. The Receiver has obtained a legal opinion as to the validity of GR8SPACE4U Inc.'s security and priority.
- [21] After the completion of the sale, and distribution of any funds, the Receiver's mandate will be completed, other than minor administrative tasks. The Receiver seeks its discharge effective on the completion of all remaining tasks, which is appropriate in the circumstances.
- [22] Orders attached.

A handwritten signature in blue ink, appearing to be 'J. Lee', is located in the lower right quadrant of the page. The signature is fluid and cursive, with a horizontal line extending from the end.