

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER SECTIONS 207, 209 AND 210 OF THE
BUSINESS CORPORATIONS ACT, R.S.O. 1990, c. B.16

MOTION RECORD
(Returnable September 11, 2023)

August 31, 2023

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Lawyers for Albert Gelman Inc. in its capacity as the Court-appointed liquidator of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc.

TO: THE SERVICE LIST

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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TAB 1

Court File No. CV-22-00679109-00CL

**ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE

) MONDAY, THE 11th

JUSTICE

)

) DAY OF SEPTEMBER, 2023

~~THE HONOURABLE~~

)

~~WEEKDAY, THE #~~

~~JUSTICE~~

)

~~DAY OF MONTH, 20YR~~

)

BETWEEN:

~~PLAINTIFF~~

Plaintiff

PAUL JOSEPH DIETRICH

-
a
n
d
-
=

~~DEFENDANT~~

Defendant

STEVEN ROBERT MCLAREN

Applicant

Respondent

APPLICATION UNDER SECTIONS 207, 209 AND 210 OF THE BUSINESS CORPORATIONS
ACT, R.S.O. 1990, c. B.16

APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~ Albert Gelman Inc. in its capacity as the Court-appointed ~~receiver (the "Receiver"~~ liquidator (in such capacity, the "Liquidator") of all the undertaking, property and assets of [DEBTOR], undertakings and properties of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the ~~Receiver~~ Liquidator and ~~[NAME OF PURCHASER]~~ 2117467 Ontario Inc. (the "Purchaser") dated ~~[DATE]~~ May 25, 2023, as amended, and appended to the Fourth Report of the ~~Receiver~~ Liquidator dated ~~[DATE]~~ August 30, 2023 (the "Fourth Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement including the real property municipally known as 888 Whitefield Drive in Peterborough, Ontario (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario, by videoconference.

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ON READING the Fourth Report and the appendices thereto, and on reading the fee affidavits of Messrs. Brendan Bissell and Bryan Gelman respectively sworn August 30, 2023, and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING] Liquidator, counsel for the Applicant, and counsel for the Respondent, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ Julie Mah sworn ~~[DATE]~~ August 31, 2023, filed[†]:

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

[†] ~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

2. ~~1.~~ **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved,² and the execution of the Sale Agreement by the ~~Receiver~~³ Liquidator is hereby authorized and approved, with such ~~minor~~ amendments as the ~~Receiver~~Liquidator may deem necessary. The ~~Receiver~~Liquidator is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. ~~2.~~ **THIS COURT ORDERS AND DECLARES** that upon the delivery ~~as that term is used in the Rules of Civil Procedure (Ontario)~~ of a ~~Receiver~~Liquidator's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the ~~"Receiver"~~"Liquidator's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~[and listed on, including the real property described in Schedule B hereto]~~⁴, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, ~~the~~ ~~"Claims"~~⁵), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by ~~the Order~~order of ~~the Honourable Justice [NAME]~~ dated ~~[DATE]~~; (ii) this Court in this proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal or real property registry system; and ~~(iii)~~ (iii) those Claims listed on **Schedule C** hereto (all of which are collectively referred to as the ~~"Encumbrances"~~), which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule D**) and, for greater certainty, this Court orders that all

² ~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

³ ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

⁴ ~~To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

⁵ ~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

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4. ~~3.~~ **THIS COURT ORDERS** that upon the registration in the Land Registry Office ~~for the [Registry Division of {LOCATION} of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}]#45~~ of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in **Schedule B** hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule C** hereto.

5. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the ~~Receiver~~Liquidator's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

~~5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.~~

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the ~~Receiver~~Liquidator is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, if any, including personal information of those employees ~~listed on Schedule "●" to the Sale~~

⁶ Elect the language appropriate to the land registry system (Registry vs. Land Titles).

⁷ The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

⁸ This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable

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transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

~~8. — THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

8. ~~9.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the ~~Receiver~~Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Receiver~~Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the ~~Receiver~~Liquidator and its agents in carrying out the terms of this Order.

Schedule A – Form of ~~Receiver~~Liquidator's
Certificate

Court File No.

CV-22-00679109-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

~~PLAINTIFF~~

~~Plaintiff~~

PAUL JOSEPH DIETRICH

-
a
n
d
-
=

~~DEFENDANT~~

~~Defendant~~

~~RECEIVER~~

STEVEN ROBERT
MCLAREN

Applicant

Respondent

APPLICATION UNDER SECTIONS 207, 209 AND 210 OF THE BUSINESS CORPORATIONS
ACT, R.S.O. 1990, c. B.16

LIQUIDATOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Madam Justice Gilmore of the Ontario Superior Court of Justice (the ~~"Court"~~) dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ April 4, 2022, Albert Gelman Inc. was appointed as the ~~receiver (the "Receiver"~~ Liquidator (in such capacity, the "Liquidator") of ~~all of the undertaking, property and assets of [DEBTOR], undertakings and properties of 1950979 Ontario Inc.~~ (the "Debtor").

B. Pursuant to an Order of the Court dated ~~[DATE]~~ September 11, 2023, the Court approved the agreement of purchase and sale made as of ~~[DATE OF AGREEMENT]~~ May 25, 2023 (the ~~"Sale Agreement"~~) between the ~~Receiver [Debtor] and [NAME OF PURCHASER]~~ Liquidator and 2117467 Ontario Inc. (the ~~"Purchaser"~~) and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the ~~Receiver~~ Liquidator to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in ~~section • of~~ the Sale Agreement have been satisfied or waived by the ~~Receiver~~ Liquidator and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the ~~Receiver~~ Liquidator.

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C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE ~~RECEIVER~~ LIQUIDATOR CERTIFIES the following:

1. The Purchaser has paid and the ~~Receiver~~ Liquidator has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in ~~section • of~~ the Sale Agreement have been satisfied or waived by the ~~Receiver~~ Liquidator and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the ~~Receiver~~ Liquidator.
4. This Certificate was delivered by the ~~Receiver~~ Liquidator at _____ [TIME] on _____ [DATE] on.

[NAME OF RECEIVER],

ALBERT GELMAN INC., solely in its capacity
as ~~Receiver~~Court-appointed Liquidator of all
~~the undertaking, property and assets of~~
~~[DEBTOR],~~ undertakings and properties of
1950979 Ontario Inc., and not in its personal
or corporate capacity

Per: _____

Name:

Title:

Schedule B – ~~Purchased Assets~~ Legal Description of Real Property

LAND REGISTRY OFFICE #45

<u>PIN</u>	<u>LEGAL DESCRIPTION</u>
<u>28463-0470 (LT)</u>	<u>PT LTS 8 & 9 PL 22Q (NORTH MONAGHAN) AS IN R227329 LYING E OF WHITEFIELD DRIVE, EXCEPT R235039, S/T EASEMENT OVER PT LT 8 BEING PT 1 45R-12197 IN FAVOUR OF BELL CANADA AS IN LT91763; PETERBOROUGH; TOGETHER WITH AN EASEMENT OVER PART LOT 9, PLAN 22Q NORTH MONAGHAN, PART 1, 2 & 3 PLAN 45R16694 AS IN PE308340</u>

Schedule C – Claims to be deleted and expunged from title to Real Property

<u>REG. NUM.</u>	<u>DATE</u>	<u>INSTRUMENT TYPE</u>	<u>AMOUNT</u>	<u>PARTIES FROM</u>	<u>PARTIES TO</u>	<u>CERT/CHKD</u>
<u>PE376524</u>	<u>2022/04/06</u>	<u>APL COURT ORDER</u> <u>REMARKS: APPOINTIN G LIQUIDATOR</u>	<u>=</u>	<u>ONTARIO SUPERIO R COURT OF JUSTICE</u>	<u>ALBERT GELMAN INC.</u>	<u>C</u>

**Schedule D – Permitted Encumbrances, Easements and Restrictive
Covenants related to the Real Property**

(unaffected by the Vesting Order)

<u>REG. NUM.</u>	<u>DATE</u>	<u>INSTRUMENT TYPE</u>	<u>AMOUNT</u>	<u>PARTIES FROM</u>	<u>PARTIES TO</u>	<u>CERT/CHKD</u>
LT91763	2001/12/07	TRANSFER EASEMENT	\$14,000	FALLER, STEPHANIE FALLER, HANS	BELL CANADA	C
PE314214	2019/07/23	NOTICE	\$1	THE CORPORATION OF THE CITY OF PETERBOROUGH	N/A	C
PE315066	2019/08/02	CHARGE	\$8,500,000	1950979 ONTARIO INC.	CANADA MORTGAGE AND HOUSING CORPORATIO N	C
PE315067	2019/08/02	NO ASSGN RENT GEN	=	1950979 ONTARIO INC.	CANADA MORTGAGE AND HOUSING CORPORATIO N	C

PAUL JOSEPH DIETRICHApplicantSTEVEN ROBERT MCLARENRespondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

APPROVAL AND VESTING ORDER

RECONSTRUCT LLP

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Toronto, ON M5J 2J3

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Joel Turgeon (LSO No. 80984R)

Tel: (416) 613-8281

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Lawyers for Albert Gelman Inc. in its capacity as
the Court-appointed liquidator of 1827403 Ontario
Inc., 1853997 Ontario Inc., 1885926 Ontario Inc.,
1950940 Ontario Inc., 1950941 Ontario Inc. and
1950979 Ontario Inc.

Document comparison by Workshare 10.0 on Thursday, August 31, 2023 12:39:13 PM

Input:	
Document 1 ID	file://\WFK-DC\UPM_FOLDERS\$\jmah\Documents\Joel\ Model - approval-and-vesting-order-EN.doc
Description	Model - approval-and-vesting-order-EN
Document 2 ID	file://\WFK-DC\UPM_FOLDERS\$\jmah\Documents\Joel\02 - Draft Approval and Vesting Order (888 Whitefield).pdf
Description	02 - Draft Approval and Vesting Order (888 Whitefield)
Rendering set	Standard no moves

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:

	Count
Insertions	214
Deletions	138
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	352

TAB 2

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE	)	MONDAY, THE 11th
)	
JUSTICE	)	DAY OF SEPTEMBER, 2023

B E T W E E N:

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER SECTIONS 207, 209 AND 210 OF THE
BUSINESS CORPORATIONS ACT, R.S.O. 1990, c. B.16

APPROVAL AND VESTING ORDER

THIS MOTION, made by Albert Gelman Inc. in its capacity as the Court-appointed liquidator (in such capacity, the “**Liquidator**”) of all the assets, undertakings and properties of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Liquidator and 2117467 Ontario Inc. (the “**Purchaser**”) dated May 25, 2023, as amended, and appended to the Fourth Report of the Liquidator dated August 30, 2023 (the “**Fourth Report**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement including the real property municipally known as 888 Whitefield Drive in Peterborough, Ontario (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario, by videoconference.

ON READING the Fourth Report and the appendices thereto, and on reading the fee affidavits of Messrs. Brendan Bissell and Bryan Gelman respectively sworn August 30, 2023, and on hearing the submissions of counsel for the Liquidator, counsel for the Applicant, and counsel for the Respondent, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Julie Mah sworn August 31, 2023, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Liquidator is hereby authorized and approved, with such amendments as the Liquidator may deem necessary. The Liquidator is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery—as that term is used in the *Rules of Civil Procedure* (Ontario)—of a Liquidator's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Liquidator's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement, including the real property described in **Schedule B** hereto, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by order of this Court in this proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal or real property registry system; and (iii) those Claims listed on **Schedule C** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule D**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office #45 of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in **Schedule B** hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule C** hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Liquidator's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Liquidator is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, if any, including personal information of those employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee-in-bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable

transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.

Schedule A – Form of Liquidator’s Certificate

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

**APPLICATION UNDER SECTIONS 207, 209 AND 210 OF THE *BUSINESS CORPORATIONS
ACT, R.S.O. 1990, c. B.16*****LIQUIDATOR’S CERTIFICATE****RECITALS**

A. Pursuant to an Order of the Honourable Madam Justice Gilmore of the Ontario Superior Court of Justice (the “**Court**”) dated April 4, 2022, Albert Gelman Inc. was appointed as the Liquidator (in such capacity, the “**Liquidator**”) of all of the assets, undertakings and properties of 1950979 Ontario Inc. (the “**Debtor**”).

B. Pursuant to an Order of the Court dated September 11, 2023, the Court approved the agreement of purchase and sale made as of May 25, 2023 (the “**Sale Agreement**”) between the Liquidator and 2117467 Ontario Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Liquidator to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Liquidator and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Liquidator.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE LIQUIDATOR CERTIFIES the following:

1. The Purchaser has paid and the Liquidator has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Liquidator and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Liquidator.
4. This Certificate was delivered by the Liquidator at _____ on _____ .

**ALBERT GELMAN INC., solely in its capacity
as Court-appointed Liquidator of all the
assets, undertakings and properties of
1950979 Ontario Inc., and not in its personal
or corporate capacity**

Per: _____

Name:

Title:

Schedule B – Legal Description of Real Property

LAND REGISTRY OFFICE #45

PIN	LEGAL DESCRIPTION
28463-0470 (LT)	PT LTS 8 & 9 PL 22Q (NORTH MONAGHAN) AS IN R227329 LYING E OF WHITEFIELD DRIVE, EXCEPT R235039, S/T EASEMENT OVER PT LT 8 BEING PT 1 45R-12197 IN FAVOUR OF BELL CANADA AS IN LT91763; PETERBOROUGH; TOGETHER WITH AN EASEMENT OVER PART LOT 9, PLAN 22Q NORTH MONAGHAN, PART 1, 2 & 3 PLAN 45R16694 AS IN PE308340

Schedule C – Claims to be deleted and expunged from title to Real Property

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
PE376524	2022/04/06	APL COURT ORDER <i>REMARKS: APPOINTING LIQUIDATOR</i>	-	ONTARIO SUPERIOR COURT OF JUSTICE	ALBERT GELMAN INC.	C

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
LT91763	2001/12/07	TRANSFER EASEMENT	\$14,000	FALLER, STEPHANIE FALLER, HANS	BELL CANADA	C
PE314214	2019/07/23	NOTICE	\$1	THE CORPORATION OF THE CITY OF PETERBOROUGH	N/A	C
PE315066	2019/08/02	CHARGE	\$8,500,000	1950979 ONTARIO INC.	CANADA MORTGAGE AND HOUSING CORPORATION	C
PE315067	2019/08/02	NO ASSGN RENT GEN	-	1950979 ONTARIO INC.	CANADA MORTGAGE AND HOUSING CORPORATION	C

PAUL JOSEPH DIETRICH
Applicant

STEVEN ROBERT MCLAREN
Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

APPROVAL AND VESTING ORDER

RECONSTRUCT LLP

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Lawyers for Albert Gelman Inc. in its capacity as the Court-appointed liquidator of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc.

TAB 3

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE	)	MONDAY, THE 11th
)	
JUSTICE	)	DAY OF SEPTEMBER, 2023

B E T W E E N:

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER SECTIONS 207, 209 AND 210 OF THE
BUSINESS CORPORATIONS ACT, R.S.O. 1990, c. B.16

ORDER

THIS MOTION, made by Albert Gelman Inc. in its capacity as the Court-appointed liquidator (in such capacity, the “**Liquidator**”) of all the assets, undertakings and properties of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. (together, the “**Companies**”) for the herein orders was heard this day at 330 University Avenue, Toronto, Ontario, by videoconference.

ON READING the Fourth Report of the Liquidator dated August 30, 2023 (the “**Fourth Report**”) and the affidavits of fees of Bryan Gelman and R. Brendan Bissell, respectively, sworn on August 30, 2023 (together, the “**Fee Affidavits**”), on hearing the submissions of counsel for the Liquidator, counsel for the Applicant, and counsel for the Respondent, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Julie Mah sworn August 31, 2023, filed:

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
 2. **THIS COURT ORDERS** that the Fourth Report, paragraph 16(a) of the Third Report of the Liquidator dated December 13, 2022, the activities of the Liquidator described therein, and the Liquidator's interim statements of receipts and disbursements for each of the Companies as at August 25, 2023, attached as Appendix "W" to the Fourth Report, are hereby approved, provided, however, that only the Liquidator in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.
 3. **THIS COURT ORDERS** that the fees, costs and expenses of the Liquidator including those of its lawyers, as set out in the Fee Affidavits, are hereby approved, and that the Liquidator is hereby authorized and directed to pay the same from available funds forthwith.
 4. **THIS COURT ORDERS** that Confidential Appendices "A", "B", and "C" to the Fourth Report be and are hereby sealed until the earlier of the delivery of the Liquidator's Certificate pursuant to the Approval and Vesting Order made this day in this Court file, or further Order of the Court.
 5. **THIS COURT ORDERS** that this Order is effective from its date and does not need to be entered.
-

PAUL JOSEPH DIETRICH
Applicant

STEVEN ROBERT MCLAREN
Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

ORDER

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Lawyers for Albert Gelman Inc. in its capacity as the Court-appointed liquidator of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc.

TAB 4

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER SECTIONS 207, 209 AND 210 OF THE
BUSINESS CORPORATIONS ACT, R.S.O. 1990, c. B.16

NOTICE OF MOTION
(Motion returnable September 11, 2023)

ALBERT GELMAN INC. in its capacity as the Court-appointed liquidator of all the assets, undertakings and properties of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. will make a motion to the a judge of the Ontario Superior Court of Justice (Commercial List) at 330 University Avenue, Toronto, on Monday, September 11, 2023, at 10:00am, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- in writing under subrule 37.12.1 (1) because it is on consent, unopposed or made without notice;
- in writing as an opposed motion under subrule 37.12.1 (4);
- in person;

by telephone conference;

by video conference.

Video conference coordinates will be uploaded to Caselines.

Capitalized terms not otherwise defined in this notice of motion have the meaning given to them in the Fourth Report of the Liquidator.

THE MOTION IS FOR:

1. An approval and vesting order, and an ancillary order, substantially in the form of the drafts attached at tabs 2 and 3 of the motion record:

- (a) approving the Fourth Report and the Liquidator's activities described in it, including the Liquidator's Interim SRDs;
- (b) approving and authorizing the Liquidator to enter into and carry out the terms of the Transaction contemplated by the Purchase Agreement entered into between the Liquidator, as seller, and the Purchaser, as purchaser;
- (c) vesting all of 1950979's right, title and interest in and to the 888 Whitefield Property in the Purchaser free and clear of all encumbrances, in accordance with the Commercial List model approval and vesting order, upon the Liquidator's delivery of the Liquidator's Certificate;
- (d) approving paragraph 16(a) of the Third Report;
- (e) sealing the Confidential Appendices to the Fourth Report pending the earlier of the delivery of the Liquidator's Certificate or further order of the Court;

- (f) approving the fees and disbursements of the Liquidator for the period from December 9, 2022 to August 28, 2023; and
 - (g) approves the fees and disbursements of the Liquidator's independent counsel for the period from December 1, 2022 to July 21, 2023; and
2. Such further and other relief as may be requested and this Honourable Court deems just.

THE GROUNDS FOR THIS MOTION ARE:

Approval and Vesting Order

1. 1950979 is the owner of the 888 Whitefield Property.
2. On July 7, 2022, the Realtor listed the 888 Whitefield Property on MLS.
3. The first set of marketing activity resulted in the Aborted Transaction, which the Prior Offeror declared would not proceed, on November 29, 2022.
4. The Liquidator re-listed the 888 Whitefield Property on MLS on January 12, 2023. The Realtor and Liquidator extensively marketed the property.
5. On May 25, 2023, the Liquidator accepted the Purchaser's proposed Purchase Agreement as the best offer received. The Purchaser is a company owned and controlled by the Respondent and is therefore a related party.
6. As part of the Transaction, the Purchaser will assume the only mortgage on title, being the CMHC Mortgage, of which the current balance is approximately \$8.5 million plus interest. CMHC approved the assignment of the CMHC Mortgage to the Purchaser. The Liquidator obtained an independent legal opinion from its legal counsel confirming, subject to standard assumptions and qualifications, that the CMHC Mortgage is valid and enforceable.

7. On August 10, 2023, the Purchaser waived the remaining conditions under the Purchase Agreement. The Purchaser paid a total deposit of \$400,000, currently held in trust by the Realtor. The sole remaining condition under the Purchase Agreement is obtaining the Approval and Vesting Order.

8. The Liquidator recommends the Approval and Vesting Order for the following reasons among others:

- (a) the 888 Whitefield Property was exposed to the market from April 21 to May 25, 2023 and extensively marketed;
- (b) the purchase price is fair market value given the appraisal and extensive market exposure;
- (c) the Transaction is the best offer that the Liquidator received in terms of price, conditionality and certainty of closing;
- (d) the Liquidator is satisfied that the Purchaser is willing and able to close, and the Liquidator anticipates closing the Transaction within 10 days of the Approval and Vesting Order;
- (e) the Transaction allows the monetization of the 888 Whitefield Property in accordance with the purpose of the liquidation process; and
- (f) given the above, the Liquidator can recommend the Transaction with a related party purchaser.

Other Relief Sought

9. As to the sealing order, the Confidential Appendices contain confidential information that could jeopardize any necessary further sale efforts and prevent maximization of

value should the Transaction fail to close. Copies of the Confidential Appendices with minimal redactions are filed in the public record. The sealing order sought is appropriate and limited in scope and time.

10. As to approval of the Liquidator's fees and activities, those have been appropriately reported to the court and stakeholders in the Third Report and Fourth Report. The Liquidator's activities are appropriate, timely, commercially reasonable, and in the best interest of the Companies' estate. Filed with the Fourth Report are affidavits of Messieurs Bryan Gelman of the Liquidator and Brendan Bissell of Reconstruct LLP, the Liquidator's independent legal counsel. Those affidavits are supported by true copies of detailed bills and confirm that the fees are comparable to those charged by other licensed insolvency trustee and law firms in Toronto for similar services.

11. Such further and other grounds set out in the Fourth Report.

12. The provisions of the Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16, including Sections 209, 222, and 223;

13. Sections 100 and 137(2) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;

14. The *Rules of Civil Procedure*, R.S.O. 1990, Reg 194, including Rules 1.04, 2.03, 3.02, and 37;

15. The inherent and equitable jurisdiction of this Honourable Court; and

16. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED ON THE HEARING OF THE MOTION:

1. The Fourth Report of the Liquidator dated August 30, 2023 and the appendices thereto;
2. the fee affidavits of Messieurs Messieurs Bryan Gelman of the Liquidator and Brendan Bissell of Reconstruct LLP respectively sworn August 30, 2023;
3. Such further and other evidence as counsel may advise and this Honourable Court may permit.

August 31, 2023

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Lawyers for Albert Gelman Inc. in its capacity as the Court-appointed liquidator of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc.

TO: THE SERVICE LIST

PAUL JOSEPH DIETRICH
Applicant

STEVEN ROBERT MCLAREN
Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

NOTICE OF MOTION
(Motion returnable September 11, 2023)

RECONSTRUCT LLP

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Lawyers for Albert Gelman Inc. in its capacity as the Court-appointed liquidator of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc.

TAB 5

Court File No.: CV-22-00679109-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

FOURTH REPORT OF ALBERT GELMAN INC.
in its capacity as court-appointed liquidator pursuant to the *Business Corporations Act*,
R.S.O. 1990, c. B.16

(Dated August 30, 2023)

I. INTRODUCTION

1. This fourth **report** (“Fourth Report”) is filed by **Albert Gelman Inc.** in its capacity as liquidator (in such capacity, the “Liquidator”) appointed over all of the assets, undertakings and properties of **1827403 Ontario Inc.** (“1827403”), **1853997 Ontario Inc.** (“1853997”), **1885926 Ontario Inc.**, **1950940 Ontario Inc.**, **1950941 Ontario Inc.** (“1950941”) and **1950979 Ontario Inc.** (“1950979” and, together, the “Companies”) by order of the Ontario Superior Court of Justice, Commercial List (the “Court”) dated **April 4, 2022** (the “Appointment Order”) made pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16. A copy of the Appointment Order is attached as Appendix **“A”**.

2. **The Applicant and the Respondent (together, the “Shareholders”) are the sole shareholders of the Companies.** The Shareholders set up the Companies to operate their real estate development business in Peterborough, Ontario. There is litigation between the Shareholders, currently under arbitration. The Court granted the Appointment Order with the consent of the Shareholders. Among other things, the Appointment Order **authorizes the Liquidator to sell, convey, transfer, lease or assign the Companies’ property with the prior approval of the Court as part of a liquidation and winding-down process.**

3. Since the Appointment Order, the Court made the following orders in this proceeding:
- a. an order dated June 13, 2022 **which, among other things, approved the Liquidator's payment of 1827403's corporate taxes and amended the Appointment Order to expressly provide that the Liquidator can pay post-appointment liabilities as and when they become due.** A copy of the June 13 order and related endorsement are attached together as **Appendix "B"**, and a **copy of the Liquidator's report dated June 2, 2022, filed in connection with this motion, is attached, without appendices, as Appendix "C"**.
 - b. an order dated October 13, 2022 which, among other things, authorized the Liquidator to pay pre-appointment liabilities if certain conditions are met. A copy of the October 13 order and related endorsement are attached together as Appendix "D", **and a copy of the Liquidator's report dated October 7, 2022, filed in connection with this motion (the "Second Report")**, is attached, without appendices, as **Appendix "E"**.
 - c. an order dated December 21, 2022 which, among other things, approved the sale transaction contemplated by an agreement of purchase and sale between the Liquidator and 100035384 Ontario Inc. dated October 9, 2022 and vesting in 100035384 Ontario Inc. all of **1950941's** right, title and interest in and to the real property municipally known as 144 Brock Street, Peterborough, Ontario **(the "December 21 AVO")**. A copy of the December 21 AVO is attached hereto as Appendix **"F"**, **and a copy of the Liquidator's report dated December 13, 2022 (the "Third Report")**, filed in connection with this motion, is attached, without appendices, as **Appendix "G"**.
 - d. an order dated December 21, 2022 which, among other things, approved the Third Report, other than paragraph 16(a),¹ **and the Liquidator's activities described therein** (the "December Activity Approval Order"). A copy of the December Activity Approval Order and related endorsement are attached together as **Appendix "H"**.
4. In early January of 2023, the lawyers for each of the Shareholders advised the Liquidator that the Shareholders were negotiating a transaction among them, for the sale by one to the other of **the Companies'** shares (the "Shareholder Negotiations"). The lawyers advised the Liquidator that if the transaction closed it would result of the termination of the liquidation process. **The Shareholders' lawyers** requested that the

¹ Paragraph 16(a) of the Third Report reads as follows: "To assist the stakeholders and the Court the Liquidator also wishes to briefly update two other items in connection with these liquidation proceedings: a. The first is that the HST payable in respect of 1950979, for which approval to pay was sought in the motion heard on October 13, 2022 and the resulting order, has not been paid. Issues that were discussed in that hearing resulted in considerations by the Liquidator of possible personal liability as a result. Discussions with Messrs. Dietrich and McLaren about arrangements to address that possible liability are ongoing. Until those issues have been addressed to the satisfaction of the Liquidator, it does not intend to pay the HST in question before a claims process and claims bar has been ordered by the Court, which the Liquidator will see following the disposition of all of the assets of the Companies."

Liquidator suspend liquidation efforts pending the Shareholder Negotiations, including, in particular, efforts to sell the property municipally known as 888 Whitefield Road, Peterborough (the “888 Whitefield Property”), owned by 1950979.

5. The Liquidator sought the Court’s advice and directions regarding the Shareholders’ request to suspend liquidation efforts. At a case conference held on January 12, 2023, the Court declined to give directions at that time. Attached hereto as **Appendix “I”** is the Court’s endorsement.

6. On January 13, 2023, the Liquidator advised the Shareholders that it would suspend its sale efforts for the 888 Whitefield Property, on certain terms, pending the Shareholder Negotiations. The Shareholders accepted those terms.

7. On April 18, 2023, counsel for the Applicant advised the Liquidator that the Shareholder Negotiations had failed. The Liquidator resumed its sale efforts, including for the 888 Whitefield Property. As further set out below, the Liquidator received multiple offers for the 888 Whitefield Property. On this motion, the Liquidator seeks Court approval of an agreement of purchase and sale.

II. PURPOSE OF THIS REPORT

8. This Fourth Report is **delivered in support of the Liquidator’s motion for an** order in accordance with the draft included **with its motion record (the “Approval and Vesting Order”)**, which order, among other things:

- a. approves this Fourth Report and the **Liquidator’s** activities described in it, including the **Liquidator’s Interim SRDs** (term defined below);
- b. approves and authorizes the Liquidator to enter into and carry out the terms of the sale **transaction (the “Transaction”) contemplated by an Agreement of Purchase and Sale dated May 25, 2023** (together with any amendments that the Liquidator deems appropriate or necessary, **the “Purchase Agreement”**) **entered into between the Liquidator, as seller, and 2117467 Ontario Inc., a company owned by the Respondent, as purchaser (the “Purchaser”)**;
- c. vests all of 1950979’s **right, title and interest in and to the 888 Whitefield Property** in the Purchaser free and clear of all encumbrances, in accordance with the Commercial List model approval and vesting order, **upon the Liquidator’s** delivery of a certificate confirming that the Purchaser paid the purchase price and that the parties have satisfied or waived all other conditions precedent to closing **(the “Liquidator’s Certificate”)**;
- d. amends the December Activity Approval Order to include the approval of paragraph 16(a) of the Third Report;
- e. seals the Confidential Appendices to this Fourth Report pending the earlier of the delivery of **the Liquidator’s Certificate** or further order of the Court;

- f. approves the fees and disbursements of the Liquidator for the period from December 8, 2022 to August 28, 2023; and
- g. approves **the fees and disbursements of the Liquidator's independent counsel** for the period from December 1, 2022 to June 30, 2023

III. SCOPE AND TERMS OF REFERENCE

9. In preparing this Fourth Report, the Liquidator has obtained and relied upon certain unaudited financial information of the Companies and the Companies' books and records, and had ongoing discussions with respective counsel for the Shareholders as well as the Companies' external accountant, BDO Canada LLP ("BDO").

10. While the Liquidator has reviewed the documents provided, such review does not constitute an audit or verification of the information contained in them for accuracy, completeness or compliance with **Generally Accepted Accounting Principles ("GAAP") or International Financial Reporting Standards ("IFRS")**. Accordingly, the Liquidator expresses no opinion or other form of assurance pursuant to GAAP or IFRS or otherwise with respect to such information except as expressly stated herein.

11. This Fourth Report has been prepared for the purposes described above. Accordingly, the reader is cautioned that this Fourth Report may not be appropriate for any other purpose.

12. Unless otherwise noted, all monetary amounts referenced herein are expressed in Canadian dollars.

IV. BACKGROUND INFORMATION

13. The Shareholders are the **Companies' sole shareholders. They each own** 50% of the shares of each of the Companies. They are also directors and officers of each of the Companies. 1853997 has one additional director, Greg Landry.

14. The Court granted the Appointment Order with the consent of the Shareholders in the context of litigation between them. That matter is currently under arbitration.

15. Prior to the litigation, the Shareholders were partners in a residential and commercial land development business in the Peterborough area. They incorporated the Companies to operate the business. The affidavit of Paul Dietrich sworn March 30, 2022, filed in support of the application for the Appointment Order, furthers sets out the background facts, including the litigation. A copy of that affidavit, without exhibits, is attached as **Appendix "J"**.

16. The Shareholders provided the Liquidator with trial balance reports for each of the Companies summarizing their assets and liabilities as of January 31, 2022. **The Liquidator's summary of the** trial balance reports is attached as **Appendix "K"**.

V. APPROVAL OF SALE OF 888 WHITEFIELD PROPERTY TO THE PURCHASER

Sale Efforts

17. 1950979 is the current owner and manager of the 888 Whitefield Property, a three-story, 27-unit residential apartment. As of the date of this Fourth Report, tenants occupy 24 of the 27 units. The balance of the units are vacant.

18. The Liquidator obtained a narrative appraisal report from TL Smith Appraisals, including a range of market value as of May 17, 2022. A copy of the appraisal report with the capitalization/discount rate and market value redacted is attached as **Appendix “L”**. An unredacted version of the appraisal is attached as **Confidential Appendix “A”**.

19. As reported in the Second Report, the Liquidator entered into a listing agreement with David Watkins of ReMax (the “Realtor”). On July 7, 2022, the Realtor listed the 888 Whitefield Property on the Multiple Listing Service (“MLS”) at a listing price of \$11 million.

20. A prior transaction for the 888 Whitefield Property failed. As reported in the Third Report, on or around November 29, 2022 the **contemplated purchaser (the “Prior Offeror”)** declared that he would not proceed with the transaction (**the “Aborted Transaction”**).

21. The Liquidator re-listed the 888 Whitefield Property on MLS on December 9, 2022 with an offer date of January 12, 2023. As noted in paragraphs 4 to 7, above, the Liquidator paused the sale process for the 888 Whitefield Property until April 19, 2023. Thereafter, the Liquidator resumed the sale process with the Realtor with a further offer date of May 25, 2023 (**the “Offer Date”**).

22. The Realtor prepared a marketing package, a copy of which is attached hereto as **Appendix “M”**. The Realtor and the Liquidator sent the marketing package to approximately 2,279 prospective buyers identified by the Realtor.

23. The Liquidator received 7 offers as of the Offer Date. **The Realtor’s summary of the offers received** is attached at **Confidential Appendix “B”**.

The Purchase Agreement

24. On May 25, 2023, the Liquidator accepted the Purchaser’s proposed Purchase Agreement as it was the best offer received in terms of price and perceived execution risk of the applicable conditions and willingness and ability of a purchaser to close. The Purchaser is a company owned and controlled by the Respondent and is therefore a related party. A copy of the Purchase Agreement, with the purchase price redacted, is attached as **Appendix “N”**. An unredacted copy of the Purchase Agreement is attached as Confidential Appendix **“C”**.

25. As part of the Transaction, the Purchaser will assume the only mortgage on title, being a financing **mortgage from the Canadian Mortgage and Housing Corporation (“CMHC” and the “CMHC Mortgage”)**. The current balance is approximately \$8.5 million plus interest. CMHC advised the Liquidator and the Purchaser that they approved the assignment of the CMHC Mortgage to the Purchaser, and that formal approval would

come by way an approval letter from CMHC (the “Approval Letter”). As of the date of this Fourth Report, the CMHC has not provided the Purchaser with the Approval Letter. **CMHC has been served with the Liquidator’s motion materials.**

26. The Liquidator obtained an independent legal opinion from its legal counsel confirming, subject to standard assumptions and qualifications, that the CMHC Mortgage is valid and enforceable. A copy of the parcel register for 888 Whitefield Property is attached as **Appendix “O”**.

27. On August 10, 2023, the Purchaser waived the remaining conditions under the Purchase Agreement. The Purchaser paid a total deposit of \$400,000, currently held in trust by the Realtor. The sole remaining condition under the Purchase Agreement is obtaining the Approval and Vesting Order.

28. The Liquidator recommends the approval of the Purchase Agreement and the Transaction for the following reasons:

- a. the 888 Whitefield Property was exposed to the market from April 21 to May 25, 2023 (defined above as the Offer Date) and extensively marketed;
- b. the purchase price is fair market value given the appraisal and extensive exposure to market;
- c. the Transaction is the best offer with the fewest conditions that the Liquidator received;
- d. the Liquidator is satisfied that the Purchaser is willing and able to close, and the Liquidator anticipates closing the Transaction within 10 days of the Approval and Vesting Order;
- e. the Transaction allows the monetization of the 888 Whitefield Property in accordance with the purpose of the liquidation process; and
- f. given the above, the Liquidator can recommend the Transaction with a related party purchaser.

VI. LIQUIDATOR’S OTHER ACTIVITIES SINCE SECOND REPORT

29. The Liquidator’s main activities since the Second Report are summarized in the Third Report and below.

Non-payment of account payable to 1827403 and bankruptcy application

30. As further set out in the Second Report, **Parkview Home Inc.** (“Parkview Homes”), a company owned and operated by the Respondent, owed \$1,717,000 to 1827403 as of October 7, 2022. On that date, the Liquidator sent a demand letter to Parkview Homes demanding payment. A copy of the demand letter is attached as **Appendix “P”**.

31. Parkview Homes is insolvent and failed to pay. On February 21, 2023, the Liquidator made an application to the Ontario Superior Court of Justice (in Bankruptcy) for an order adjudging Parkview Homes bankrupt. A copy of the notice of application is attached hereto as **Appendix “Q”**.

32. On May 29, 2023, Mr. Associate Justice Rappos adjourned the hearing pending service of the Office of the Superintendent of Bankruptcy and the proposed trustee-in-bankruptcy. A copy of the related endorsement is attached as **Appendix “R”**. Service was effected on June 15, 2023. The further hearing on the bankruptcy application is set for September 20, 2023.

Partial payment of 1827403’s corporate income tax debt

33. As discussed in the Second Report, the Liquidator made a partial payment of \$515,000 on account of 1827403’s **income tax liability** for its fiscal year ended October 31, 2021. According to a letter from the Canada Revenue Agency (“CRA”) dated June 20, 2023, 1827403 owed a balance of \$63,173.26 as of June 20, 2023, plus accruing interest. A copy of the June 20, 2023 CRA letter is attached as **Appendix “S”**.

34. 1827403 does not currently have sufficient liquid funds to pay the balance of its tax liability. Once the liquidation process is completed, the proceeds may allow the Liquidator to pay 1827403’s tax debt.

Closing of sale of 144 Brock Street, Peterborough property

35. On January 20, 2023, the Liquidator closed the transaction for the 144 Brock Street, formerly owned by 1950941, in accordance with the December 21 AVO. **A copy of the Liquidator’s certificate confirming closing** is attached as **Appendix “T”**. The Liquidator currently holds the transaction proceeds in trust pending a motion for distribution, which it will bring when appropriate.

Filing of Notice of Objection to CRA’s reassessment of 1950979’s HST debt

36. As of January 11, 2023, CRA reassessed 1950979’s **tax liability on account of unremitted HST to \$795,411.12**, plus accruing interest. A copy of the notice of reassessment is attached as **Appendix “U”**.

37. As further set out in the Third Report, the Liquidator was concerned that payment of 1950979’s **HST debt** could result in personal liability for the Liquidator. The Shareholders agreed to indemnify the Liquidator from any such liability in an indemnification agreement dated January 26, 2023. The Liquidator was satisfied with the indemnity and paid 1950979’s **HST liability in two installments**, the second one being on February 13, 2023.

38. On April 5, 2023, BDO advised the Liquidator to file a Notice of Objection pursuant to Part IX of the *Excise Tax Act* to dispute a portion of the interest and penalties assessed. The Liquidator did so on April 5, 2023. A copy of the Notice of Objection dated April 5, 2023 is attached as **Appendix “V”**. As of the date of this Fourth Report, CRA has not responded to the Notice of Objection.

39. Paragraph 16(a) of the Third Report addressed, **among other things, the Liquidator’s liability concerns** and the fact that the Liquidator and the Shareholders would discuss how to address the matter.

Since all parties are satisfied with the progression of this matter, the Liquidator seeks the **Court's** retroactive approval of paragraph 16(a) as part of this motion.²

Collection of rental arrears

40. On October 14, 2022 the Liquidator filed an application with the Landlord and Tenant Board to collect \$20,7563.01 in rental arrears owed to 1950979 from one of its a former residential tenants. The Liquidator settled with the former tenant and collected \$16,000 in August 2023.

Claim of ReMax

41. The Realtor had claimed in January that it was entitled to a commission from the Prior Offeror in connection with the Aborted Transaction and in light of the intended share purchase agreement between the **Applicant and the Respondent, which had the effect of suspending the Realtor's further sale efforts and ability** to earn a commission on a further sale. At a case conference held on March 20, 2023, the Court set a timetable for a motion on that claim. With the resumption of the sale efforts by the Liquidator and the Realtor after April 19, 2023, the parties agreed that the planned motion was no longer necessary because any damages claims against the estate of 1950979 for the Aborted Transaction may be reduced or eliminated by payment of a commission to the Realtor on a further sale.

42. The Liquidator has been advised that the Realtor may still wish to make claims against the Prior Offeror for commission that should have been payable under the Aborted Transaction, including under a **buyer's representation agreement between the Prior Offeror and the Realtor. The Liquidator's position is that** such a claim does not involve the estate of 1950979 and that the relief sought on this motion should not affect such a claim.

VII. **LIQUIDATOR'S INTERIM STATEMENTS OF RECEIPTS AND DISBURSEMENTS**

43. A copy of the **Liquidator's interim statements of receipts and disbursements for each of the Companies** as at August 25, 2023 is attached as Appendix "W" (collectively, **the "Interim SRDs"**).

VIII. APPROVAL OF FEES AND DISBURSEMENTS

² Paragraph 16(a) of the Third Report reads as follows: "To assist the stakeholders and the Court the Liquidator also wishes to briefly update two other items in connection with these liquidation proceedings: a. The first is that the HST payable in respect of 1950979, for which approval to pay was sought in the motion heard on October 13, 2022 and the resulting order, has not been paid. Issues that were discussed in that hearing resulted in considerations by the Liquidator of possible personal liability as a result. Discussions with Messrs. Dietrich and McLaren about arrangements to address that possible liability are ongoing. Until those issues have been addressed to the satisfaction of the Liquidator, it does not intend to pay the HST in question before a claims process and claims bar has been ordered by the Court, which the Liquidator will see following the disposition of all of the assets of the Companies."

44. Paragraph 18 of the Appointment Order requires the Liquidator and its independent legal counsel to pass their accounts with the Court. The Liquidator and its independent legal counsel have maintained detailed records of their time and costs since the Appointment Order.

45. The Liquidator has incurred fees of \$130,224.50 plus HST of \$16,929.19, totaling \$147,153.69 for the period from December 8, 2022 to August 28, 2023. A copy of the detailed billings of the Liquidator, supported by the Affidavit of Bryan Gelman sworn August 30, 2023 is attached hereto as **Appendix “X”**.

46. **The Liquidator’s legal counsel, formerly Goldman Sloan Nash & Haber LLP and now Reconstruct LLP,³ have incurred fees of \$47,344.20 and disbursements of \$357.50, plus HST of \$6,167.98, totaling \$53,933.89 for the period from December 1, 2022 to June 30, 2023. A copy of the Liquidator’s counsel’s detailed billings, supported by the Affidavit of Brendan Bissell sworn August 30, 2023 is attached hereto as **Appendix “Y”**.**

47. The Liquidator reports that the foregoing professional fees and disbursements are fair and reasonable in the circumstances and supported by detailed invoices as well as affidavits confirming *inter alia* that the abovementioned fees are comparable to those charged by other Licensed Insolvency Trustee and law firms for similar services in Toronto.

IX. RECOMMENDATION

48. The Liquidator respectfully recommends the Approval and Vesting Order, which:


- a. approves this Fourth Report and the activities of the Liquidator described in it, including the **Liquidator’s Interim SRDs**;
- b. approves and authorizes the Liquidator to enter into and carry out the terms of the Transaction as contemplated in the Purchase Agreement;
- c. vests **all of 1950979’s right, title and interest in and to the 888 Whitefield Property in the Purchaser free and clear of all encumbrances upon the Liquidator’s** delivery the Liquidator’s Certificate;
- d. seals the Confidential Appendices to this Fourth Report pending the earlier of the delivery of **the Liquidator’s Certificate** or further order of the Court;
- e. amends the December Activity Approval Order to include the approval of paragraph 16(a) of the Third Report; and
- f. approves the fees and disbursements of the Liquidator and its legal counsel as set out above.

³ **The Liquidator’s lawyers**, Brendan Bissell and Joel Turgeon, were formerly at Goldman Sloan Nash & Haber and have since joined Reconstruct LLP in March of 2023 and September of 2022, respectively. The Liquidator elected to retain Reconstruct LLP effective March 9, 2023.

* * *

All of which is respectfully submitted this 30th day of August 2023

**ALBERT GELMAN INC., solely in its
capacity as the Court-Appointed Liquidator
of each of the Companies and not in its
Personal or any other Capacity**

Per:  Digitally signed
by Bryan
Gelman

Bryan Gelman, *CIRP, LIT*

APPENDIX A

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM	)	MONDAY, THE 4 th
)	
JUSTICE GILMORE	)	DAY OF APRIL, 2022

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER sections 207, 209 and 210 of the *Business Corporations Act*, R.S.O.
1990, c. B16

**ORDER
(appointing Liquidator)**

THIS APPLICATION made by the Applicant for an Order pursuant to sections 207, 209 and 210 of the *Business Corporations Act*, R.S.O., 1990, c. B-16, as amended (the "**BCA**"), appointing Albert Gelman Inc. ("**AGI**") as liquidator (in such capacity, the "**Liquidator**") without security, of all of the assets, undertakings and properties (the "**Property**") of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. (collectively, the "**Companies**"), was heard this day via ZOOM video conference due to the COVID-19 pandemic.

ON READING the affidavit of Paul Joseph Dietrich sworn March 30, 2022 and the Exhibits thereto, including the consent of AGI to act as the Liquidator, and being advised that the parties consent to the relief sought herein and on hearing the submissions of counsel for the

Applicant and the Respondent and those parties listed on the counsel slip, no one else appearing for any other person although duly served as appears from the affidavit of service of Danny Nunes sworn April 1, 2022, filed

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

WINDING UP AND APPOINTMENT OF LIQUIDATOR

2. **THIS COURT ORDERS** that the Companies shall be wound up pursuant to sections 207(b)(iii) and (iv) of the BCA.

3. **THIS COURT ORDERS** that pursuant to sections 207 and 210 of the BCA, AGI is hereby appointed Liquidator, without security, of all the Companies' Property with the powers set forth herein and those set forth in Part XVI of the BCA. To the extent that there is an inconsistency between the powers provided to the Liquidator under the BCA and this Order, the terms of this Order shall govern to the extent that they restrict or limit the powers of the Liquidator.

LIQUIDATOR'S POWERS

4. **THIS COURT ORDERS** that in addition to all the powers provided in Part XVI of the BCA, including without limitation those set out in section 223 of the BCA, the Liquidator is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Liquidator is hereby expressly empowered and authorized to do any of the following where the Liquidator considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Companies, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Companies;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Liquidator's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Companies or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Companies and to exercise all remedies of the Companies in collecting such monies, including, without limitation, to enforce any security held by the Companies;
- (g) to settle, extend or compromise any indebtedness owing to the Companies, with the exception of any indebtedness owed to any of the Companies by Parkview Homes Inc. and its related and affiliated companies (collectively, the “**Parkview Group**”);
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Liquidator's name or in the

name and on behalf of the Companies, for any purpose pursuant to this Order;

- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Companies, the Property or the Liquidator, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Liquidator in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$25,000.00, provided that the aggregate consideration for all such transactions does not exceed \$50,000.00; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Liquidator deems appropriate on all matters relating to the Property, and to share information, subject to such terms as to confidentiality as the Liquidator deems advisable;

- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Liquidator, in the name of the Companies;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Companies, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Companies;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Companies may have;
- (r) to apply to the Court for an order dissolving the Companies; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Liquidator takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Companies, and without interference from any other Person.

5. **THIS COURT ORDERS** that, without limiting any of the powers set out in paragraph 4 of this Order, the Liquidator is authorized and directed to enter into one or more standard listing agreements with one or more duly licensed commercial real estate agents (a “**Realtor**”) for the purpose of listing, marketing and selling the properties municipally known as 144 Brock Street and 888 Whitefield Drive, Peterborough, Ontario (the “**Real Property**”), at such listing prices as may be recommended by the respective Realtor and approved or agreed to by the Liquidator as appropriate in the circumstances and the Liquidator may, if deemed advisable by the Liquidator in consultation with the Realtor, take such actions or steps as may be required to lease any unit in the Real Property before listing the Real Property for sale, and is hereby authorized to do so.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE LIQUIDATOR

6. **THIS COURT ORDERS** that (i) the Companies, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Liquidator of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Liquidator, and shall deliver all such Property to the Liquidator upon the Liquidator's request.

7. **THIS COURT ORDERS** that all Persons shall forthwith advise the Liquidator of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Companies, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Liquidator or permit the Liquidator to make, retain and take away copies thereof and grant to the Liquidator unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 7 or in paragraph 8 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Liquidator due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

8. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Liquidator for the purpose of allowing the Liquidator to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Liquidator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Liquidator. Further, for the purposes of this paragraph, all Persons shall provide the Liquidator with all such assistance in

gaining immediate access to the information in the Records as the Liquidator may in its discretion require including providing the Liquidator with instructions on the use of any computer or other system and providing the Liquidator with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE LIQUIDATOR

9. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Liquidator except with the written consent of the Liquidator or with leave of this Court.

NO PROCEEDINGS AGAINST THE COMPANIES OR THE PROPERTY

10. **THIS COURT ORDERS** that no Proceeding against or in respect of the Companies or the Property shall be commenced or continued except with the written consent of the Liquidator or with leave of this Court and any and all Proceedings currently under way against or in respect of the Companies or the Property are hereby stayed and suspended pending further Order of this Court.

NO INTERFERENCE WITH THE LIQUIDATOR

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Companies, without written consent of the Liquidator or leave of this Court.

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Companies or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Companies are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Liquidator, and that the Liquidator shall be entitled to the continued use of the Companies' current telephone numbers, facsimile numbers, internet addresses and domain

names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Liquidator in accordance with normal payment practices of the Companies or such other practices as may be agreed upon by the supplier or service provider and the Liquidator, or as may be ordered by this Court.

LIQUIDATOR TO HOLD FUNDS

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Liquidator from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Liquidator (the "**Post Liquidation Accounts**") and the monies standing to the credit of such Post Liquidation Accounts from time to time, net of any disbursements provided for herein, shall be held by the Liquidator to be paid in accordance with the terms of this Order or any further Order of this Court.

PIPEDA

14. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Liquidator shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Liquidator, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Companies, and shall return all other personal information to the Liquidator, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. **THIS COURT ORDERS** that nothing herein contained shall require the Liquidator to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Liquidator from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Liquidator shall not, as a result of this Order or anything done in pursuance of the Liquidator's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE LIQUIDATOR'S LIABILITY

16. **THIS COURT ORDERS** that the Liquidator shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Liquidator by Part XVI of the BCA or by any other applicable legislation.

LIQUIDATOR'S ACCOUNTS

17. **THIS COURT ORDERS** that the Liquidator and counsel to the Liquidator shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Liquidator and counsel to the Liquidator shall be entitled to and are hereby granted a charge (the "**Liquidator's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Liquidator's Charge shall form a first

charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.

18. **THIS COURT ORDERS** that the Liquidator and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Liquidator and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. **THIS COURT ORDERS** that prior to the passing of its accounts, the Liquidator shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Liquidator or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE LIQUIDATION

20. **THIS COURT ORDERS** that the Liquidator be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Liquidator by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Liquidator's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Liquidator's Charge.

21. **THIS COURT ORDERS** that neither the Liquidator's Borrowings Charge nor any other security granted by the Liquidator in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. **THIS COURT ORDERS** that the Liquidator is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Liquidator's Certificates**") for any amount borrowed by it pursuant to this Order.

23. **THIS COURT ORDERS** that the monies from time to time borrowed by the Liquidator pursuant to this Order or any further order of this Court and any and all Liquidator's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Liquidator's Certificates.

SERVICE AND NOTICE

24. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<http://www.albertgelman.com/corporate-solutions/other-engagements/>'.

25. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Liquidator is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Companies creditors or other interested parties at their respective addresses as last shown on the records of the Companies and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

26. **THIS COURT ORDERS** that the Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. **THIS COURT ORDERS** that nothing in this Order shall prevent the Liquidator from acting as a trustee in bankruptcy of the Companies.

28. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.

29. **THIS COURT ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Liquidator is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

30. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Liquidator and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



SCHEDULE "A"

LIQUIDATOR'S CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Albert Gelman Inc., the liquidator (the "**Liquidator**") of the assets, undertakings and properties of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. (collectively, the "**Companies**") including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the ___ day of _____, 20__ (the "**Order**") made in an action having Court file number CV-22-00679109-00CL, has received as such Liquidator from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Liquidator is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Liquidator pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order, and the right of the Liquidator to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the

Liquidator to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Liquidator to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Liquidator does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

Albert Gelman Inc., solely in its capacity
as Liquidator of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

PAUL JOSEPH DIETRICH

and

STEVEN ROBERT MCLAREN

Applicant

Respondent

APPLICATION UNDER Sections 207, 209 and 210 of the *Business Corporations Act*, R.S.O. 1990, c. B16, as amended

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDINGS COMMENCED AT TORONTO

**ORDER
(Liquidator's Appointment)**

DLA PIPER (CANADA) LLP
1 First Canadian Place, Suite 6000
100 King Street West
Toronto, ON M5X 1E2

Danny M. Nunes (LSO No. 53802D)
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Lawyers for the Applicant

APPENDIX B

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM	)	MONDAY, THE 13 th
)	
JUSTICE CONWAY	)	DAY OF JUNE, 2022

B E T W E E N :

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER sections 207, 209 and 210 of the
Business Corporation Act, R.S.O. 1990, c. B16

ORDER

THIS MOTION made by Albert Gelman Inc. (“**AGI**”) in its capacity as liquidator (in such capacity, the “**Liquidator**”) appointed pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16 over all of the assets, undertakings and properties of 1827403 Ontario Inc. (“**1827403**”), 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. (together with 1827403, the “**Companies**”) was heard before me on June 13, 2022 at 330 University Avenue, Toronto, by videoconference.

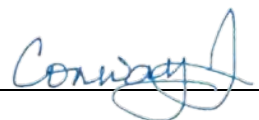
ON READING the first report of the Liquidator dated June 2, 2022 (the “**First Report**”), and on hearing the submissions of counsel for the Liquidator and such other counsel as were present as may be indicated on the counsel slip, no one else appearing despite being served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for service of the motion record in respect of this motion and the First Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.
2. THIS COURT ORDERS that the Liquidator is authorized, at its discretion, to pay or make incremental payments towards the corporate income tax liability of 1827403 in respect of its fiscal year ended October 31, 2021, up to the amount of \$557,072 in addition to any applicable interest, penalty or like amount payable by 1827403 in respect thereof under tax legislation, to the extent of and only with funds that are or may become from time to time available in the estate of 1827403, and unless and until 1827403 becomes insolvent within the meaning of the *Bankruptcy and Insolvency Act* (Canada) as determined by the Liquidator acting reasonably.
3. THIS COURT ORDERS that the order of this court made in this file on April 4, 2022 appointing the Liquidator as such (the “**Appointment Order**”) is amended to the extent that the Liquidator is authorized and directed to pay any liability of any of the Companies (or the portion thereof) that becomes due after the Appointment Order in accordance with the terms thereof and in the normal course, to the extent of and only from funds that are or may become from time to time available in the applicable estate of the Companies.

4. THIS COURT ORDERS that the First Report as well as the activities described therein are hereby approved, provided, however, that only AGI in its personal capacity and with respect to its personal liability shall be entitled to rely upon or utilize in any way such approval.

5. THIS COURT ORDERS that the fees, costs and expenses of the Liquidator including those of its lawyers, Goldman Sloan Nash & Haber LLP, as set out in the fee affidavits appended to the First Report, are hereby approved, and that the Liquidator is hereby authorized and directed to pay the same from available funds.

6. THIS COURT ORDERS that this order is effective as of its date at 12:01 am and does not need to be issued or entered.

A handwritten signature in blue ink, appearing to read "Conway J.", is written over a horizontal line.

PAUL JOSEPH DIETRICH

Applicant

-and-

STEVEN ROBERT MCLAREN

Respondent

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced in TORONTO

ORDER

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Lawyers for the Albert Gelman Inc. in its capacity as
court-appointed liquidator



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP

COURT FILE NO.: CV-22-679109-00CL

DATE: 13 June 2022

NO. ON LIST: 6

TITLE OF PROCEEDING:
BEFORE JUSTICE CONWAY
Dietrich -v- McLaren

PARTICIPANT INFORMATION**For Applicant:**

Name of Person Appearing	Name of Party	Contact Info
Mr. Danny Nunes	Paul Dietrich	Danny.nunes@dlapiper.com 416-365-3421

For Respondent:

Name of Person Appearing	Name of Party	Contact Info
No appearance		

Other Parties in Attendance:

Name of Person Appearing	Name of Party	Contact Info
Mr. Brendan Bissell	Counsel for Albert Gelman Inc. – Court-appointed liquidator	bissell@gsnh.com 416-597-6489
Mr. Joel Turgeon	Counsel for Albert Gelman Inc. – Court-appointed liquidator	turgeon@gsnh.com 416-597-6486
Mr. Bryan Gelman	Albert Gelman Inc. – Court- appointed liquidator	bgelman@albertgelman.com 416-504-1650 x 115

ENDORSEMENT OF JUSTICE CONWAY:

This motion is by the Liquidator for an order authorizing it to pay the tax liability of 1827403 Ontario Inc. (to the extent of funds on hand), amending the appointment order re payment of post-appointment liabilities, approving the First Report, and approving the fees of the Liquidator and its counsel. The motion is unopposed.

Mr. Bissell explained to the court that the Liquidator has satisfied itself that there are no other creditors of 1827403 that will be impacted by the order authorizing the Liquidator to pay the tax liability. He also responded to Mr. Nunes' request that the Liquidator act expeditiously to resolve the issue about the large receivable owed to 1827403.

Order to go as signed by me and attached to this endorsement. This order is effective from today's date and is enforceable without the need for entry and filing.

A handwritten signature in blue ink, appearing to read "Conway J.", with a stylized flourish at the end.

APPENDIX C

Court File No.: CV-22-00679109-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

FIRST REPORT OF ALBERT GELMAN INC.
in its capacity as court-appointed liquidator pursuant to the *Business Corporations Act*,
R.S.O. 1990, c. B.16

(Dated June 2, 2022)

I. INTRODUCTION

1. **This first report** (“First Report”) is filed by **Albert Gelman Inc.** (“AGI”) in its capacity as liquidator (in such capacity, the “Liquidator”) appointed over all of the assets, undertakings and properties (together, the “Property”) of 1827403 Ontario Inc. (“1827403”), 1853997 Ontario Inc. (“1853997”), 1885926 Ontario Inc. (“1885926”), 1950940 Ontario Inc. (“1950940”), 1950941 Ontario Inc. (“1950941”) and 1950979 Ontario Inc. (“1950979” and, together with 1827403, 1853997, 1885926, 1950940 and 1950941, **the “Companies”**) by Order of the Ontario Superior Court of Justice, Commercial List (**the “Court”**), dated April 4, 2022 (**the “Appointment Order”**), made pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16. The application was commenced by Paul Joseph Dietrich. A copy of the Appointment Order is attached hereto as Appendix **“A”**.

II. PURPOSE OF THIS REPORT

2. The purpose of this First Report is to:
- a. provide both the Court and stakeholders with an update with respect to the Liquidator’s actions and activities since the date of the Appointment Order;

- b. provide background for and **support the Liquidator's motion** to the Court returnable on June 13, 2022, seeking an Order:
 - i. authorizing the Liquidator, to the extent of and only with funds that are or may become from time to time available in the estate of 1827403, to pay the corporate income tax liability of 1827403 in respect of its fiscal year ended October 31, 2021, up to the assessed amount of \$557,072, in addition to any applicable interest, penalty or like amount payable in respect thereof (collectively, **the "Tax Liability"**);
 - ii. amending the Appointment Order **to confirm the Liquidator's ability to pay any of the Companies'** post-Appointment Order obligations in accordance with their terms and in the normal course, to the extent of and only from funds that are or may become from time to time available in the applicable estate;
 - iii. approving this First Report as well as the actions and activities of the Liquidator **described herein, including the Liquidator's** Interim SRDs (defined below);
 - iv. approving the fees and disbursements of the Liquidator incurred up to May 31, 2022; and
 - v. approving the fees and disbursements **of the Liquidator's** independent counsel, **Goldman Sloan Nash and Haber LLP ("GSNH")**, incurred up to May 31, 2022.

III. SCOPE AND TERMS OF REFERENCE

3. In preparing this First Report, the Liquidator has obtained and relied upon certain unaudited financial information of the Companies and the Companies books and records, and had ongoing discussions with Paul Dietrich and Steve McLaren (**together, the "Shareholders"**), counsel for both Mr. Dietrich and Mr. McLaren, Mr. Dietrich's accountant Greg Landry, and the Companies' external accountant, BDO Canada LLP ("**BDO**").

4. While the Liquidator has reviewed the various documents provided, such review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted **Accounting Principles ("GAAP") or International Financial Reporting Standards ("IFRS")**. Accordingly, the Liquidator expresses no opinion or other form of assurance pursuant to GAAP or IFRS or otherwise with respect to such information except as expressly stated herein.

5. This First Report has been prepared for the purposes described above. Accordingly, the reader is cautioned that this First Report may not be appropriate for any other purpose.

6. Unless otherwise noted, all monetary amounts referenced herein are expressed in Canadian dollars.

IV. BACKGROUP INFORMATION

7. The Companies' **sole shareholders** are the Shareholders, who each own 50% of the shares of each of the Companies. Each of the Shareholders is also a director and officer of each of the Companies. 1853997 has one additional director, Greg Landry.

8. The Appointment Order was made on consent of both the Applicant and the Respondent and ordered by the Honourable Justice Gilmore on April 4, 2022 (Appendix "A").

9. The Shareholders previously operated effectively as partners with their principal line of business being residential and commercial land development in the Peterborough, Ontario and the surrounding area. The Companies were each incorporated for the purposes of land development.

10. Further background information relating to the Companies and the events leading to the appointment of the Liquidator, including the underlying dispute between the Shareholders, is set out in the affidavit of Paul Dietrich sworn March 30, 2022 filed in support of the application for the Appointment Order, of which a copy without exhibits is attached hereto as **Appendix "B"**.

11. Prior to the Appointment Order, the Liquidator was provided with trial balance reports prepared by the Shareholders for each of the **Companies (the "Trial Balance Reports")** summarizing the assets and liabilities of each of the Companies as at January 31, 2022. Attached hereto as **Appendix "C"** is a copy of the Liquidator's summary of the Trial Balance Reports.

12. Set out below for each of Companies is a summary of the current status, assets and liabilities, and the actions and activities of the Liquidator since the date of the Appointment Order.

V. 1950979 ONTARIO INC.

Assets

13. The principal asset of 1950979 is the real property municipally known as 888 Whitefield Drive, **Peterborough, Ontario (the "Whitefield Property")**. **The Whitefield Property is a** three-story, 27-unit residential apartment building which 1950979 was set up to build and manage. Tenants began to occupy apartments in 2021. As of the date of this First Report, approximately 24 of the 27 units are occupied. The balance of the units are vacant.

14. 1950979 obtained financing for the construction of the Whitefield Property from the **Canadian Mortgage and Housing Corporation ("CMHC")**. Such financing is secured by a mortgage registered on the Whitefield Property (**the "CMHC Mortgage"**), as more fully appears from a copy of a land title search dated February 25, 2022 attached hereto as **Appendix "D"**. The current balance of the CMHC mortgage is approximately \$8.5 million. On May 19, 2022, a representative of CMHC provided the Liquidator with the CMHC Mortgage loan amortization schedule, a copy of which is attached hereto as **Appendix "E"**. The CMHC Mortgage is attached hereto as **Appendix "F"**.

15. The Liquidator understands that the CHMC Mortgage was granted on favourable terms in consideration of, among other things, certain “mortgagor commitments” as to ‘affordability’, ‘accessibility’, ‘energy efficiency’ and ‘contamination’ requirements, as set out in the **CHMC Mortgage (Appendix “F”)**, and **more specifically its Schedule “A-3”**.

16. Apart from the Whitefield Property, the only other material asset of 1950979 is the cash in its Toronto-**Dominion Bank (“TD Bank”) bank account**, which had a balance of approximately \$1.27 million as of the date of the Appointment Order. The Liquidator contacted TD Bank to advise of its appointment and change the signing authority to itself. The Liquidator then transferred **\$1.1 million from 1950979’s TD Bank** account to the Liquidator’s trust account on April 21, 2022. The TD Bank account remains open because tenants continue to pay rent into it and several automatic disbursements (including the CMHC Mortgage payments and utilities) are set up for regular withdrawal from it.

17. The Liquidator is not aware of any other material asset of 1950979.

Liabilities

18. According to the Trial Balance of 1950979, its only material liabilities are the balance of the CMHC Mortgage, currently being approximately \$8.5 million, and an amount of approximately \$700,000 owing to Parkview Homes Inc., a company which the Liquidator understands is owned and operated by Steve McLaren (one of the Shareholders) and is therefore a related party (“Parkview Homes”).

19. However, the Liquidator has become aware that 1950979 may in addition become subject to a potentially **material liability on account of Harmonized Sales Tax (“HST”) for** which a self-assessment was required, but not filed, as of the date of the first tenancy occupation of the Whitefield Property. The Liquidator has engaged **1950979’s** accountant, BDO, to provide advice and assistance in respect of the HST liability. At this time, the Liquidator does not know the quantum of this HST liability but will report further at a later date with additional information in this regard.

20. The Liquidator received a property tax statement from the City of Peterborough indicating that the outstanding property taxes owing in respect of the Whitefield Property as of May 12, 2022 were \$ 2,741.

21. According to a *Personal Property Security Act (“PPSA”)* search conducted by the Liquidator on April 4, 2022 (with a file currency date of April 3, 2022), of which a copy is attached as **Appendix “G”**, there is only one PPSA registration against 1950979, which was made by CMHC in respect of the CMHC Mortgage.

22. The Liquidator is not aware of any other material liability of 1950979.

Liquidator’s Actions and Activities

23. The ongoing dispute between the Shareholders appears to have impaired the timely and active management of the Whitefield Property. There was no rent roll, in many cases rent cheques and payments were not being deposited, tenants were complaining about deficiencies in their units which were not being addressed and there were health and safety concerns in the building that had not been dealt with. The

Liquidator requested copies of lease agreements, tenant account statements and other information pertinent to the building's management from the Shareholders; however, the Liquidator was told that this information was not available.

24. Immediately upon its appointment, **the Liquidator's primary focus was** therefore to stabilize the management of the Whitefield Property by retaining a property manager. The Liquidator obtained proposals from two property management companies in Peterborough, Ontario and selected 824975 Ontario Inc. o/a Guardian Property Management (**the "Property Manager"**) to act as manager of both the Whitefield Property and the Brock Property (term defined below; this latter property is owned by 1950941 as discussed below).

25. To prepare a rent roll, the Liquidator reviewed corporate accounting records and correspondence with tenants. Since the engagement of the Property Manager, its representatives have met individually with each tenant to ensure and regularize future rent payment, and to discuss any outstanding concerns. The Property Manager reported all issues raised by tenants to the Liquidator and those are being managed as discussed in more detail below.

26. In addition to the actions set out above and all things necessary and attendant thereto, the other main actions and activities undertaken by the Liquidator with respect to 1950979 were the following:

- a. Inspected the Whitefield Property upon taking possession and, at that time, took pictures and videos of the inside and outside of the property;
- b. Registered a copy of the Appointment Order on title to the Whitefield Property in accordance with paragraph 4(n) of the Appointment Order;
- c. Contacted CMHC to advise of the appointment of the Liquidator and request, among other things, confirmation of the status of the CMHC Mortgage, the mortgage amortization schedule, copies of the mortgage documents and copies of 1950979's insurance policy in respect of the Whitefield Property, as this information, despite being requested, could not be provided to the Liquidator by the Shareholders. The Liquidator has been in regular communication with representatives of CMHC since then;
- d. Ensured that the CMHC Mortgage payments continue to be drawn directly from 1950979's TD Bank account on the first of each month;
- e. Obtained information regarding the insurance policies for the Whitefield Property and the name/contact information of the insurance broker. The Liquidator contacted 1950979's insurance broker, Mitchell Sandham Inc. ("MSI"), to request that the Liquidator be added as an additional insured and loss payee. As of the date of this First Report, MSI had not yet responded to the Liquidator;
- f. Received a courier package from Paul Dietrich, one of the Shareholders, which contained stale dated rent cheques in the amount of \$17,505, past-due rent cheques in the amount of \$55,572, post-dated rent cheques in the amount of \$30,000, and cash in the amount of \$2,311. The

Liquidator deposited the past-due rent cheques and cash into its trust account and continues to deposit the post-dated rent cheques as the amount thereunder becomes due under the applicable lease terms. The stated dated cheques will form part of a reconciliation used by the Liquidator for the state of accounts with tenants, as further discussed herein;

- g. Contacted three commercial realtors to request listing proposals for an eventual listing of the Whitefield Property and commissioned an appraisal report for the Whitefield Property (further discussed below). As of the date of this First Report, the Liquidator has received one listing proposal. The Liquidator intends on selecting a realtor after having received all commissioned listing proposals as well as the appraiser's report;
- h. Performed an analysis as to whether to market and attempt to lease the Whitefield **Property's** three vacant units. Based on the preliminary advice of the prospective realtors, the Liquidator has chosen not to enter into new lease agreements with tenants until such time as the Liquidator has a better understanding of the amount of rent it can charge, considering, among other things, the CMHC Mortgage "**mortgagor commitments**", if applicable, as the case may be;
- i. Maintained a general ledger account for post-Appointment Order transactions which flowed through 1950979's **TD Bank account**;
- j. Maintained monthly bank reconciliations for 1950979's **TD Bank account**;
- k. Obtained access to and undertook a detailed review of 1950979's corporate email address account (888whitefield@parkviewhomes.ca) (**the "Whitefield Email Account"**) to, among other things, create a tenant rent roll. The Liquidator notes from its review of the Whitefield Email Account that there are numerous email money transfers from various individuals, most of whom were tenants of the Whitefield Property, that have not been deposited and, therefore, have expired. This means that several tenants were attempting to pay their rent on a monthly basis and their payments were not being deposited. The Liquidator is currently working on quantifying this amount;
- l. Begun the process of reviewing historical bank statements, online bank transactions as well as information obtained from the Whitefield Email Account in order to prepare a ledger of rental arrears owing by the existing tenants in order to eventually regularize and collect the same. The Liquidator has engaged the Property Manager in this process, which is difficult and time-intensive considering, among other things, the lack of active management in the last 6 to 12 months, including as may be due to the litigation among the Shareholders. For example, due to incomplete bookkeeping, the Liquidator lacked copies of the vast majority of tenancy agreements in place. The Property Manager attempted to obtain the same directly from tenants. In several instances, the Liquidator has been unable to obtain the same or complete copies thereof. In some other instances the tenants informed the Property Manager that there

was never a formal written lease entered into between them and 1950979. In some cases still, the rent being paid did not accord with the amount stated on the applicable lease agreements. Those are examples of concerns which the Liquidator is presently working on regularizing;

- m. Reviewed historical bank transactions in order to determine the ongoing critical disbursements including payments to CMHC, utility providers, elevator maintenance, etc. to ensure that these disbursements continue to be paid directly **from 1950979's TD Bank account** in the normal course;
- n. Worked with the City of Peterborough to obtain current property tax statement(s) for the Whitefield Property and to ensure that all future correspondence regarding the Whitefield Property is forwarded to the Liquidator;
- o. Engaged and worked with the Appraiser to obtain an appraisal of the Whitefield Property. As of the date of this First Report the appraisal is not complete. The Appraiser has advised the Liquidator that, among other things, it requires historical financial statements for 1950979 in order to complete the appraisal. The Liquidator requested the same from BDO after being advised by both Shareholders that they do not have copies, and expects to obtain it shortly so as to allow the Appraiser to complete its appraisal, which is a material step towards an eventual listing and sale of the Whitefield Property **as part of the Liquidator's mandate**;
- p. In addition to those acts and activities of the Property Manager set out above, the Liquidator has worked with the Property Manager who has undertaken, among other things, the following:
 - i. Notified the tenants of its appointment and role as Property Manager. An anonymized **copy of the Property Manager's correspondence to tenants** dated April 22, 2022 is attached as **Appendix "H"**;
 - ii. Made arrangements to service the main heating unit in the building maintenance room which required immediate maintenance;
 - iii. Brought to the Liquidator's attention issues relating to numbering and tenant use of parking spots, deficiencies with respect to the intercom system, the need to replace furnace filters in all units, and the fact that general maintenance is required on the building elevator system. The Property Manager is in the process of addressing each of these issues;
 - iv. Retained Kevin Desroches (the "Locksmith") to re-key the Whitefield Property due to the Shareholders being unable to provide the Liquidator with the master key;
 - v. Arranged for the **Peterborough fire department ("PFD")** to conduct an inspection of the Whitefield Property on May 12, 2022 after being advised by tenants that certain fire alarms and carbon monoxide detectors may not be working properly. The PFD provided the Property Manager with an Inspection Order which identified several

deficiencies. Attached hereto as **Appendix “I”** is a copy of the Inspector Order. The deadline to cure the deficiencies as set out in the Inspection Order is July 18, 2022. Subsequently to this first inspection, the PFD advised the Property Manager that carbon monoxide detectors in several units were also not operational and that new units needed to be installed by May 19, 2022. The Property Manager ensured that the defective carbon monoxide detectors were changed to the satisfaction of the PFD, **as confirmed by a PDF representative’s further on-site inspection** on May 19, 2022. The Liquidator is in the process of working with the Property Manager on a comprehensive plan to address the other outstanding deficiencies noted in the Inspection Order prior to the deadline noted above; and

- vi. Met with a representative of Carma Corp., a national submetering products and services provider, for the purposes of reviewing the building electricity metering. The Carma Corp. representative advised the Property Manager that due to imperfect metering, the electricity used in several occupied units was not being attributed and billed to the applicable tenant as it should be; instead 1950979 had been paying for this electricity. The Property Manager is working with Carma Corp. so that this situation be regularized.

VI. 1950941 ONTARIO INC.

Assets

27. 1950941 is the owner of the real property municipally known as 144 Brock Street, Peterborough, **Ontario (the “Brock Property”)**. The Brock Property is a two-story building with two residential apartments on the top floor and a restaurant unit on the main floor. Both residential units are tenanted. The main floor restaurant unit is vacant. The restaurant unit is not in a state fit for immediate commercial use.

28. According to a parcel register obtained by the Liquidator on May 12, 2022 there are no mortgages, liens or other encumbrances registered on title to the Brock Property. Attached hereto as **Appendix “J”** is a copy of the land title search.

29. The only other material asset of 1950941 is the cash in its TD Bank account, being approximately \$25,000. The Liquidator contacted the TD Bank to advise of its appointment and change the signing authority.

Liabilities

30. According to the Trial Balance Report, the only material liability of 1950941 is an amount of approximately \$1 million owed to Parkview Homes.

31. The Liquidator received a property tax statement from the City of Peterborough indicating that the outstanding property taxes owing in respect of the Brock Property as of May 12, 2022 was \$2,662.

32. According to a *Personal Property Security Act* (“PPSA”) search conducted by the Liquidator on April 4, 2022 (with a file currency date of April 3, 2022), of which a copy is attached as **Appendix “K”**, there are no PPSA registration against 1950941.

33. The Liquidator is not aware of any other material liability of 1950941.

Liquidator’s Actions and Activities

34. Since the Appointment Order, the main actions and activities of the Liquidator with respect to 1950941 have been, among other things, as follows:

- a. Worked with Steve McLaren to tour the Brock Property and assess the state of maintenance of the Brock Property;
- b. Retained the Locksmith to change the locks of the vacant commercial unit on the main floor which is not occupied;
- c. Registered a copy of the Appointment Order on title to the Brock Property in accordance with paragraph 4(n) of the Appointment Order;
- d. Communicated with Aviva Insurance Company of Canada to advise of its appointment and to request all relevant information regarding the insurance policy and status. As of the date of this First Report, the Liquidator remains **awaiting the insurer’s response**;
- e. Engaged a certified appraiser to provide the Liquidator with an appraisal of the Brock Property. Similar to the Whitefield Property, the appraiser is unable to complete its appraisal until such time as additional financial information is provided. The Liquidator has been in communication with BDO to obtain this information;
- f. Similar to the Whitefield Property, the Liquidator has requested listing proposals from commercial real estate agents with a view to listing the Brock Property for sale after the property appraisal is completed;
- g. **Reviewed 1950941’s books and records including historical bank statements, the Whitefield Email Account and 1950941’s QuickBooks accounting files in order to** determine the status of the residential tenancies. The Liquidator has identified likely rental arrears which the Liquidator is in the process of quantifying and eventually collecting;
- h. Reviewed and communicated with management for the Black Horse Pub (**the “Black Horse”**), an establishment neighbouring the Brock Property, regarding pre-Appointment Order arrangements made between 1950941 and the Black Horse regarding **the latter’s use of four of the Brock Property’s parking spaces to set up and operate an outdoor patio on which it would serve food and alcohol**. The Liquidator understands that there was no comprehensive written agreement between 1950941 and the Black Horse and that the general terms and consideration for such authorized use were rather **set out in emails between the Black Horse’s**

management and Paul Dietrich on behalf of 1950941. The Liquidator understands from those emails that the parking spaces were essentially rented by the Black Horse for the period from May to September 2022 in consideration for a monthly rental amount of \$1,920. Among other verifications, the Liquidator has ensured that it has been added as an additional insured to the relevant Black **Horse's insurance policy**;

- i. Worked with the City of Peterborough to obtain current property tax statement(s) for the Brock Property and to ensure that all future correspondence regarding the Brock Property is forwarded to the Liquidator;
- j. Engaged the Property Manager to manage the Brock Property. The Property Manager has undertaken, among other things, the following activities in respect of the Brock Property:
 - i. Notified the tenants of its appointment and role as Property Manager (see Appendix "H");
 - ii. Confirmed ongoing monthly rent payment procedures with tenants;
 - iii. Reviewed issues regarding the numbering and identification of tenant parking spaces in the Brock Property parking lot, and worked on regularizing the same; and,
 - iv. Retained the Locksmith to re-key the Brock Property due to the Shareholders being unable to provide the Liquidator with the master key.

VII. 1827403 ONTARIO INC.

Assets

35. 1827403 has no business or other activities. According to the Trial Balance Report, its only material assets are the cash in its TD Bank account, which as of the date of the Appointment Order was approximately \$530,000, and an account receivable of approximately \$1.7 million owing from Parkview Homes. The Liquidator contacted TD Bank to advise of its appointment and change the signing authority.

36. Regarding the \$1.7 million account receivable owing from Parkview Homes, the Liquidator has communicated with Steve McLaren, **who is one of the Shareholders and, in the Liquidator's understanding,** the owner and operator of Parkview Homes. **The Liquidator's understanding of Mr. McLaren's position is that** he would refuse to pay that account receivable on the basis that Parkview Homes is owed a similar amount from one or more of the other Companies. The Liquidator is currently evaluating how to proceed in regard to this account receivable and will report further on the matter.

37. The Liquidator was advised by the City of Peterborough that 1827403 is the owner of two one-foot strips of land which are respectively municipally known as 4 Eldon Court and 65 Middlefield Road, both in Peterborough, Ontario (**the "One-Foot Reserves"**). Attached hereto as **Appendix "L"** are copies of land title searches for the One-Foot Reserves obtained by the Liquidator on May 12, 2022. The One-Foot Reserves were not included on the Trial Balance Report.

38. The Liquidator has been advised by Mr. McLaren that the One-Foot Reserves are residual pieces of land from two previous development projects. The Liquidator is seeking the advice of commercial real estate brokers in respect of the possible marketing and sale of the One-Foot Reserves.

39. The Liquidator is not aware of any other material asset of 1827403.

Liabilities

40. As noted above, on April 28, 2022, BDO provided the Liquidator with 1827403's **corporate tax return** for its fiscal year ended October 31, 2021 which determines that 1827403 is subject to the Tax Liability, which was not included on the Trial Balance Report originally provided to the Liquidator.

41. According to a PPSA search conducted by the Liquidator on April 4, 2022 (with a file currency date of April 3, 2022), of which a copy is attached as **Appendix "M"**, there is no PPSA registration against 1827403.

42. **The Liquidator has performed a review of 1827403's** books and records. The Liquidator has located no evidence, and has no reason to believe, that 1827403 has any creditor other than CRA with respect to the Tax Liability, or any debt other than the Tax Liability.

43. Considering that the Tax Liability remains outstanding and continues to accrue interest, the Liquidator believes that it is in the interest of 1827403's **estate, including CRA and, ultimately, the** Shareholders, to pay down as much of the Tax Liability as the cash situation of 1827403 may allow from time to time, accounting for current cash on hand (being approximately \$530,000), the costs and future costs of this proceeding attributable to the liquidation of 1827403 as determined by the Liquidator, and any eventual partial or total collection on the account receivable of approximately \$1.7 million owing from Parkview Homes.

44. The Appointment Order does not specifically authorize the Liquidator to pay the Tax Liability without specific Court approval. Therefore, the Liquidator requests that the Court authorize it, to the extent of and only with funds that are or may become from time to time available in the estate of 1827403, to pay down the Tax Liability.

VIII. 1853997 ONTARIO INC.

45. 1853997 has no business or other activities. 1853997 previously operated as the sales and marketing arm for the other Companies.

46. As of the date of the Appointment Order, there was \$3,854 in 1853997's **bank account with the** Canadian Imperial Bank of Commerce. According to the Trial Balance Report, 1853997 has no liabilities. The Liquidator is not aware of any other material asset, or any liability, of 1853997.

IX. 1885926 ONTARIO INC.

47. 1885926 has no business or other activities. According to the Trial Balance Report, its only asset is approximately \$30,000 held in a TD Bank account, and it has no liabilities. The Liquidator is not aware of any other material asset, or any liability, of 1885926.

X. 1950940 ONTARIO INC.

48. 1950940 has no business or other activities. Based upon the Trial Balance Report, 1950940's only asset is \$2,800 in cash, and 1950940's is a debtor of Parkview Homes for the amount of approximately \$49,000. The Liquidator is evaluating what the appropriate liquidation vehicle is for this entity and will report further on this matter.

XI. ADDITIONAL ACTIONS AND ACTIVITIES OF THE LIQUIDATOR

49. In addition to all of the actions set out above and all things necessary and attendant thereto, other actions and activities undertaken by the Liquidator not otherwise described include, among other things, the following:

- a. Redirected the **Companies'** mail to the offices of the Liquidator;
- b. Set up a case website for this matter at the address <https://www.albertgelman.com/corporate-solutions/other-engagements/>;
- c. Sent formal requests for information and documents to, and reviewed information and documents obtained from, each of the Shareholders as well as employees of the Companies and Shareholders. The Liquidator notes that both Shareholders have advised the Liquidator **that they are not in possession of the Companies' books and records** and were only able to provide the limited documents and information which were in their respective possession. This has resulted in more work required from the Liquidator to, among other things, assess the **Companies' affairs and reconstitute a key documents** database, including as described above and with the assistance of BDO and the Property Manager;
- d. Requested and, in the case of 1950979 and 1950941, obtained and reviewed, **the Companies' QuickBooks** accounting files;
- e. In accordance with subsection 210(4) of the *Business Corporations Act* (Ontario), gave notice to the Director (as defined in the Act) of its appointment as Liquidator of each of the Companies;
- f. contacted the TD Bank to advise of its appointment and change the signing authority in respect of the bank accounts held by 1853997, 1885926 and 1950940; and
- g. Paid 9 liabilities of the Companies as summarized in **Appendix "N" (the "Paid Liabilities")**.

50. As to the Paid Liabilities, those can be put in two categories:
- a. All Paid Liabilities except the Balterre Contracting Limited holdback release payment (the “Holdback Release”) are (i) 8 relatively small amounts (totalling \$3,707.02 and averaging \$463.38), and (ii) for normal course, ongoing business expenses (e.g. telecom, maintenance, safety, etc.). Some of those relate in whole or in part to products or services acquired prior to the Appointment Order.
 - b. The Liquidator was advised by the Shareholders that the Holdback Release was for the final invoice on account of construction work predating the Appointment Order and to allow for release of the 10% holdback that had been withheld as the job progressed. Under the *Construction Act*, the owner must pay this amount within a certain timeframe to avoid liability, failing which that *Act* provides for special remedies including liens. Here the Holdback Release was paid at the urging of and with the approval of the Shareholders in order to satisfy obligations for which the Companies may be liable under the *Act*. The Liquidator believes that payment of the Holdback Release was appropriate and in the interest of the estate in the circumstances, including to avoid potential litigation and lien issues.

XII. **LIQUIDATOR’S INTERIM STATEMENTS OF RECEIPTS AND DISBURSEMENTS**

51. Attached hereto at **Appendix “O”** are the **Liquidator’s** interim statements of receipts and disbursements for each of the Companies as at May 31, 2022 (the “Interim SRDs”).

XIII. **ACCOUNTS OF THE LIQUIDATOR AND ITS COUNSEL**

52. Pursuant to paragraph 18 of the Appointment Order, the Liquidator and its independent counsel, GSNH, are required to pass their accounts with the Court from time to time. The Liquidator and GSNH have maintained detailed records of their time and costs since the Appointment Order.

53. The Liquidator has incurred fees of \$106,943.50 plus HST of \$13,902.66, totaling \$120,846.16 up to May 31, 2022. A copy of the detailed billings of the Liquidator supported by the Affidavit of Bryan Gelman sworn June 2, 2022, is attached hereto as **Appendix “P”**.

54. GSNH, the **Liquidator’s** independent legal counsel, has incurred fees of \$10,912.75 plus HST of \$1,390.54, totaling \$12,303.29 up to May 31, 2022. A copy of the detailed billings of GSNH, supported by the Affidavit of Joël Turgeon, sworn June 3, 2022, is attached hereto as **Appendix “Q”**.

55. The Liquidator reports that the foregoing professional fees and disbursements are in its view fair and reasonable in the circumstances, and supported by detailed invoices as well as affidavits confirming *inter alia* that the abovementioned fees are comparable to those charged by other Licensed Insolvency Trustee and law firms in Toronto for similar services.

XIV. **CONFIRM THE LIQUIDATOR'S ABILITY TO PAY POST-APPOINTMENT ORDER OBLIGATIONS IN THE NORMAL COURSE**

56. The relief sought in this respect is to remedy what the Liquidator sees as a possible gap in the technicalities of the Appointment Order. The Liquidator understands that this will be more fully and **appropriately addressed in its counsel's factum in support** of the aforementioned motion. The Liquidator believes that **confirming its ability to pay any of the Companies' post-Appointment Order obligations** in accordance with their terms and in the normal course, to the extent of and only from funds that are or may become from time to time available in the applicable estate, is appropriate.

XV. **LIQUIDATOR'S REQUEST FOR APPROVAL**


57. In light of the above, the Liquidator respectfully requests an Order of this Honourable Court:

- a. authorizing the Liquidator, to the extent of and only with funds that are or may become from time to time available in the estate of 1827403, to pay the Tax Liability;
- b. **amending the Appointment Order to confirm the Liquidator's ability to pay any of the Companies' post-Appointment Order obligations** in accordance with their terms and in the normal course, to the extent of and only from funds that are or may become from time to time available in the applicable estate;
- c. approving this First Report as well as the actions and activities of the Liquidator described herein, **including the Liquidator's Interim SRDs**;
- d. approving the fees and disbursements of the Liquidator incurred up to May 31, 2022; and
- e. **approving the fees and disbursements of the Liquidator's independent counsel, GSNH,** incurred up to May 31, 2022.

* * *

All of which is respectfully submitted this 2nd day of June 2022

ALBERT GELMAN INC., solely in its capacity as the Court-Appointed Liquidator of each of the Companies and not in its Personal or any other Capacity

Per: 

Bryan Gelman, CIRP, LIT

APPENDIX D

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM	)	THURSDAY, THE 13 th
)	
JUSTICE KIMMEL	)	DAY OF OCTOBER, 2022

B E T W E E N :

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER sections 207, 209 and 210 of the
Business Corporation Act, R.S.O. 1990, c. B16

ORDER

THIS MOTION made by Albert Gelman Inc. (“**AGI**”) in its capacity as liquidator (in such capacity, the “**Liquidator**”) appointed pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16 over all of the assets, undertakings and properties of 1827403 Ontario Inc. (“**1827403**”), 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. (together with 1827403, the “**Companies**”) was heard before me this day at 330 University Avenue, Toronto, by videoconference.

ON READING the second report of the Liquidator dated October 7, 2022 (the “**Second Report**”) and its Supplementary Motion Record, and on hearing the submissions of counsel for the Liquidator and such other counsel as were present as may be indicated on the counsel slip, no one else appearing despite being served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for service of the motion record in respect of this motion and the Second Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.
2. THIS COURT ORDERS that the Liquidator is authorized, at its discretion, to pay or make incremental payments on account of any liabilities of the Companies in respect of periods prior to the appointment of the Liquidator on April 4, 2022, provided that:
 - a) the Liquidator shall first be satisfied that the estate in question is not, and after any proposed payment will not be, insolvent, and
 - b) the shareholders of each of the Companies, being Paul Dietrich and Steve McLaren, shall have consented in writing to each such payment
3. THIS COURT ORDERS that nothing in this Order shall prevent any person from asserting that an estate was insolvent at the time that the Liquidator made a payment authorized by paragraph 2, or that the estate became insolvent as a result of such payment.
4. THIS COURT ORDERS that the Second Report as well as the activities described therein are hereby approved, provided, however, that only AGI in its personal capacity and

with respect to its personal liability shall be entitled to rely upon or utilize in any way such approval.

5. THIS COURT ORDERS that the fees, costs and expenses of the Liquidator including those of its lawyers, Goldman Sloan Nash & Haber LLP, as set out in the fee affidavits appended to the Second Report and the Supplementary Motion Record, are hereby approved, and that the Liquidator is hereby authorized and directed to pay the same from available funds.

6. THIS COURT ORDERS that this order is effective as of its date at 12:01 am and does not need to be issued or entered.

PAUL JOSEPH DIETRICH

Applicant

-and-

STEVEN ROBERT MCLAREN

Respondent

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced in TORONTO

ORDER

GOLDMAN SLOAN NASH & HABER LLP
480 University Avenue, Suite 1600
Toronto, Ontario M5G 1V2
Fax: 416-597-6477

Brendan Bissell (LSO #40354V)
Tel: (416) 597-6489
Email: bissell@gsnh.com

Lawyers for Albert Gelman Inc. in its capacity as
court-appointed liquidator



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ENDORSEMENTCOURT FILE NO.: CV-22-00679109-00CL DATE: 13 October 2022NO. ON LIST: 5TITLE OF PROCEEDING: PAUL DIETRICH v. STEVEN MCLARENBEFORE JUSTICE: MADAM JUSTICE KIMMEL**PARTICIPANT INFORMATION****For Plaintiff, Applicant, Moving Party, Crown:**

Name of Person Appearing	Name of Party	Contact Info
Brendan Bissell	For Albert Gelman Inc. (as Court-Appointed Liquidator)	bissell@gsnh.com
Bryan Gelman	For the Liquidator	bgelman@albertgelman.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Danny Nunes	For the Applicant: P. Dietrich	danny.nunes@dlapiper.com
Jeff Larry	For the Respondent: S. McLaren	Jeff.larry@paliareroland.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE KIMMEL:

1. Albert Gelman Inc. ("AGI") was appointed as liquidator (in such capacity, the "Liquidator") pursuant to the *Business Corporations Act*, (the "BCA") over all of the assets, undertakings and properties of 1827403 Ontario Inc. ("1827403"), 1853997 Ontario Inc. ("1853997"), 1885926 Ontario Inc. ("1885926"), 1950940 Ontario Inc. ("1950940"), 1950941 Ontario Inc. ("1950941") and 1950979 Ontario Inc. ("1950979" and, together with 1827403, 1853997, 1885926, 1950940, 1950941 and 1950979, the "Companies").
2. By this motion, the Liquidator seeks the court's advance authorization to make certain discretionary payments to pre-appointment creditors of the Companies (the "Payments") in circumstances where the Liquidator deems it necessary or appropriate for the due administration of the assets over which it has been appointed and it is satisfied of the existence of the debt and that the payor company is not, or will not as a result of the payment become, insolvent. The Liquidator will only make these payments if the two principal equity holders (and parties to this application) agree. They are not opposing this motion.
3. The other parties on the service list, the federal and provincial taxation and mortgage authorities, have not indicated any opposition to the motion. Counsel for the Liquidator has orally confirmed the non-opposition of the Canada Revenue Agency, while the others have simply not responded.
4. The Liquidator is concerned that it will not be efficient or cost effective to come to court to deal with each individual proposed Payment as they arise. The Liquidator is prepared to take on the responsibility for defending and bearing the consequences of any Payment it makes that may later be challenged by another creditor as a preference favouring the payee creditor. An additional paragraph has been added to the draft order presented to make it clear that the Liquidator's determination of the appropriateness of any such Payment at the time it is made is not binding on any other person who may later complain that the solvency of the payor. The court's omnibus authorization to the Liquidator to make these payments is similarly not to be taken as an explicit or implicit determination regarding the solvency of the payor Company in the context of any future challenge that may be raised.
5. With that caveat, the requested order comes within the general powers of the court under s. 209 of the BCA (that provides that the court may "make any interim or other order as is considered just") and s. 223(h) of the BCA (that provides that "A liquidator may do and execute all such other things as are necessary for winding up the business and affairs of the corporation and distributing its property"). The need to make some pre-appointment Payments and the inefficiency of having to seek the court's approval on a case by case basis, coupled with the responsibility for these Payments that Liquidator has assumed, satisfy me that the requested order is just and appropriate in the circumstances.
6. The Liquidator also seeks approval of its Second Report dated October 7, 2022, the activities described therein and associated professional fees and disbursements.
7. It has become routine for court appointed officers and their legal advisors to seek the court's approval of their activities and reports and that relief is "routinely granted." This is because court approval allows the Liquidator to move forward with the next steps in the proceeding, brings the Liquidator's activities before the court, allows an opportunity for the concerns of the stakeholders to be addressed and any problems to be rectified, enables the court to satisfy itself that the Liquidator's activities have been conducted in a prudent and diligent manner, provides protection for the Liquidator not otherwise provided in the BCA, and protects the creditors from the delay in distribution that would be caused by re-litigation of steps taken and potential indemnity claims by the Liquidator. See, by analogy, *Target Canada Co. (Re)*, 2015 ONSC 7574, at paras. 2 and 23.
8. The Appointment Order contemplates that the Liquidator will seek the court's approval of its fees and that of its counsel from time to time. They must be shown to be fair and reasonable. Caselaw-

developed criteria guiding this analysis include (i) the nature and extent of the proceeding, (ii) the complications and difficulties encountered, (iii) the time spent by the court officer and its counsel, (iv) the professionals' knowledge, experience and skill, (v) the results achieved, and (vi) the costs of comparable services. Further, the caselaw requires that the fees be verified by affidavits of the main professionals involved disclosing details sufficient to allow a reasonable appreciation. See *Confectionately Yours Inc. (Re)*, 2002 CanLII 45059 (ON CA), paras. 42-54.

9. The Second Report and Fee affidavits filed provide support for all of these considerations. They are not opposed by the primary stakeholders.
10. The Receiver's activities, as described in its Second Report, and fees for which approval is sought appear to be fair and reasonable, having regard to what has transpired. They are approved.
11. Order to go in the form signed by me today with immediate effect and without the necessity of formal issuance and entry.

A handwritten signature in black ink, appearing to read "Kimmel J.", written in a cursive style.

KIMMEL J.

APPENDIX E

Court File No.: CV-22-00679109-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

SECOND REPORT OF ALBERT GELMAN INC.
in its capacity as court-appointed liquidator pursuant to the *Business Corporations Act*,
R.S.O. 1990, c. B.16

(Dated October 7, 2022)

I. INTRODUCTION

1. This second **report** (“Second Report”) is filed by **Albert Gelman Inc.** (“AGI”) in its capacity as liquidator (in such capacity, the “Liquidator”) appointed over all of the assets, undertakings and properties (together, the “Property”) of **1827403 Ontario Inc.** (“1827403”), **1853997 Ontario Inc.** (“1853997”), **1885926 Ontario Inc.** (“1885926”), **1950940 Ontario Inc.** (“1950940”), **1950941 Ontario Inc.** (“1950941”) and **1950979 Ontario Inc.** (“1950979” and, together with **1827403, 1853997, 1885926, 1950940 and 1950941, the “Companies”**) by Order of the Ontario Superior Court of Justice, Commercial List (**the “Court”**), dated April 4, 2022 (**the “Appointment Order”**), made pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16. The application was commenced by Paul Joseph Dietrich. A copy of the Appointment Order is attached hereto as Appendix **“A”**. The Liquidator understands that this appointment was a consensual result of part of an arbitration proceeding between the Applicant and the Respondent before the Hon. Frank Newbould.

2. On June 13, 2022 on a motion made by the Liquidator the Honourable Justice Conway granted an **order (the “June 13 Order”) approving, among other things**, the Liquidator to pay the corporate tax liability of 1827403 and amended the Appointment Order to specifically provide that the Liquidator can pay post-

appointment liabilities as and when they become due. A copy of the June 13 Order and related Endorsement are attached hereto as **Appendix “B”**.

3. The Liquidator prepared a report in respect of the June 13, 2022 motion dated June 2, 2022 (the “First Report”). **Attached hereto as Appendix “C”** is a copy of the First Report, without appendices.

II. PURPOSE OF THIS REPORT

4. The purpose of this Second Report is to:

- a. provide both the Court and stakeholders with an update with respect to the Liquidator’s actions and activities since the date of the First Report;
- b. provide background for and **support the Liquidator’s motion** to the Court returnable on October 13, 2022, seeking an Order:
 - i. authorizing the Liquidator, to the extent of and only with funds that are or may become from time to time available in the estate of 1950979, to pay the HST liability of 1950979 in respect of its quarter ended June 30, 2021, up to the reassessed amount of \$602,443, in addition to any applicable interest, penalty or like amount payable in respect thereof (collectively, **the “HST Liability”**);
 - ii. authorizing the liquidator to pay liabilities arising prior to the appointment date on the specified terms;
 - iii. approving this Second Report as well as the actions and activities of the Liquidator **described herein, including the Liquidator’s** Interim SRDs (defined below);
 - iv. approving the fees and disbursements of the Liquidator for the period from June 1 to September 30, 2022; and
 - v. **approving the fees and disbursements of the Liquidator’s** independent counsel, **Goldman Sloan Nash and Haber LLP (“GSNH”)** for the period from June 1 to September 30, 2022.

III. SCOPE AND TERMS OF REFERENCE

5. In preparing this Second Report, the Liquidator has obtained and relied upon certain unaudited financial information of the Companies and the Companies books and records, and had ongoing discussions with Paul Dietrich and Steve McLaren (**together, the “Shareholders”**), counsel for both Mr. Dietrich and Mr. McLaren, Mr. Dietrich’s accountant Greg Landry, Mr. McLaren’s accountant Henry Climaco and the Companies’ external accountant, BDO Canada LLP (“BDO”).

6. While the Liquidator has reviewed the various documents provided, such review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles (“GAAP”) or International Financial Reporting Standards (“IFRS”). Accordingly, the

Liquidator expresses no opinion or other form of assurance pursuant to GAAP or IFRS or otherwise with respect to such information except as expressly stated herein.

7. This Second Report has been prepared for the purposes described above. Accordingly, the reader is cautioned that this Second Report may not be appropriate for any other purpose.

8. Unless otherwise noted, all monetary amounts referenced herein are expressed in Canadian dollars.

IV. BACKGROUP INFORMATION

9. The Companies' only shareholders are the Shareholders, who each own 50% of the shares of each of the Companies. Each is also a director and officer of each of the Companies. 1853997 has one additional director, Greg Landry.

10. The Appointment Order was made on consent of both the Applicant and the Respondent and ordered by the Honourable Justice Gilmore on April 4, 2022 (Appendix "A").

11. The Shareholders previously operated effectively as partners with their principal line of business being residential and commercial land development in the Peterborough, Ontario and the surrounding area. The Companies were each incorporated for the purposes of land development.

12. Further background information relating to the Companies and the events leading to the appointment of the Liquidator, including the underlying dispute between the Shareholders, is set out in the affidavit of Paul Dietrich sworn March 30, 2022 filed in support of the application for the Appointment Order, of which a copy without exhibits is attached hereto as **Appendix "D"**.

13. Prior to the Appointment Order, the Liquidator was provided with trial balance reports prepared by the Shareholders for each of the **Companies (the "Trial Balance Reports")** summarizing the assets and liabilities of each of the Companies as at January 31, 2022. Attached hereto as **Appendix "E"** is a copy of the Liquidator's summary of the Trial Balance Reports.

V. ACTION AND ACTIVITIES OF THE LIQUIDATOR SINCE THE FIRST REPORT

14. Set out in the First Report is a detailed summary of the known assets and liabilities of each of the six Companies as well as the Liquidators actions and activities with respect to same. The Liquidators actions and activities subsequent to the date of the First Report are, *inter alia*, set out below.

HST Self-Assessment – 1950979 Ontario Inc.

15. As set out in the First Report the Liquidator become aware that 1950979 was subject to a potentially material liability on account of Harmonized Sales Tax ("HST") in respect of a self-assessment that became owing as of the date of the first tenancy occupation (begin April 15, 2021) of the Whitefield Property (the "HST Self-Assessment"). The HST Self-Assessment required, among other things, that the following documents be prepared and filed with the CRA: (a) an amended HST return for the period April 1 to June 30,

2021; and, (2) GST/HST New Residential Rental Property Rebate Application form (collectively, **the “HST Self-Assessment Documents”**).

16. The Liquidator retained **BDO Canada LLP (“BDO”), 1950979’s external accountant**, to assist it with the preparation and filing of the HST Self-Assessment Documents. BDO advised the Liquidator that in order to complete the HST Self-Assessment Documents a retrospective appraisal of the Whitefield Property as of April 15, 2021 (being the date of first occupancy) (**the “Whitefield Retrospective Appraisal”**) was required. The Liquidator retained TL Smith Appraisals who prepared the Whitefield Retrospective Appraisal.

17. The amended HST return for the period April 1 to June 30, 2021 (being one of the HST-Self Assessment Documents) prepared by BDO indicates that there is an adjusted balance owing of \$602,443 plus accruing interest (**the “HST Liability”**). The Liquidator, in consultation with BDO, has estimated that the accrued interest to the date of this report will be in the range of \$35,000 to \$40,000. BDO also advised the Liquidator that the method used by the CRA to calculate interest is often applied inconsistently and, therefore, the actual amount of interest may differ materially from this estimate. As of the date of this Second Report the Liquidator has not received the HST notice of assessment from the CRA and, therefore, the total quantum of interest charged by the CRA is not known.

18. The HST Self-Assessment Documents were submitted to the CRA by BDO on behalf of the Liquidator on September 9, 2022.

19. On September 22, 2022 the Liquidator received a letter from Ms. Tammy Merritt of the CRA which indicated that the CRA proposed an adjustment to the quarter ended September 30, 2021 HST return in the amount of approximately \$1.2 million. Attached hereto as Appendix **“F”** is a copy of the letter from Ms. Merritt. The Liquidator contacted Ms. Merritt on September 22, 2022 to enquire about the letter which it had received at which time Ms. Merritt advised the Liquidator that she was not aware of the fact that the HST Self-Assessment Documents had already been filed with the CRA. The Liquidator provided Ms. Merritt with electronic copies of the HST Self-Assessment Documents as well as the Whitefield Retrospective Appraisal which she requested. Ms. Merritt advised the Liquidator that her letter resulted from the fact that 1950979 had not filed the HST Self-Assessment Documents by the filing deadline (being July 30, 2021) and that the CRA was taking steps to assess 1950979. The Liquidator has been in communication with Ms. Merritt since it received her letter in order to resolve any issues with respect of the HST Self-Assessment.

Listing of Whitefield Property and Brock Property

20. In accordance with paragraph 5 of the Appointment Order the Liquidator was duly authorized to enter into one or more listing agreement with a licensed commercial real estate agent(s) for the purposes of listing, marketing and selling both the Whitefield Property and the Brock Property.

21. The Liquidator obtained multiple listing proposals from licensed commercial estate agent(s). After reviewing each of the listing agreement the Liquidator entered into a listing agreement with David Watkins of

EXP Realty Brokerage (the “Realtor”) which provided that the Realtor would list both the Whitefield Property and the Brock Property.

22. The Whitefield Property was listed on the multiple listing service (“MLS”) on July 7, 2022 at a listing price of \$11 million. The Brock Property was listed on the MLS on July 7, 2022 at a listing price of \$699,000. Multiple offers have been received by the Liquidator for both the Whitefield Property and the Brock Property. The Whitefield property is currently under a conditional agreement of purchase and sale and the Liquidator is working with the purchaser on satisfying the relevant conditions so that an approval and vesting order may be sought and a closing date set.

23. The Liquidator has not yet received an offer that it believes is satisfactory in the circumstances for the Brock Property, despite lowering the asking price on MLS in August. The Liquidator, on the advice of Mr. Watkins as the broker, is re-launching the listing for the Brock Property with a further price reduction, as the Liquidator believes that the passage of time to-date indicates that more aggressive steps to secure a sale without too much further delay are warranted. The new listing price for the Brock Property is \$570,000.

24. The Liquidator is not seeking approval of any transaction(s) to sell either the Whitefield Property or the Brock Property at this time and, therefore, the Liquidator will provide the Court with further details regarding the processes undertaken to market and sell both properties at a later date.

Corporate Taxes Liability – 1827403 Ontario Inc.

25. As set out in the First Report there is a corporate income tax liability in 1827403 in respect of its fiscal year ended October 31, 2021 in the assessed amount of \$557,072, in addition to any applicable interest, **penalty or like amount payable in respect thereof (collectively, the “Corporate Tax Liability”)**. As of the date of this Second Report the Liquidator has not received the corporate tax notice of assessment from the CRA and, therefore, does not know for certain the quantum of interest and penalties which have or will be levied by the CRA.

26. Paragraph 2 of June 13 Order authorized the Liquidator to pay the Corporate Tax Liability if and when funds become available in 1827403. The Liquidator has made a payment to the CRA in the amount of \$515,000 to be applied against the Corporate Tax Liability. The balance of the Corporate Tax Liability, including the accrued interest and penalties, remains unpaid as of the date of this Second Report.

27. The other material asset in 1827403 is a loan receivable of \$1,717,000 due from Parkview Homes Inc. (“Parkview Homes”), a company owned and operated by Mr. McLaren. As set out below in more detail the Liquidator has attempted to make arrangements with Mr. McLaren on behalf of Parkview Homes to repay a portion of Parkview Homes loan owing to 1827403 so that the Liquidator has sufficient funds on hand in the estate of 1827403 to pay the unpaid balance of the Corporate Tax Liability.

28. The final asset of 1827403 that the Liquidator is aware of is the One-Foot Reserves (defined in the First Report), being small parcels of land adjacent to completed developments. Subsequent to the First Report, the Liquidator learned that 50% of the One-Foot Reserves are being held by 1827403 Ontario Inc. in

trust for Danhew Holdings Inc. and obtained the relevant documents to substantiate same. In view of the divided ownership of the One-Foot Reserves and their rather unique nature, the Liquidator is considering an auction process among the other 50% owner and each of Messrs. Dietrich and McLaren in order to arrange for a disposition of those assets. The Liquidator believes that the logical purchasers of the One-Foot Reserves are those parties.

Transaction Review – 1827403 Ontario Inc.

29. On July 21, 2022 there was an arbitration case conference convened at the request of counsel for Mr. Dietrich in which legal counsel for Mr. McLaren, Mr. Dietrich and the Liquidator attended before former Justice Newbould. During the case conference Mr. Newbould requested that the Liquidator provide a report on the amounts owing by Parkview Homes to 1827403, including a review of the transactions in the corporate bank account(s) for 1827403 for the 18-month period preceding the Appointment Date (the “Transaction Review Memo”). This was in response to (a) a request by counsel for Mr. Dietrich that Mr. Newbould make an award in respect of the amounts owing by Parkview Homes to 1827403 and (b) queries from or on behalf of Mr. McLaren about how the amounts recorded on the financial records had grown from approximately \$1.2 million at the end of October 2021 to approximately \$1.7 million at the end of December 2021. The Liquidator completed that review, which is attached hereto as **Appendix “G”** is a copy of the Transaction Review Memo.

30. The Liquidator concluded in the Transaction Review Memo that, among other things, the balance owing by Parkview Homes to 1827403 as of the Appointment Date was and still is \$1,717,000. On August 30, 2022 the Liquidator provided a copy of the Transaction Review Memo to legal counsel for Mr. McLaren, Mr. Dietrich as well as former Justice Newbould in anticipation of the arbitration case conference that was held on September 6, 2022.

31. At the arbitration case conference held on September 6, 2022, there was discussion among the parties and the Liquidator that the immediate cash need of 1827403 was in the nature of \$100,000 in order to be able to pay the rest of the Corporate Tax Liability and any penalties and interest that may be owing due to late filing and payment. Former Justice Newbould requested that counsel for Mr. McLaren (on behalf of Parkview Homes) seek to obtain instructions from Mr. McLaren that Parkview Homes will advance \$100,000 to the Liquidator as a partial repayment on its loan owing to 1827403 so that such funds could be used by the Liquidator to pay the outstanding balance of the Corporate Tax Liability. As of the date of this Second Report Mr. McLaren has not provided his counsel with these instructions, despite follow-up requests by the Liquidator.

Amounts payable by Parkview Homes Inc. to 1827403 Ontario Inc.

32. The Liquidator now believes that there are issues that need to be addressed with the amounts payable by Parkview Homes to 1827403 of \$1,717,000.00.

33. As noted above, there has been a lack of progress in attempting to obtain an advance on those amounts payable in order to permit 1827403 to pay its current liabilities.

34. In addition, as noted in the First Report, the amounts payable by Parkview Homes to 1827403 are roughly equal to amounts receivable for Parkview Homes from two other companies in Liquidation, being \$699,071.00 by 1950979, which is the owner of the Whitefield Property, and \$1,006,000 by 1940941, which is the owner of the Brock Property. Possible issues of set-off have been raised by Parkview Homes in connection with the amounts payable to 1827403.

35. While the Liquidator is continuing to review the issues in connection with such possible set-off, there now appear to be limits to the extent to which collection on the amounts payable by Parkview Homes should be delayed pending the collection of amounts payable to Parkview Homes. That is because the listing price for the Brock Property, which the Liquidator believes is the sole asset of 1940941, has now been lowered to \$570,000. Even assuming that a sale at that price is achievable, the net proceeds of such a sale will be in the range of half of the \$1,006,000.00 that 1940941 owes to Parkview Homes.

36. Discussions with Parkview Homes about other arrangements to pay or other bases to discuss payment have not been productive. The Liquidator has therefore sent the demand letter attached as Appendix "H". If no satisfactory response is received, the Liquidator anticipates taking enforcement steps, which may include either a motion to this Court to issue a judgment in favour of 1827403, or an application for bankruptcy order as against Parkview Homes.

Other Activities

37. The Liquidator was added as an additional insured and loss payee in respect of the insurance policy held by both 1950979 Ontario Inc. and 1950941 Ontario Inc.

38. The Liquidator increased the property insurance coverage on the Whitefield Property so as to be equivalent with the recently appraised value.

39. The Liquidator paid property taxes to the City of Peterborough in respect of the Whitefield property in the amount of \$59,540.

40. The Liquidator has filed all previously unfiled HST returns for all six Companies up to the Appointment Date.

41. The Liquidator communicated regularly with representatives of the Canadian Mortgage and Housing Corporation ("CMHC") **regarding the status of the process to sell the Whitefield Property.**

42. The Liquidator continued to communicate regularly with the Property Manager (defined in the First Report) in respect of the management of the Whitefield Property including, among other things, to ensure the following activities were undertaken: (a) completion of a fire safety inspection; (b) addressing ongoing tenant requests; (c) re-keying all locks to ensure there is a master key in the Property Managers possession; (d) begun to take legal steps to collect arrears rent owing by one specific former tenant; and, (e) the general repairs and maintenance of the property.

43. The Liquidator maintained a Case Webpage with electronic copies of the Court materials related to these restructuring proceedings, located at www.albertgelman.com/corporate-solutions/other-engagements.

VI. PRE-APPOINTMENT LIABILITIES

44. The Liquidator is seeking approval to pay pre-appointment liabilities. This is in order to facilitate the administration of the **Companies' estates by permitting the payment of such liabilities without the need for** Court approval in each instance. The Appointment Order does not appear to contemplate payment of such amounts without further order, and the June 13 Order granted specific permission to pay the Corporate Tax Liability of 1827403.

45. The Liquidator requests that the Court authorize the payment of pre-appointment liabilities of the Companies on terms that:

- a. the Liquidator shall first be satisfied that the estate in liquidation is not, and after any proposed payment will not be, insolvent; and,
- b. the shareholders of each of the Companies, being Paul Dietrich and Steve McLaren, shall have consented in writing to each such payment.

VII. LIQUIDATOR'S INTERIM STATEMENTS OF RECEIPTS AND DISBURSEMENTS

46. Attached hereto at **Appendix "I"** are **the Liquidator's** interim statements of receipts and disbursements for each of the Companies as at October 6, 2022 (**the "Interim SRDs"**).

VIII. ACCOUNTS OF THE LIQUIDATOR AND ITS COUNSEL

47. Pursuant to paragraph 18 of the Appointment Order, the Liquidator and its independent counsel, GSNH, are required to pass their accounts with the Court from time to time. The Liquidator and GSNH have maintained detailed records of their time and costs since the Appointment Order.

48. The Liquidator has incurred fees of \$110,362.00 plus HST of \$14,347.07, totaling \$124,709.07 for the period from June 1 to September 30, 2022. A copy of the detailed billings of the Liquidator supported by the Affidavit of Bryan Gelman sworn October 6, 2022, is attached hereto as **Appendix "J"**.

49. The Liquidator reports that the foregoing professional fees and disbursements are in its view fair and reasonable in the circumstances and supported by detailed invoices as well as affidavits confirming *inter alia* that the abovementioned fees are comparable to those charged by other Licensed Insolvency Trustee for similar services.

50. The fees and fee affidavit of the Liquidator's independent counsel, GSNH, will follow in a supplementary report.

IX. **LIQUIDATOR'S REQUEST FOR APPROVAL**

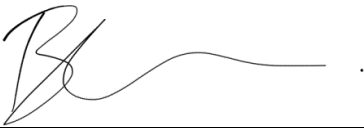
51. In light of the above, the Liquidator respectfully requests an Order of this Honourable Court:
- a. authorizing the Liquidator, to the extent of and only with funds that are or may become from time to time available in the estate of 1950979, to pay the HST Liability;
 - b. authorizing the Liquidator to pay liabilities arising prior to the appointment date on the specified terms;
 - c. approving this Second Report as well as the actions and activities of the Liquidator described herein, **including the Liquidator's Interim SRDs**;
 - d. approving the fees and disbursements of the Liquidator for the period from June 1 to September 30, 2022; and
 - e. **approving the fees and disbursements of the Liquidator's independent counsel, GSNH**, for the period from June 1 to September 30, 2022;

* * *

All of which is respectfully submitted this 7th day of October 2022

ALBERT GELMAN INC., solely in its
capacity as the Court-Appointed Liquidator
of each of the Companies and not in its
Personal or any other Capacity

Per:



Bryan Gelman, *CIRP, LIT*

APPENDIX F

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM	)	WEDNESDAY, THE 21 ST
)	
JUSTICE KIMMEL	)	DAY OF DECEMBER, 2022

B E T W E E N :

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER sections 207, 209 and 210 of the
Business Corporation Act, R.S.O. 1990, c. B16

APPROVAL AND VESTING ORDER

THIS MOTION, made by Albert Gelman Inc. in its capacity as the Court-appointed liquidator (the “**Liquidator**”) appointed pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16 over all of the assets, undertakings and properties of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. (“**1950941**”) and 1950979 Ontario Inc. for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Liquidator on behalf of 1950941 as vendor and Steven Robertson, in trust for a company to be incorporated (since assigned to 1000353840 Ontario Inc.), as purchaser

(the “**Purchaser**”) dated October 9, 2022 and appended to the Third Report of the Liquidator dated December 13, 2022 (the “**Third Report**”), and vesting in the Purchaser the 1950941’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, by videoconference.

ON READING the Third Report and on hearing the submissions of counsel for the Liquidator and the Purchaser, and such other counsel present as may be indicated on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for service of the motion record in respect of this motion and the Third Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Liquidator, in its capacity as such or on behalf of the 1950941, as the case may be, is hereby authorized and approved, with such minor amendments as the Liquidator may deem necessary. The Liquidator is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Liquidator’s certificate to the Purchaser substantially in the form attached as Schedule A hereto (the “**Liquidator’s Certificate**”), all of 1950941’s right, title and interest in and to the Purchased Assets described as such in the Sale Agreement, including those being real property as described in Schedule B hereto (as the case may be), shall vest absolutely in the Purchaser, free and clear

of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by orders of this court in this proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto, as the case may be (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of Peterborough of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property(ies) identified in Schedule B hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Liquidator’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets

with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. THIS COURT ORDERS AND DIRECTS the Liquidator to file with the Court a copy of the Liquidator's Certificate, forthwith after delivery thereof.

7. THIS COURT ORDERS that, notwithstanding:

- a. the pendency of these proceedings;
- b. any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of 1950941 and any bankruptcy order issued pursuant to any such applications; and
- c. any assignment in bankruptcy made in respect of 1950941;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of 1950941 and shall not be void or voidable by creditors of 1950941, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. THIS COURT ORDERS that the Confidential Appendices to the Third Report be and hereby are sealed pending the filing of a Liquidator's Certificate for the sale of the Purchased Assets or further Court Order.

9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.

10. THIS COURT ORDERS that this order is effective as of its date and does not need to be issued and entered.

Schedule A – Form of Liquidator’s Certificate

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N :

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER sections 207, 209 and 210 of the
Business Corporation Act, R.S.O. 1990, c. B16**LIQUIDATOR’S CERTIFICATE****RECITALS**

A. Pursuant to an Order of the Ontario Superior Court of Justice (the “**Court**”) dated April 4, 2022 Albert Gelman Inc. was appointed as the Court-appointed liquidator (the “**Liquidator**”) pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16 over all of the assets, undertakings and properties of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. (“**1950941**”) and 1950979 Ontario Inc.

B. Pursuant to an Order of the Court dated December 21, 2022, the Court approved the agreement of purchase and sale made as of October 9, 2022 (the “**Sale Agreement**”) between the Liquidator as vendor and Steven Robertson, in trust for a company to be incorporated (since assigned to 1000353840 Ontario Inc.),, as purchaser (the “**Purchaser**”) and provided for the vesting in the Purchaser of 1950941’s right, title and interest in and to the Purchased Assets,

which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Liquidator to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Liquidator and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Liquidator.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE LIQUIDATOR CERTIFIES the following:

1. The Purchaser has paid and the Liquidator has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Liquidator and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Liquidator.
4. This Certificate was delivered by the Liquidator at _____ on _____ .

Albert Gelman Inc., in its capacity as Court appointed Liquidator of the undertaking, property and assets of 1950941 Ontario Inc. and not in its personal capacity

Per: _____
Name:
Title:

Schedule B – Description of Purchased Assets being real property

PIN: 28106-0092 (LT)

Description: PT LT 1 E OF GEORGE ST & N OF BROCK ST(PETERBOROUGH), AS IN R423530; CITY OF PETERBOROUGH.

Schedule C – Registrations to be expunged from title

Registration Number	Registered Instrument Type
PE376524	Application to Register Court Order

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Purchased Assets**

(unaffected by the Vesting Order)

The following encumbrances registered on title to the property based on the parcel register for the same bearing land registry office 45 PIN 29374-0012 (LT):

Registration Number	Registered Instrument Type
PE262925	Registrar's Order

PAUL JOSEPH DIETRICH

Applicant

-and-

STEVEN ROBERT MCLAREN

Respondent

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced in TORONTO

APPROVAL AND VESTING ORDER

GOLDMAN SLOAN NASH & HABER LLP
480 University Avenue, Suite 1600
Toronto, Ontario M5G 1V2
Fax: 416-597-6477

Brendan Bissell (LSO #40354V)

Tel: (416) 597-6489

Email: bissell@gsnh.com

Lawyers for Albert Gelman Inc. in its capacity as
court-appointed liquidator

APPENDIX G

Court File No.: CV-22-00679109-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

THIRD REPORT OF ALBERT GELMAN INC.
in its capacity as court-appointed liquidator pursuant to the *Business Corporations Act*,
R.S.O. 1990, c. B.16

(Dated December 13, 2022)

I. INTRODUCTION

1. **This third report (“Third Report”) is filed by Albert Gelman Inc. (“AGI”) in its capacity as liquidator (in such capacity, the “Liquidator”) appointed over all of the assets, undertakings and properties (together, the “Property”) of 1827403 Ontario Inc. (“1827403”), 1853997 Ontario Inc. (“1853997”), 1885926 Ontario Inc. (“1885926”), 1950940 Ontario Inc. (“1950940”), 1950941 Ontario Inc. (“1950941”) and 1950979 Ontario Inc. (“1950979” and, together with 1827403, 1853997, 1885926, 1950940 and 1950941, the “Companies”) by Order of the Ontario Superior Court of Justice, Commercial List (the “Court”), dated April 4, 2022 (the “Appointment Order”), made pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16. The application was commenced by Paul Joseph Dietrich. A copy of the Appointment Order is attached hereto as Appendix “A”. The Liquidator understands that this appointment was a consensual result of part of an arbitration proceeding between the Applicant and the Respondent before the Hon. Frank Newbould.**

2. On June 13, 2022 on a motion made by the Liquidator the Honourable Justice Conway granted an order (the “June 13 Order”) **approving, among other things**, the Liquidator to pay the corporate tax liability of 1827403 and amended the Appointment Order to specifically provide that the Liquidator can pay post-

appointment liabilities as and when they become due. A copy of the June 13 Order and related Endorsement are attached hereto as **Appendix “B”**. The Liquidators report dated June 2, 2022 filed in relation to the June 13, 2022 **motion (the “First Report”) is attached hereto as Appendix “C”**, without appendices.

3. On October 13, 2022 on a motion made by the Liquidator the Honourable Justice Kimmel granted **an order (the “October 13 Order”) approving, among other things, the Liquidator to pay** pre-appointment liabilities provided that certain conditions were met. A copy of the October 13 Order and related Endorsement are attached hereto as **Appendix “D”**. The Liquidators report dated October 7, 2022 filed in relation to the October 13, 2022 **motion (the “Second Report”) is attached hereto as Appendix “E”**, without appendices.

II. PURPOSE OF THIS REPORT

4. The purpose of this Third Report is to request an Order, *inter alia*:

- a. approving this Third Report as well as the actions and activities of the Liquidator described herein;
- b. approving and authorizing the Liquidator to enter into and carry out the terms of the sale **transaction (the “Transaction”) contemplated by an Agreement of Purchase and Sale dated** October 9, 2022 together with any further amendments thereto deemed necessary by the Liquidator **in its sole discretion (collectively, the “Purchase Agreement”), entered into between** the Liquidator, as seller, and 100035384 Ontario Inc. **(the “Purchaser”) and vesting in the Purchaser 1950941’s** right, title and interest in and to the real property municipally known as 144 Brock Street, Peterborough, Ontario and legally described as PT LT 1 E OF GEORGE ST & N OF BROCK ST(PETERBOROUGH), AS IN R423530; CITY OF PETERBOROUGH (the “Brock Street Property”);
- c. sealing the confidential appendices to this Third Report;
- d. approving the fees and disbursements of the Liquidator for the period from October 1 to December 9, 2022; and
- e. approving the fees and disbursements of **the Liquidator’s independent counsel, Goldman Sloan Nash and Haber LLP (“GSNH”) for the period** to November 30, 2022; and,
- f. such further and other relief as this Honourable Court may deem just.

5. At a later date the Liquidator will provide a more fulsome update with respect to its actions and activities for each of the Companies.

III. SCOPE AND TERMS OF REFERENCE

6. In preparing this Third Report, the Liquidator has obtained and relied upon certain unaudited financial information of the Companies and the Companies books and records, and had ongoing discussions with Paul Dietrich and Steve McLaren **(together, the “Shareholders”)**, counsel for both Mr. Dietrich and Mr. McLaren,

Mr. Dietrich's accountant Greg Landry, Mr. McLaren's accountant Henry Climaco and the Companies' external accountant, BDO Canada LLP ("BDO").

7. While the Liquidator has reviewed the various documents provided, such review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles ("GAAP") or International Financial Reporting Standards ("IFRS"). Accordingly, the Liquidator expresses no opinion or other form of assurance pursuant to GAAP or IFRS or otherwise with respect to such information except as expressly stated herein.

8. This Third Report has been prepared for the purposes described above. Accordingly, the reader is cautioned that this Third Report may not be appropriate for any other purpose.

9. Unless otherwise noted, all monetary amounts referenced herein are expressed in Canadian dollars.

IV. BACKGROUND INFORMATION

10. The Companies' only shareholders are Mr. Steven McLaren and Mr. Paul Dietrich (collectively, the "Shareholders"), who each own 50% of the shares of each of the Companies. Each is also a director and officer of each of the Companies. 1853997 has one additional director, Greg Landry.

11. The Appointment Order was made on consent of both the Applicant and the Respondent and ordered by the Honourable Justice Gilmore on April 4, 2022 (attached above as Appendix "A").

12. The Shareholders previously operated effectively as partners with their principal line of business being residential and commercial land development in the Peterborough, Ontario and the surrounding area. The Companies were each incorporated for the purposes of land development.

13. Further background information relating to the Companies and the events leading to the appointment of the Liquidator, including the underlying dispute between the Shareholders, is set out in the affidavit of Paul Dietrich sworn March 30, 2022 filed in support of the application for the Appointment Order, of which a copy without exhibits is attached hereto as **Appendix "F"**.

14. Prior to the Appointment Order, the Liquidator was provided with trial balance reports prepared by the Shareholders for each of the **Companies (the "Trial Balance Reports")** summarizing the assets and liabilities of each of the Companies as at January 31, 2022. Attached hereto as **Appendix "G"** is a copy of the Liquidator's summary of the Trial Balance Reports.

V. BRIEF UPDATE ON MATTERS OTHER THAN THE SALE OF 144 BROCK STREET

15. The principal purpose of this Third Report is to seek an approval and vesting order in respect of the sale of 144 Brock Street, Peterborough.

16. To assist the stakeholders and the Court the Liquidator also wishes to briefly update two other items in connection with these liquidation proceedings:

- a. The first is that the HST payable in respect of 1950979, for which approval to pay was sought in the motion heard on October 13, 2022 and the resulting order, has not been paid. Issues that were discussed in that hearing resulted in considerations by the Liquidator of possible personal liability as a result. Discussions with Messrs. Dietrich and McLaren about arrangements to address that possible liability are ongoing. Until those issues have been addressed to the satisfaction of the Liquidator, it does not intend to pay the HST in question before a claims process and claims bar has been ordered by the Court, which the Liquidator will see following the disposition of all of the assets of the Companies.
- b. The second is that the conditional agreement of purchase and sale in respect of 888 Whitefield Drive, Peterborough (the “Whitefield Property”) that was previously reported by the Liquidator will not be proceeding. The purchaser under that agreement has purported to rely on the expiry of a condition in its favour. The Liquidator believes that the purchaser may be in breach of its obligation under that agreement including an obligation to act in good faith in respect of the condition and agreement. The Liquidator is accordingly not releasing the deposit and will bring a motion to the Court for directions on whether the purchaser is in breach of its obligations and if so what the consequent damages are once the Whitefield Property has been resold. Further detail on the facts and issues in relation to this issue will be dealt with in the report on that motion. The Liquidator is relisting the Whitefield Property for sale on MLS and is requesting new offers by January 12, 2023.

VI. BROCK STREET PROPERTY

17. 1950941 is the owner of the Brock Street Property.
18. The Brock Street Property is a two-story building with two residential apartments on the top floor and a commercial space that had been occupied by a restaurant on the main floor. Both residential units are tenanted. The main floor unit is vacant. The main floor unit is not in a state fit for immediate commercial use.
19. According to a parcel register obtained by the Liquidator on November 4, 2022 there are no mortgages, liens or other encumbrances registered on title to the Brock Street Property. Attached hereto as **Appendix “H”** is a copy of the land title search.
20. The Liquidator engaged TL Smith Appraisals (“Appraiser”) to prepare an appraisal of the Brock Street Property. The Appraiser prepared a narrative appraisal report for the Liquidator which included a current range of market value as of May 17, 2022 (the “Brock Street Appraisal”). The Brock Street Appraisal is attached hereto as **Confidential Appendix “1”**.
21. The Brock Street Property is a designated heritage property and, as such, any potential purchaser would be limited in its ability to redevelop the property.

VII. SALE OF BROCK STREET PROPERTY

22. In accordance with paragraph 4(k) of the Appointment Order the Liquidator is permitted sell, convey, transfer, lease or assign the Brock Street Property with the approval of the Court.

Sales Process

23. Subsequent to the date of the Appointment Order, the Liquidator requested listing proposals from commercial real estate agents with a view to listing the Brock Street Property for sale.

24. The Liquidator contacted three commercial realtors to request listing proposals to list the Brock Street Property. Of the three commercial realtors contacted only one, being David Watkins of RE/MAX Hallmark First Group Realty Ltd. **(the “Realtor”), provided a listing proposal. The Liquidator subsequently enter into a listing agreement with the Realtor.**

25. Prior to listing the Brock Street Property on the Multiple Listing Service (“MLS”) **the Realtor prepared a marketing package which is attached hereto as Appendix “I”.** The marketing package was sent electronically to approximately 2500 prospective buyers whom the Realtor knew were potentially interested in purchasing investment properties.

26. The Brock Street Property was listed on the MLS on July 7, 2022 with a listing price of \$699,000. The Realtor received several enquiries from prospective purchasers and several prospective purchaser groups toured the Brock Street Property. Two offers were received, however, the Liquidator was not prepared to accept or negotiate on the basis of any of them. On August 5, 2022 the listing prices was reduced to \$680,000. One offer was received after the listing price was reduced, however, again the Liquidator was not prepared to accept or negotiate on the basis of the offer. On September 8, 2022 the listing price was reduced to \$599,900. After this price reduction three offers were received, including an offer from the Purchaser on October 9, 2022.

27. Over a period of several weeks the Liquidator negotiated the purchase price, terms and conditions with the Purchaser. On October 21, 2022 the agreement of purchase and sale with the Purchaser (defined **above as the “Purchase Agreement”) became a binding agreement.** The Purchase Agreement was subject to conditions, which were waived by amending agreement dated October 21, 2022 **(the “Amending Agreement”).** A copy of the Purchase Agreement and Amending Agreement with redactions for the sale price is attached hereto as **Appendix “J”.** An unredacted copy of the Purchase Agreement and Amending Agreement is attached hereto as **Confidential Appendix “2”.**

28. Upon acceptance of the offer from the Purchaser the Realtor received a deposit of \$20,000 and the Realtor received a further deposit on the removal of conditions of \$30,000 (total of \$50,000), both of which are **currently being held in the Realtor’s trust account.**

29. The Purchaser has assigned its interest in the Purchase Agreement to 1000353840 Ontario Inc. by an assignment and assumption agreement attached as **Appendix “K”.**

30. The Purchase Agreement is now only conditional upon the Liquidator obtaining an order approving the Transaction and vesting in the Purchaser the Brock Street Property free and clear of any and all encumbrances in the form included with the Liquidator's motion record.

31. **The Realtor's summary of the offers and associated prices that were received is attached at Confidential Appendix "3"**

Liquidator's Recommendation

32. Based on the foregoing, the Liquidator has accepted the Purchaser Agreement, conditional on the Liquidator obtaining an Approval and Vesting Order substantially in the form included with this motion record.

33. The Liquidator recommends that this Honourable Court authorize and approve the Liquidator to complete of the Transaction contemplated by the Purchase Agreement and grant an Approval and Vesting Order in favour of the Purchaser for the following reasons:

- a. the quantum of the selling price is reasonable given the appraised value of the Brock Street Property;
- b. the Brock Street Property was exposed to the market for a sufficient period of time and, therefore, the selling price represents fair market value; and,
- c. subject to obtaining Court Approval of the Transaction, the Liquidator anticipates closing the Purchase Agreement on January 20, 2023 which reduces the costs, inherent risks and exposures associated with maintaining possession and control of the Brock Street Property.

34. Given the above, **in the Liquidator's opinion, the offer from the Purchaser represents the highest and best net realizable value for the Real Property in the circumstances.**

35. The Liquidator further recommends that the Confidential Appendices to the Third Report be sealed pending the closing of a sale of the Brock Property, as evidenced by the filing of a Certificate by the Liquidator, in order to avoid prejudicing any future marketing efforts if the Purchase Agreement does not close by its terms.

VIII. ACCOUNTS OF THE LIQUIDATOR AND ITS COUNSEL

36. Pursuant to paragraph 18 of the Appointment Order, the Liquidator and its independent counsel, GSNH, are required to pass their accounts with the Court from time to time. The Liquidator and GSNH have maintained detailed records of their time and costs since the Appointment Order.

37. The Liquidator has incurred fees of \$39,249.50 plus HST of \$5,102.44, totaling \$44,351.94 for the period from October 1 to December 8, 2022. A copy of the detailed billings of the Liquidator supported by the Affidavit of Bryan Gelman sworn December 9, 2022, is attached hereto as **Appendix "L"**.

38. GSNH, the **Liquidator's** independent legal counsel, has incurred fees of \$18,090.00, out-of-pocket disbursements of \$659.90 plus HST of \$2,390.69, totaling \$21,104.59 for the period to November 30, 2022.

A copy of the detailed billings of GSNH, supported by the Affidavit of Brendan Bissell, sworn December 13, 2022, is attached hereto as **Appendix “M”**.

39. The Liquidator reports that the foregoing professional fees and disbursements are in its view fair and reasonable in the circumstances and supported by detailed invoices as well as affidavits confirming *inter alia* that the abovementioned fees are comparable to those charged by other Licensed Insolvency Trustee for similar services.

IX. **LIQUIDATOR’S REQUEST FOR APPROVAL**

40. In light of the above, the Liquidator respectfully requests an Order of this Honourable Court:

- a. approving this Third Report as well as the actions and activities of the Liquidator described herein;
- b. authorizing and directing the Liquidator to complete the Transaction as contemplated by the Purchase Agreement, with such minor amendments as the Liquidator may deem necessary or appropriate;
- c. vesting the Brock Street Property in the Purchaser free and clear of all encumbrances pursuant to an approval and vesting order in a form consistent with the one approved by the Commercial List User’s Committee of the Ontario Superior Court of Justice, to be effective upon the Liquidator filing the Liquidator’s Certificate attached to the proposed form of Court Order;
- d. sealing the Liquidator’s confidential appendices to this Third Report;
- e. approving the fees and disbursements of the Liquidator for the period from October 1 to December 8, 2022; and
- f. **approving the fees and disbursements of the Liquidator’s independent counsel, GSNH, for the period to November 30, 2022.**

* * *

All of which is respectfully submitted this 13th day of December 2022

ALBERT GELMAN INC., solely in its
capacity as the Court-Appointed Liquidator
of each of the Companies and not in its
Personal or any other Capacity

Per: _____
Bryan Gelman, *CIRP, LIT*

APPENDIX H

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM	)	WEDNESDAY, THE 21 ST
)	
JUSTICE KIMMEL	)	DAY OF DECEMBER, 2022

B E T W E E N :

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER sections 207, 209 and 210 of the
Business Corporation Act, R.S.O. 1990, c. B16

ORDER

THIS MOTION made by Albert Gelman Inc. (“AGI”) in its capacity as liquidator (in such capacity, the “**Liquidator**”) appointed pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16 over all of the assets, undertakings and properties of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. was heard before me this day at 330 University Avenue, Toronto, by videoconference.

ON READING the third report of the Liquidator dated December 13, 2022 (the “**Third Report**”) and on hearing the submissions of counsel for the Liquidator and such other counsel as were present as may be indicated on the counsel slip, no one else appearing despite being served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for service of the motion record in respect of this motion and the Third Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.
 2. THIS COURT ORDERS that the Third Report other than paragraph 16(a) as well as the activities described therein are hereby approved, provided, however, that only AGI in its personal capacity and with respect to its personal liability shall be entitled to rely upon or utilize in any way such approval.
 3. THIS COURT ORDERS that approval of paragraph 16(a) of the Third Report is adjourned to a hearing in writing or orally as the Court may direct.
 4. THIS COURT ORDERS that the fees, costs and expenses of the Liquidator including those of its lawyers, Goldman Sloan Nash & Haber LLP, as set out in the fee affidavits appended to the Third Report be and are hereby approved, and that the Liquidator is hereby authorized and directed to pay the same from available funds.
 5. THIS COURT ORDERS that this order is effective as of its date at 12:01 am and does not need to be issued or entered.
-

PAUL JOSEPH DIETRICH

Applicant

-and-

STEVEN ROBERT MCLAREN

Respondent

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced in TORONTO

ORDER

GOLDMAN SLOAN NASH & HABER LLP
480 University Avenue, Suite 1600
Toronto, Ontario M5G 1V2
Fax: 416-597-6477

Brendan Bissell (LSO #40354V)
Tel: (416) 597-6489
Email: bissell@gsnh.com

Lawyers for Albert Gelman Inc. in its capacity as
court-appointed liquidator



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-22-00679209-00CL HEARING DATE: 21 December 2022

NO. ON LIST: 5

TITLE OF PROCEEDING: DIETRICH v. MCLAREN
BEFORE JUSTICE: MADAM JUSTICE KIMMEL

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Crown:

Name of Person Appearing	Name of Party	Contact Info
DANNY NUNES (<i>counsel</i>)	Paul Dietrich, applicant	Danny.nunes@dlapiper.com

For Defendant, Respondent, Defence:

Name of Person Appearing	Name of Party	Contact Info
MARIAM MOKTAR (<i>counsel</i>)	Steven McClaren, respondent	Mariam.moktar@paliareroland.com

For Other:

Name of Person Appearing	Name of Party	Contact Info
BRENDAN BISSEL (<i>counsel</i>)	Albert Gelman Inc, court-appointed liquidator	bissell@gsnh.com
BRYAN GELMAN (<i>liquidator</i>)	Albert Gelman Inc., court-appointed liquidator	bgelman@albertgelman.com

ENDORSEMENT OF JUSTICE KIMMEL:

1. This is a motion by Albert Gelman Inc. ("AGI") in its capacity as liquidator (in such capacity, the "Liquidator") appointed pursuant to the Business Corporations Act, (the "BCA") over all of the assets, undertakings and properties of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. ("1950941") and 1950979 Ontario Inc. (together the "Companies") for an approval and vesting order ("AVO") in respect of a sale transaction (the "Transaction") in which the Liquidator has entered into an agreement on behalf of 1950941 with Steven Robertson in trust dated October 9, 2022 (since assigned to 1000353840 Ontario Inc.), as purchaser (the "Purchaser") to sell all of 1950941's assets, including a building at 144 Brock Street in Peterborough (the "Brock Property").
2. In addition, a sealing order is sought in respect of certain confidential appendices to the Liquidator's Third Report dated December 13, 2022 (the "Third Report") and for the approval of the Liquidator's activities and of the fees of the Liquidator and its counsel.
3. This motion was served on the service list a week in advance and, aside from the counsel appearing today (for the applicant and respondent, the sole shareholders of the Companies), no other stakeholders have responded to the motion or indicated any objections or concerns about the orders sought.
4. The Transaction was negotiated following a conventional marketing and sales process through an MLS listing. After two list price reductions and multiple offers that the Liquidator did not consider to be acceptable, the Purchaser made an offer and negotiations ensued that resulted in the Transaction. Although the purchase price is less than the value of the last (confidential) appraisal of the Brock Property, the Liquidator considers the purchase price to be reasonable having regard to the (confidential) summary of offers and prices prepared by the listing broker and having regard to the appraisal itself.
5. The Liquidator recommends the approval of the Transaction, having regard to the market exposure (of approximately 3 months), the level of interest expressed and offers received, and the cost of carrying the Brock Property. The open market is one of the best indicators of value and the Transaction is a reflection of the market's assessment of the value of the Brock Property.
6. I am satisfied that the sales process that was undertaken meets the requirements of the principles *Royal Bank of Canada v. Soundair Corp.* (1991), 4 O.R. (3d) 1 (C.A.) and that the proposed AVO in respect of the Brock Property should be approved.
7. The requested partial sealing order is limited in its scope (only specifically identified confidential exhibits) and in time (until the contemplated transaction is completed). It is necessary to protect commercially sensitive information that could negatively impact the Companies and their stakeholder if this Transaction is not completed and further efforts to sell the Brock Property have to be undertaken.
8. The proposed partial sealing order appropriately balances the open court principle and legitimate commercial requirements for confidentiality. It is time limited (until the closing of the Transaction or further court order) and restricted only to aspects of the confidential exhibits that contain sensitive and confidential information about the price and value of the Transaction and other offers for the purchase of the Brock Property. It is necessary to avoid any interference with subsequent attempts to market and sell the Brock Property, and any prejudice that might be caused by publicly disclosing confidential and commercially-sensitive information prior to the completion of the now approved Transaction. These salutary effects outweigh any deleterious effects, including the effects on the public interest in open and accessible court proceedings.
9. 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 requirements, as modified by the reformulation of the test in *Sherman Estate v. Donovan*, 2021 SCC 25, at para 38. Granting this order is consistent with the court's practice of granting limited partial sealing orders in conjunction with the approval and vesting orders.
10. The Liquidator is directed to ensure that the sealed confidential exhibits are provided 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 exhibits can be physically sealed. The Liquidator is further directed to ensure that the confidential exhibits are “unsealed” upon the filing of the Liquidator’s Certificate for the sale of the Purchased Assets, or further court order, as provided for in paragraph 8 of the AVO.

11. The fees claimed for the Liquidator and its counsel are supported by affidavits and accounts rendered and reflect the challenges of this liquidation, including the sales process, which were met with proportionate responses. The professional fees for which approval is sought are commensurate with the tasks performed and the time spent and are consistent with comparable professionals’ rates. I find them to be fair, reasonable and justified in the circumstances. See *Confectionately Yours Inc. (Re)*, 2002 CanLII 45059 (ON CA), paras. 42-54.
12. The approval of the Third Report and activities described therein has been made subject to the standard qualification that has become the Commercial List practice to include in these types of orders. The approval of the interim fees and activities of court appointed officers provides stability and other recognized salutary effects. See *Target Canada Co. (Re)*, 2015 ONSC 7574, at paras. 2 and 23.
13. Various questions were raised in the course of the hearing by counsel for the applicant that were directed to the Liquidator’s counsel. Some may require further follow-up, independent of the specific orders sought today.
14. Some specific assurances were sought in connection with any future motions or proceedings that may be brought in connection with the matters addressed in paragraph 16 of the Liquidator’s Third Report. Counsel were asked to draft and agree upon language for the benefit of all stakeholders to be included in my endorsement to address this.
15. Counsel have since advised that they have been unable to come to an agreement on this and have asked for the opportunity to make further submissions. In the meantime, they have revised the draft form of ancillary order to exclude approval of this aspect of the Receiver’s Report, pending that determination. If they seek any further direction or order from the court with respect to the activities and anticipated motion of the Liquidator in paragraph 16(a) of the Liquidator’s Third Report, counsel are directed to arrange a case conference with me through the commercial list office.
16. Orders (AVO and ancillary order) both dated December 21, 2022 to go in the forms signed by me today.



KIMMEL J.

APPENDIX I



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP

COURT FILE NO.: CV-22-00679109-00CL DATE: JANUARY 12, 2023

4
NO. ON LIST: 11:30 AM

TITLE OF PROCEEDING: PAUL DIETRICH -v- STEVEN MCLAREN

BEFORE JUSTICE: CONWAY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
DANNY NUNES	AP Counsel	danny.nunes@dlapiper.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
JEFFREY LARRY	RE Counsel	jeff.larry@paliareroland.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
BRENDAN BISSELL	Counsel for Court Appointed Liquidator – Albert Gelman Inc.	bissell@gsnh.com
BRYAN GELMAN	Court Appointed Liquidator	bgelman@albertgelman.com

ENDORSEMENT OF JUSTICE CONWAY:

Case conference held. The Liquidator has advised the court that it is proposing to pause the liquidation process for the Property as the shareholders of 1950979 are in the midst of negotiating a share purchase transaction for that company. If the transaction goes through, the Liquidator will be seeking an order taking the company out of liquidation. If it does not, the Liquidator will be resuming the process.

I see no reason to give any direction to the Liquidator at this point. It has advised the court of the current state of affairs. It can bring the appropriate motion depending on how things unfold.

A handwritten signature in blue ink, appearing to read "Conway J.", with a stylized flourish at the end.

APPENDIX J

Court File No. CV-22-00679109-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

PAUL JOSEPH DIETRICH

Applicant

- and -

STEVEN ROBERT MCLAREN

Respondent

APPLICATION UNDER sections 207, 209 and 210 of the *Business Corporations Act*, R.S.O.
1990, c. B16, as amended.

AFFIDAVIT OF PAUL JOSEPH DIETRICH

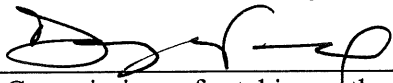
I, Paul Joseph Dietrich, of the City of Peterborough, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am an officer, director and shareholder of each of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. (collectively, the "**Residual Companies**"). As such, I have knowledge of the matters deposed to in this affidavit. Where I do not have direct knowledge of a matter, I state the source of my information and believe it to be true.
2. The Respondent, Steven Robert McLaren, and I founded the Parkview Group of Companies (the "**Parkview Group**") in 1989. We were the only shareholders, officers and directors of the companies that comprise the Parkview Group.

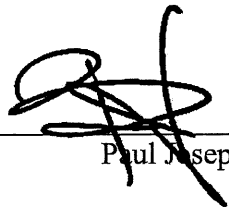
3. In January 2022, I sold my beneficial interest in all of the companies that comprise the Parkview Group, other than the Residual Companies, to the Respondent. The Respondent and I remain the only shareholders, officers and directors of the Residual Companies.
4. The Respondent and I, along with certain of the companies that comprise the Parkview Group, entered into a shareholders agreement dated February 14, 2008 (the “**Shareholders Agreement**”).
5. Pursuant to the terms of the Shareholders Agreement, if any controversy relating to the Shareholders Agreement arose amongst the shareholders, the parties would initially attempt to negotiate a resolution to the controversy and if those negotiations were unsuccessful, the dispute would be submitted to a mediator. Finally, if the mediation did not resolve the dispute or either party would not participate in the mediation, the shareholders agreed that the dispute would be settled by way of arbitration pursuant to the *Arbitration Act* (Ontario).
6. The procedures set forth in the preceding paragraph were invoked by the Respondent upon providing me with a Notice of Dispute on November 15, 2019.
7. The Respondent and I were unable to resolve the dispute through negotiation and subsequently retained former justice of the Ontario Superior Court of Justice (Commercial List), the Honourable Frank Newbould, Q.C., to mediate the matter. A mediation was held on February 12, 2020, however, the parties were unable to resolve the dispute.
8. The matter was scheduled to proceed by way of arbitration in August 2020 before the Honourable Mr. Newbould but was adjourned on account of settlement discussions between the parties which were mediated by a third party, commencing July 25, 2020 and which continued from and after that date until approximately December 2020.
9. The settlement discussions were unsuccessful in resolving the dispute amongst the shareholders and the arbitration was scheduled to proceed before the Honourable Mr. Newbould on January 17, 2022.

- 10. Prior to the commencement of the arbitration, the Respondent and I agreed to certain minutes of settlement dated January 18, 2022 (the “**Minutes of Settlement**”) to resolve the arbitration. Pursuant to the Minutes of Settlement, the parties agreed and consented to the form of Order attached to the Minutes of Settlement as Schedule “A” being made in the arbitration.
- 11. Pursuant to the award of the Honourable Mr. Newbould dated January 18, 2022 (the “**Arbitration Award**”), it was ordered, on the consent of the Respondent and I, that, among other things: (i) the arbitration be dismissed with prejudice and without costs on the terms set out in the Minutes of Settlement; and (ii) the Residual Companies be liquidated, and Bryan Gelman of Albert Gelman Inc. (“**AGI**”) be appointed as liquidator (the “**Liquidator**”). Attached hereto as Exhibit “A” is a copy of the Arbitration Award.
- 12. To facilitate the orderly liquidation of the Residual Companies, the parties have agreed and consent to the Liquidator’s appointment pursuant to the provisions of the *Business Corporations Act* (Ontario) (the “**BCA**”). I am advised by my counsel, Danny Nunes of DLA (Piper) Canada LLP (“**DLA**”), that the form of draft Order appointing the Liquidator and included in the Application Record, is largely based upon the Court’s model Order for the appointment of receivers and managers and expressly sets forth the Liquidator’s powers which it may assert in liquidating the Residual Companies, in addition to those powers set out in the BCA.
- 13. AGI has consented to act as Liquidator in these proceedings. Attached hereto as Exhibit “B” is a copy of AGI’s consent to its appointment as Liquidator.
- 14. I swear this affidavit in support of my application for the Liquidator’s appointment over the Residual Companies and for no other or improper purpose.

SWORN before me by videoconference)
 this ^{20th} day of March, 2022 in accordance)
 with O. Reg. 421/20, Administering)
 Oath or Declaration Remotely.)



 A Commissioner for taking oaths
 DANNY NUNES



 Paul Joseph Dietrich

APPENDIX K

	1950979 Ontario Inc.		1950941 Ontario Inc.		1827403 Ontario Inc.		1853997 Ontario Inc.		1885926 Ontario Inc.		1950940 Ontario Inc.		Debit	Credit
	Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit
1000 - TD Canada Trust	1,214,196		33,274		541,064				30,630		2,885		1,822,049	-
1000 - CIBC - Bank							3,812						3,812	-
11000 - Accounts Receivable		3,248											-	3,248
1050 - Security Deposits			712										712	-
1100 - Prepaid Expenses			6,244										6,244	-
1300 - 144 Brock Street - Land			500,000										500,000	-
1300 - 144 Brock Street - Building			380,087										380,087	-
1300 - 144 Brock Street - Acc. Dep'n				56,113									-	56,113
1310 - Middlefield Phase II					854								854	-
1311 - Thompson Bay					2,742								2,742	-
1410 - Due From Parkview Homes Inc.					1,717,000								1,717,000	-
1500 - 882 Whitefield: Capitalized Costs	6,864,204												6,864,204	-
1500 - 882 Whitefield:1501 - Transferred from 1494282	1,045,045												1,045,045	-
1500 - 144 Brock Street: Capitalized Development Costs			127,788										127,788	-
1600 - Due to Parkview Homes Inc.												19,000	-	19,000
2000 - Accounts Payable		1,236		1,178	281								281	2,414
2100 - Holdbacks Payable		29,014											-	29,014
2100 - Tenant Deposits				2,550									-	2,550
2200 - GST/HST Payable	1,262		545				160						1,967	-
2300 - Tenant Deposits		2,000											-	2,000
2410 - Due to Parkview Homes Inc.		699,071		1,006,000									-	1,705,071
2420 - Due to Parkview Homes Inc.												30,000	-	30,000
2800 - CMHC Construction Loan		8,467,657											-	8,467,657
3000 - Capital Stock		100		100		100	100		100		100		-	600
3500 - Retained Earnings	60,973		19,396		2,261,866		3,872		30,530		46,215		126,584	2,296,268
<u>Income statement items</u>														
4000 - Rental Income		1,901											-	1,901
4300 - Rental Income - Apartments				2,626									-	2,626
4400 - Parking Lot Revenue				640									-	640
6340 - Interest Expense	8,713												8,713	-
6720 - Property - Repairs and Mtce	5,906												5,906	-
6730 - Property - Snow Removal	3,568												3,568	-
6860 - Utilities:6860-01 - Hydro		1,947	1,019										1,019	1,947
6860 - Utilities:6860-10 - Water	1,186		144										1,330	-
8000 - Bank Charges					25								25	-
8300 - Custodial Services	1,017												1,017	-
8400 - Internet Service	104												104	-
TOTAL	9,206,174	9,206,174	1,069,209	1,069,207	2,261,966	2,261,966	3,972	3,972	30,630	30,630	49,100	49,100	12,621,051	12,621,049

APPENDIX L

**NARRATIVE UPDATED APPRAISAL
OF A 27 UNIT APARTMENT BUILDING**



**LOCATED AT
888 WHITEFIELD DR
CITY OF PETERBOROUGH, ONTARIO**

PREPARED FOR:

ALBERT GELMAN INC., COURT-APPOINTED LIQUIDATOR

PREPARED ON

JUNE 30, 2022

TL SMITH APPRAISALS
2 COVINGTON ROAD, #304
TORONTO, ONTARIO
M6A E32
416 220-1842

June 30, 2022

Albert Gelman Inc., Court-Appointed Liquidator

Dear Mr. Bryan Gelman,

RE: VALUATION OF A 27 UNIT APARTMENT BUILDING AT 888 WHITEFIELD DR, CITY OF PETERBOROUGH

At your request, I am forwarding to you the enclosed **Narrative Appraisal Report** which comprises my valuation of the above described property. The purpose of this report is to estimate the current market value of the subject property. The property rights appraised are those of the Leased Fee Interest and the effective date of my valuation is May 17, 2022 the date of my inspection. The purpose is to estimate the current value of the subject property and the intended use of the appraisal is to assist with setting a sale price for the subject property. Void if used for any other purpose.

The contents of this report are confidential and will not be disclosed by the author to any party except as provided for by the provisions of the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) and/or when properly entered into evidence of a duly qualified judicial or quasi-judicial body. The appraiser acknowledges that the information collected herein is personal and confidential and shall not use or disclose the contents of this report except as provided for in the provisions of the Canadian Uniform Standards of Professional Appraisal Practice and in accordance with the appraiser's privacy policy. Albert Gelman Inc., Court-Appointed Liquidator agrees that in accepting this report, they shall maintain the confidentiality and privacy of any personal information contained herein and shall comply in all material respects with the contents of the appraiser's privacy policy and in accordance with the *Personal Information Protection and Electronic Documents Act* (PIPEDA).

As of the date of this report Canada and the Global Community is experiencing unprecedented measures undertaken by various levels of government to curtail health related impacts of the Covid-19 Pandemic. The duration of this event is not known. While there is potential for negative impact with respect to micro and macro-economic sectors, as well as upon various real estate markets, it is not possible to predict such impact at present, or the impact of current and future government countermeasures. There is some risk that the Covid-19 Pandemic increases the likelihood of a global recession, however without knowledge of further anticipated government countermeasures at the national and global levels it is not possible to predict any impact at this point in time. Accordingly, this point-in-time valuation assumes the continuation of current market conditions, and that current longer-term market conditions remain unchanged. Given the market uncertainties of the Covid-19 pandemic, a force majeure event, we reserve the right to revise the value estimation set out in this report for a fee, with an update appraisal report under a separate appraisal engagement, incorporating market information available at that time.

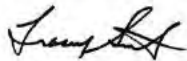
The site is located at 888 Whitefield Dr, in the City of Peterborough and is improved with a 3 storey 27 unit apartment building situated on an irregular shaped site with frontage of 300.98' and a total site size of 1.19 acres. The following appraisal report contains my estimate of current value of the above described property.

In my opinion, the estimated current value of the subject property as of the effective date of May 17, 2022, is:

[REDACTED]

The following report contains the data, analysis and conclusions supporting the valuation. I trust you will find this report satisfactory and that it fulfills its intended purpose.

Respectfully submitted,



Tracey Smith, AACI, P.App

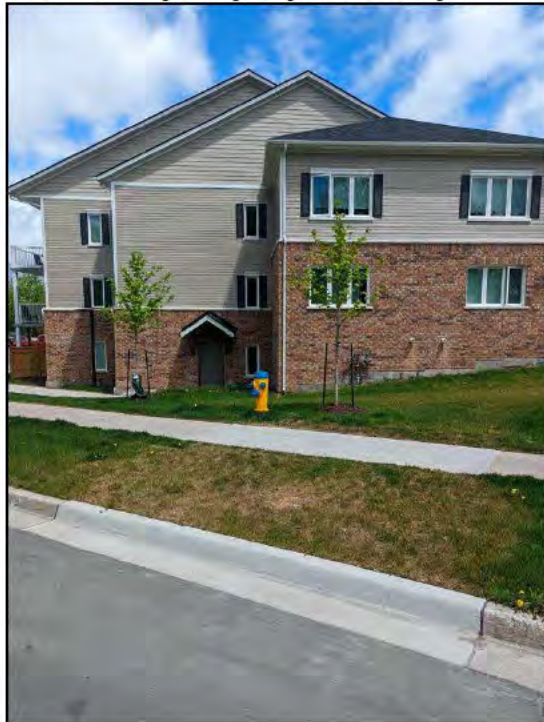


Yehuda Belzberg, Candidate Appraiser

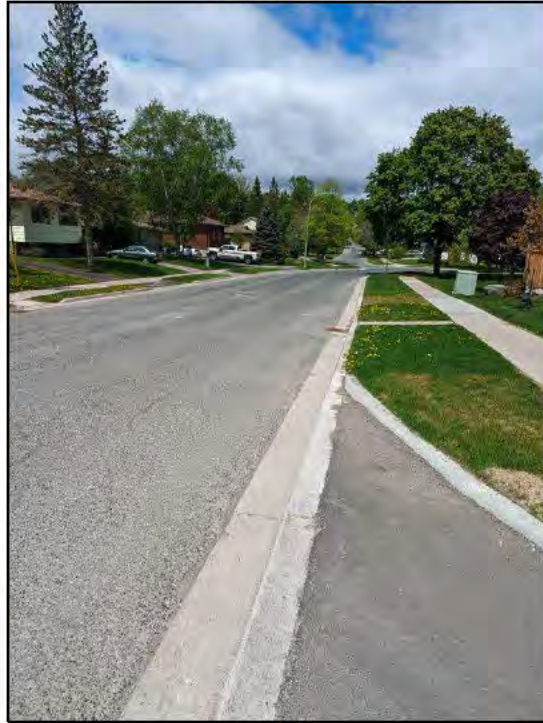
*Photographs of the subject
Front View of Subject*



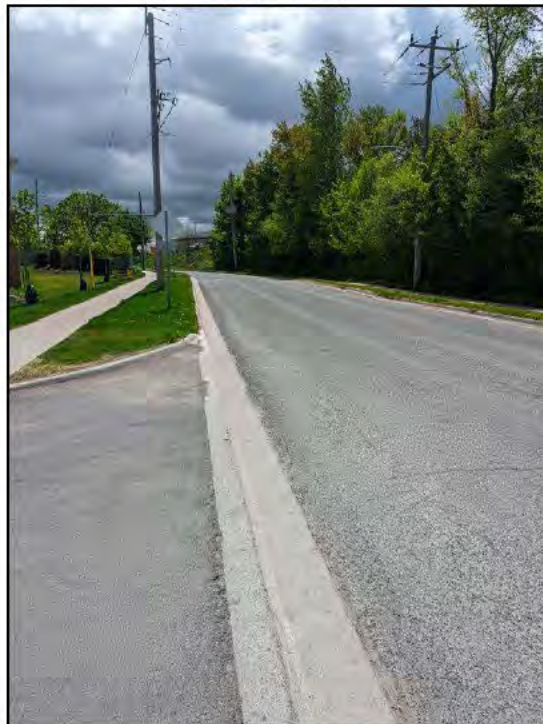
Side View of Subject from Whitefield Dr



*Photographs of the subject
Street View*



Street View



*Photographs of the subject
View of Parking*



View of Parking



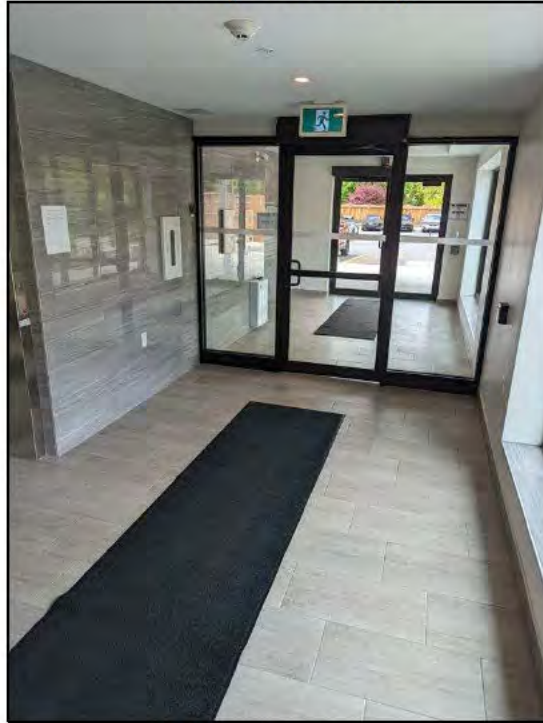
*Photographs of the subject
View of Backyard*



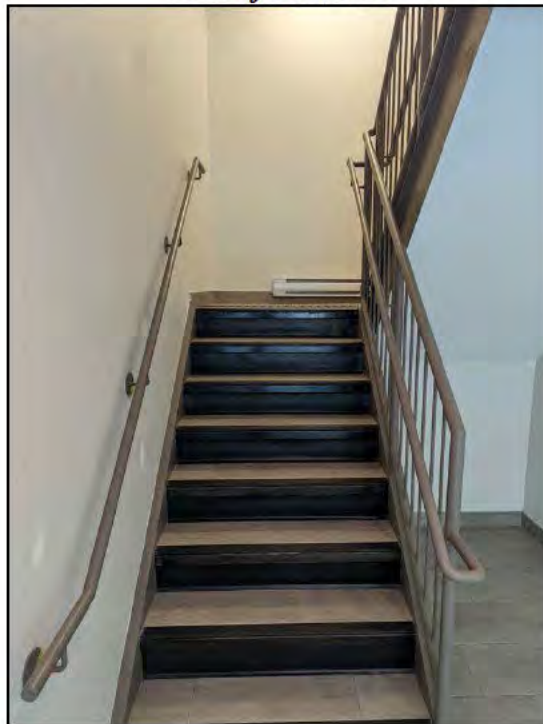
View of Building Entrance



*Photographs of the subject
View of Main Lobby*



View of Staircase



*Photographs of the subject
View of Apartment Units*



*Photographs of the subject
View of Kitchens*



*Photographs of the subject
View of Washrooms*



*Photographs of the subject
View of Laundry*



View of Laundry



*Photographs of the subject
View of Laundry*



View of Laundry



*Photographs of the subject
View of Furnace*



View of Utilities Room



*Photographs of the subject
View of Utilities Room*



View of Utilities Room



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SUMMARY OF SALIENT FACTS

LOCATION OF PROPERTY: 888 Whitefield Dr, City of Peterborough

LEGAL DESCRIPTION: Pt Lts 8 & 9 Pl 22q(North Monaghan) As In R227329 Lying E Of Whitefield Drive, Except R235039, S/T Easement Over Pt Lt 8 Being Pt 1 45r-12197 In Favour Of Bell Canada As In Lt91763; Peterborough Together With An Easement Over Part Lot 9, Plan 22q North Monaghan, Part 1, 2 & 3 Plan 45r16694 As In Pe308340

ROLL NUMBER: 151402006000220

REGISTERED OWNER: 1950979 Ontario Inc.

DATE OF INSPECTION: May 17, 2022

EFFECTIVE DATE OF APPRAISAL: May 17, 2022

SUBJECT SITE DIMENSIONS/AREA: 300.98' Frontage; 1.19 acres Total Area

IMPROVEMENTS: 3 storey 27 unit apartment building

PURPOSE OF THE APPRAISAL: To estimate the current market value of the subject property as of the effective date of the appraisal.

INTENDED USE OF APPRAISAL: To assist with setting a sale price for the subject. Void if used for any other purpose

PROPERTY RIGHTS APPRAISED: Value of the Leased Fee Interest

CITY OF PETERBOROUGH ZONING: R.4-270; Residential

HIGHEST AND BEST USE: Current use

VALUATION

PART II

FACTUAL DATA

PURPOSE OF THE APPRAISAL

Report Format

The Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) necessitates that an appraisal report be identified as one of the following types of reports:

Current – Refers to an appraisal where the effective date of the report is simultaneous with the date the report was prepared or inspected, where market conditions have not changed materially between the dates.

Retrospective – Refers to an appraisal where the effective date of the report precedes the inspection date or the date the report was prepared and whereby market conditions may be materially different in the time frame between these dates. In this type of appraisal the “retrospective” value is based on market conditions, perceptions and perspective that existed as of the effective date.

Prospective – Refers to an appraisal where the effective date of the report is after the inspection date or the date the report was prepared. In this type of appraisal the “prospective” value opinion is intended to reflect the projected market conditions to a future effective date.

Up-Date – Refers to an appraisal where the subject was previously appraised and has not undergone significant changes and/or the time between the effective date of the original appraisal and the up-date is not unreasonably long. It is an extension of a previously completed appraisal, updated to the effective date of the report and is intended for readers familiar with the original report of the subject property.

CUSPAP necessitates that an appraisal report be identified as one of the following types of reports which depends on the needs of the users and appraisers:

Narrative – comprehensive and detailed

Short Narrative – concise and briefly descriptive

Form – a standard format combining check off boxes and short narrative comments.

The basic distinguishing difference between each different type of report is the level of detail of presentation.

Classification of the Appraisal

*This is a **Narrative Appraisal Report** which is **Current Valuation** intended to comply with the reporting requirements set forth by CUSPAP. As such, it presents a detailed discussion of the date, reasoning, and analyses that were used in the appraisal process to develop the appraiser’s opinion of value. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated below. The appraiser is not responsible for unauthorized use of the report.*

Purpose of the Appraisal

The purpose of this appraisal is to estimate the current market value of a 3 storey, 27 unit apartment building as of the effective date May 17, 2022.

Intended Use of the Appraisal

The intended use of the appraisal is to assist with setting a sale price for the subject property. Void if used for any other use.

Extraordinary Assumptions

An extraordinary assumption refers to any hypothesis - either fictitious or unconfirmed - which, if not true, could alter the appraiser's opinions or conclusions.

As of the date of this report Canada and the Global Community is experiencing unprecedented measures undertaken by various levels of government to curtail health related impacts of the Covid-19 Pandemic. The duration of this event is not known. While there is potential for negative impact with respect to micro and macro-economic sectors, as well as upon various real estate markets, it is not possible to predict such impact at present, or the impact of current and future government countermeasures. There is some risk that the Covid-19 Pandemic increases the likelihood of a global recession, however without knowledge of further anticipated government countermeasures at the national and global levels it is not possible to predict any impact at this point in time. Accordingly, this point-in-time valuation assumes the continuation of current market conditions, and that current longer-term market conditions remain unchanged. Given the market uncertainties of the Covid-19 pandemic, a force majeure event, we reserve the right to revise the value estimation set out in this report for a fee, with an update appraisal report under a separate appraisal engagement, incorporating market information available at that time.

The appraiser was provided with the income and expense information for the subject property by the client. No back up for the revenue in the form of leases was provided. Additionally, only some back up in the form of invoices/bills or financial statements was provided for the operating expenses. Thus, the information that was provided to the appraiser from the owner of the subject property is assumed to be accurate. IF IT IS FOUND TO BE INACCURATE THEN THE VALUE CONTAINED HEREIN IS SUBJECT TO CHANGE AND/OR BE VOID.

If any assumptions found herein are found to be inaccurate then the value contained herein is subject to change and/or be VOID.

There are no other extraordinary assumptions to this appraisal.

Extraordinary Limiting Conditions

Extraordinary limiting condition refers to the necessary modification or exclusion of any Appraisal Standard Rule that is outlined in the Standards of Professional Appraisal Practice of the Appraisal Institute of Canada.

There are no extraordinary limiting conditions to the conclusions of this report.

Effective Date

The effective date of this appraisal and the date of inspection is May 17, 2022.

Legal Description

The legal description of the subject property is:

Pt Lts 8 & 9 Pl 22q(North Monaghan) As In R227329 Lying E Of Whitefield Drive, Except R235039, S/T Easement Over Pt Lt 8 Being Pt 1 45r-12197 In Favour Of Bell Canada As In Lt91763; Peterborough Together With An Easement Over Part Lot 9, Plan 22q North Monaghan, Part 1, 2 & 3 Plan 45r16694 As In Pe308340.

Property Rights Appraised

The property rights appraised are those of the Leased Fee Interest in the real estate comprising the property.

History of the Subject

Address	888 Whitefield Dr, City of Peterborough
Pin No:	284630470
Consideration on Record:	\$0
Registration Date:	08/02/2019
Owner:	1950979 Ontario Inc.

No listings on TREB were found for the subject property for sale or for lease in the last 36 months. As per Land Registry Records the subject property was transferred on 08/02/2019 for \$0. According to office records, the appraiser has not had any dealings with the subject property in the last 5 years.

Property Assessment

The subject property is assessed for 2022 municipal taxes as follows:

Address:	888 Whitefield Dr, City of Peterborough
Assessed Value 2022:	██████████
Taxes 2022:	██████████ (As per the tax bill)

Definition of Market Value

Market value, as defined by the Appraisal Institute of Canada, and as used in this Report is:

"The most probable price in terms of money at which a property should bring in a competitive and open market under all conditions requisite for a fair sale, the buyer and seller each acting prudently and knowledgeably and assuming the price is not affected by any undue stimuli.

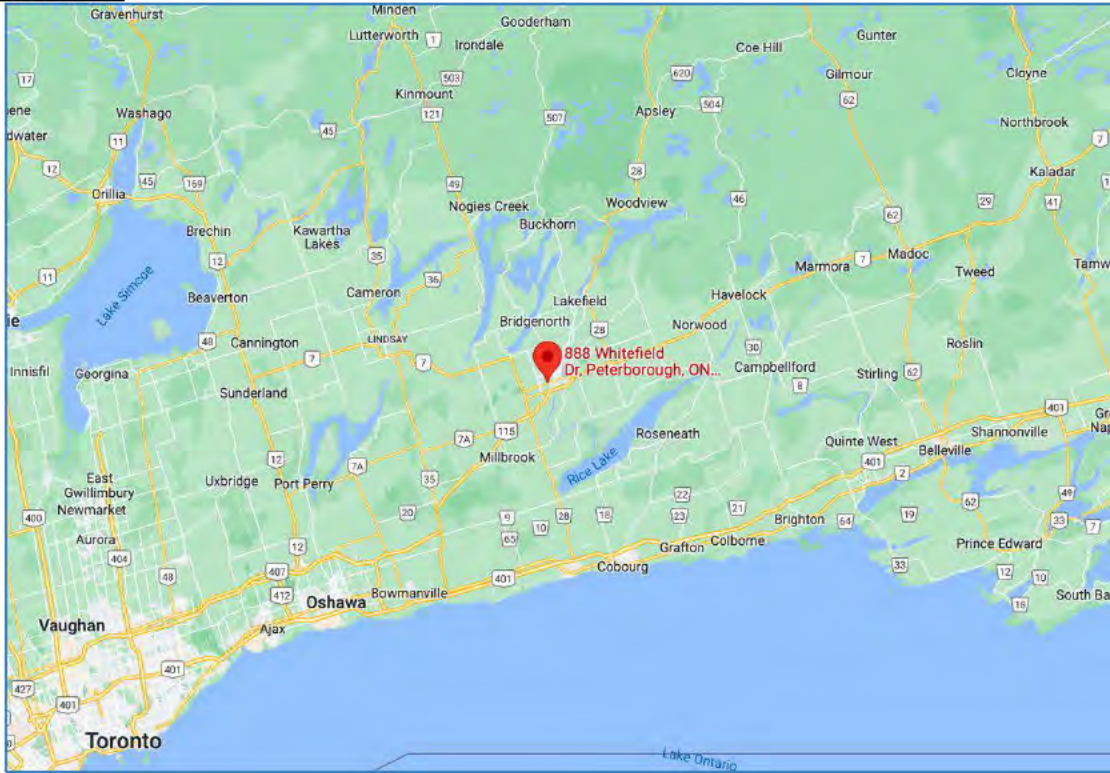
Implicit in this definition are the consummation of a sale as of a specific date and the passage of title from seller to buyer under conditions whereby:

- 1. Buyer and seller are typically motivated.*
- 2. Both parties are well informed or well advised and are acting in what they consider their best interest.*
- 3. A reasonable time is allowed for exposure in the open market.*
- 4. Payment is made in terms of cash and Canadian dollars or in terms of financial arrangements comparable thereto, and*
- 5. The price represents the normal consideration for the property sold, unaffected by special or creative financing or sale concessions granted by anyone associated with the sale."*

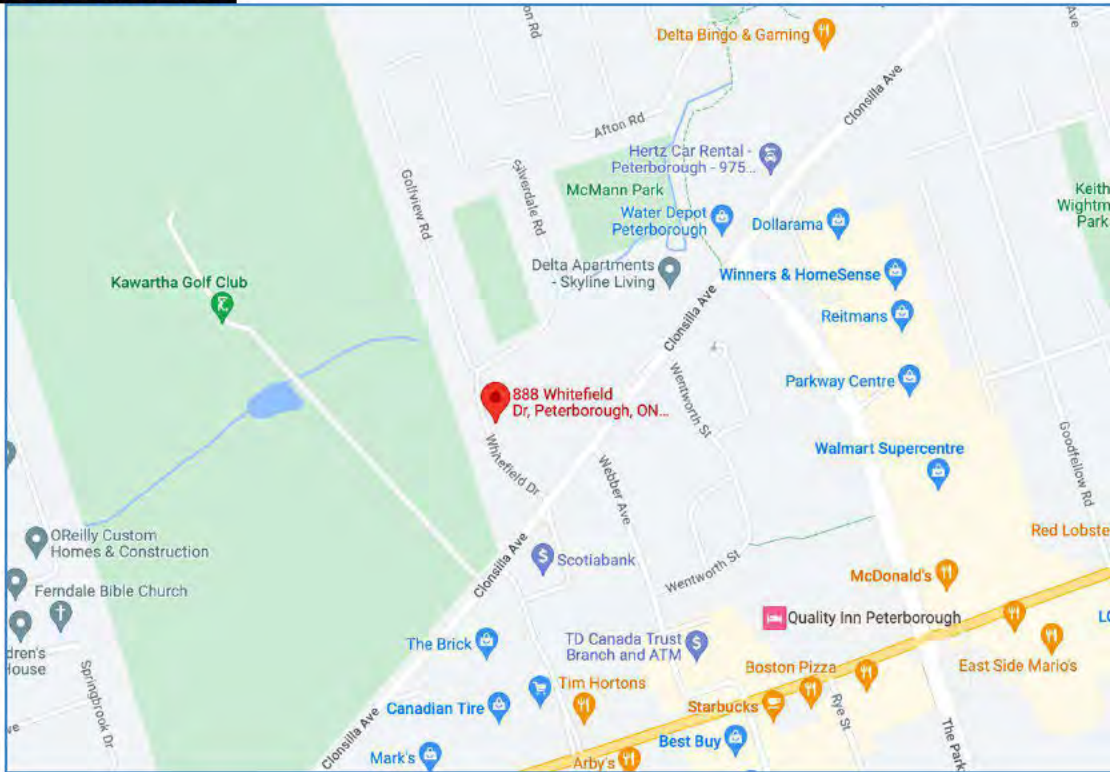
Scope of the Assignment

- The scope of this report outlines our framework for the assignment;
- An inspection of the property was completed on May 17, 2022 by Yehuda Belzberg
- An inspection of the neighbourhood was completed and photographs were taken for illustration.
- The City of Peterborough's Official Plan and Zoning By-Law designations were all reviewed.
- The Comparable Sales and the subject properties boundaries and areas are based on TREB MLS and Geowarehouse records.
- Analysis of the highest and best use of the subject property was completed having regard to the land use controls. I have relied on discussions with municipal planning personnel and our own experience.
- The Direct Market Comparison Approach and the Income Approach were both used to estimate the current value of the subject.
- Sales data was extracted from the Peterborough Real Estate Board, Marsh Data, Real Track, and Land Registry. The comparable sales were all inspected and an analysis of the sales was completed.
- Market research consisted of analyzing sales of comparable properties in the general vicinity of the subject property which took place over the past three years.
- My valuation and conclusions are subject to the accuracy of the information readily available.

LOCATION MAP



NEIGHBOURHOOD MAP



LOCATION & MARKET OVERVIEW

The Bank of Canada increased its target for the overnight rate to 1½%, with the Bank Rate at 1¾% and the deposit rate at 1½%. The Bank is also continuing its policy of quantitative tightening (QT), effective June 1, 2022. Maturing Government of Canada bonds on the Bank's balance sheet will no longer be replaced and, as a result, the size of the balance sheet will decline over time.

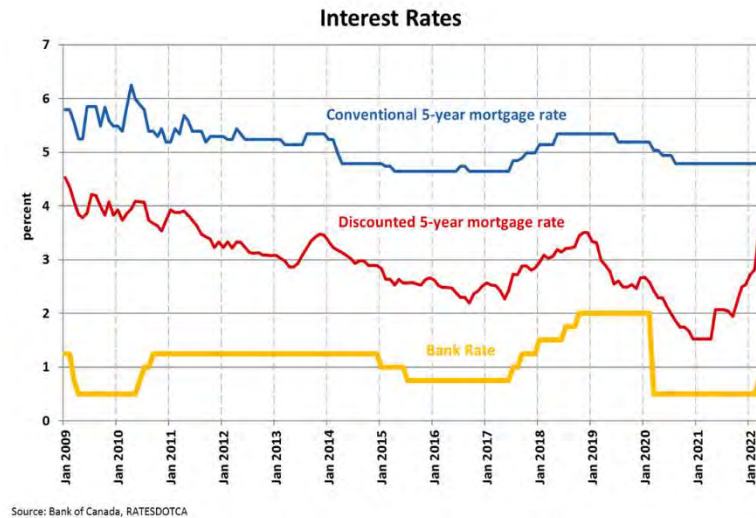
Russia's ongoing invasion of Ukraine is causing unimaginable human suffering and new economic uncertainty. Price spikes in oil, natural gas and other commodities are adding to inflation around the world. Supply disruptions resulting from the war are also exacerbating ongoing supply constraints and weighing on activity. These factors are the primary drivers of a substantial upward revision to the Bank's outlook for inflation in Canada.

The war in Ukraine is disrupting the global recovery, just as most economies are emerging from the impact of the Omicron variant of COVID-19. European countries are more directly impacted by confidence effects and supply dislocations caused by the war. China's economy is facing new COVID outbreaks and an ongoing correction in its property market. In the United States, domestic demand remains very strong and the US Federal Reserve has clearly indicated its resolve to use its monetary policy tools to control inflation. As policy stimulus is withdrawn, US growth is expected to moderate to a pace more in line with potential growth. Global financial conditions have tightened and volatility has increased. The Bank now forecasts global growth of about 3½% this year, 2½% in 2023 and 3¼% in 2024.

In Canada, growth is strong and the economy is moving into excess demand. Labour markets are tight, and wage growth is back to its pre-pandemic pace and rising. Businesses increasingly report they are having difficulty meeting demand, and are able to pass on higher input costs by increasing prices. While the COVID-19 virus continues to mutate and circulate, high rates of vaccination have reduced its health and economic impacts. Growth looks to have been stronger in the first quarter than projected in January and is likely to pick up in the second quarter. Consumer spending is strengthening with the lifting of pandemic containment measures. Exports and business investment will continue to recover, supported by strong foreign demand and high commodity prices. Housing market activity, which has been exceptionally high, is expected to moderate. The Bank forecasts that Canada's economy will grow by 4¼% this year before slowing to 3¼% in 2023 and 2¼% in 2024. Robust business investment, labour productivity growth and higher immigration will add to the economy's productive capacity, while higher interest rates should moderate growth in domestic demand.

CPI inflation in Canada reached 6.8% for the month of April – well above the Bank's forecast – and will likely move even higher in the near term before beginning to ease. Inflation is being driven by rising energy and food prices and supply disruptions, in combination with strong global and domestic demand. Core measures of inflation have all moved higher as price pressures broaden. CPI inflation is now expected to average almost 6% in the first

half of 2022 and remain well above the control range throughout this year. It is then expected to ease to about 2½% in the second half of 2023 and return to the 2% target in 2024. There is an increasing risk that expectations of elevated inflation could become entrenched. The Bank will use its monetary policy tools to return inflation to target and keep inflation expectations well-anchored.



With the economy moving into excess demand and inflation persisting well above target, the Governing Council judges that interest rates will need to rise further. The policy interest rate is the Bank’s primary monetary policy instrument, and quantitative tightening will complement increases in the policy rate. The timing and pace of further increases in the policy rate will be guided by the Bank’s ongoing assessment of the economy and its commitment to achieving the 2% inflation target.

The next scheduled date for announcing the overnight rate target is July 13, 2022. The Bank will publish its next full outlook for the economy and inflation, including risks to the projection, in the MPR at the same time.

CANADA HOUSING HIGHLIGHTS (MAY 16, 2022):

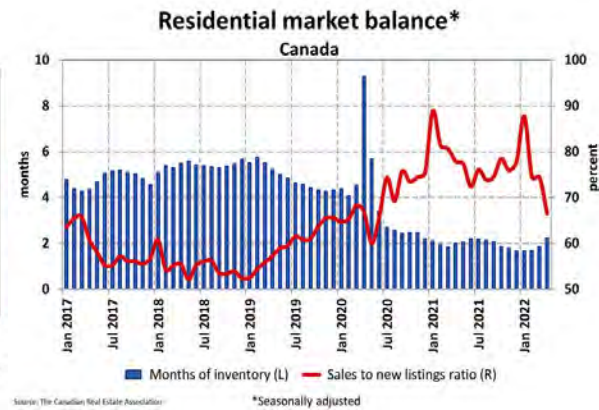
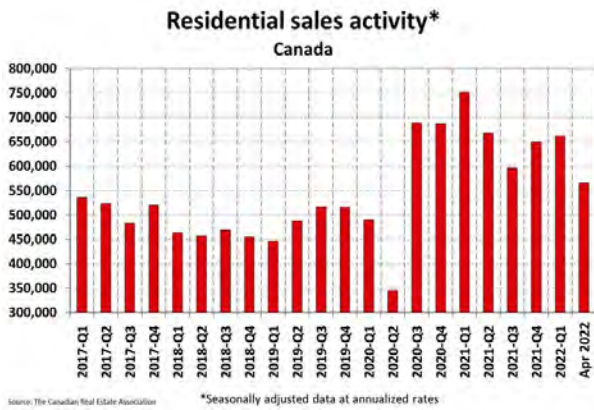
Summary:

- National home sales dropped by 12.6% on a month-over-month basis in April.
- Actual (not seasonally adjusted) monthly activity came in 25.7% below the monthly record set in 2021.
- The number of newly listed properties was down 2.2% month-over-month.
- The MLS Home Price Index (HPI) edged down 0.6% month-over-month but was still up 23.8% year-over-year.
- The actual (not seasonally adjusted) national average sale price posted a 7.4% year-over-year gain in April.

NATIONAL RESIDENTIAL STATISTICS:

Home sales recorded over Canadian MLS® Systems fell back 5.4% between February and March 2022. The decline puts activity back in line with where it had been since last fall. (Chart A) Sales were down in about half of local markets in March, led by declines in the Greater Toronto Area (GTA) and Calgary.

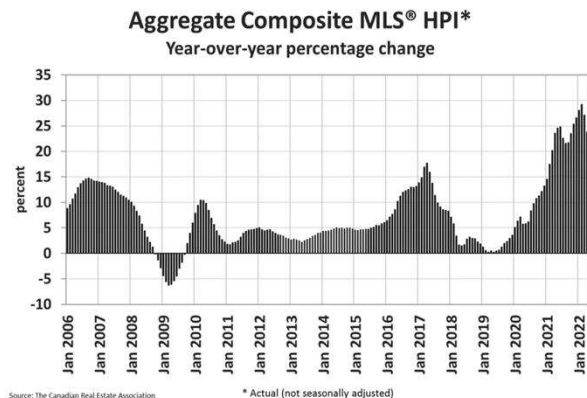
The actual (not seasonally adjusted) number of transactions in April 2022 came in 25.7% below the record for that month set last year. That said, as has been the case since last summer, it was still the third-highest April sales figure ever behind 2021 and 2016.



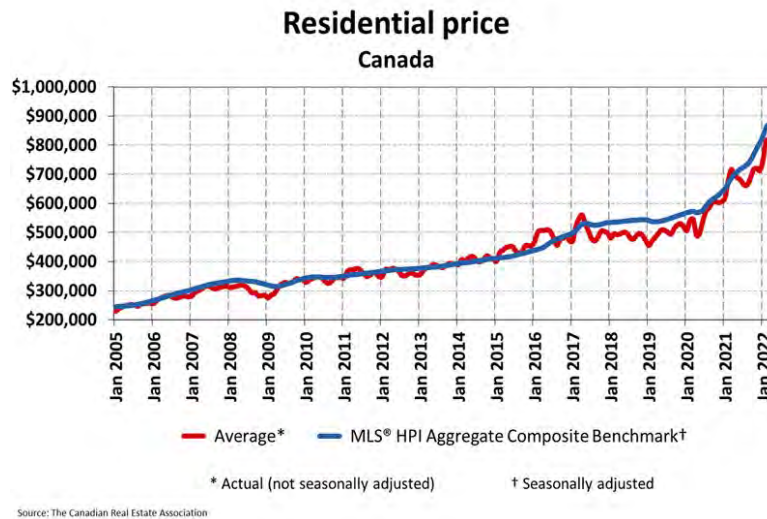
“Following a record-breaking couple of years, housing markets in many parts of Canada have cooled off pretty sharply over the last two months, in line with a jump in interest rates and buyer fatigue,” said Jill Oudil, Chair of CREA. “For buyers, this slowdown could mean more time to consider options in the market. For sellers, it could necessitate a return to more traditional marketing strategies. Of course, there are significant regional differences, so your best bet is to contact your local REALTOR®. They have the information, guidance & negotiation skills to help you navigate this rapidly-changing market as it evolves,” continued Oudil.



(Chart A)



(Chart B)



“After 12 years of ‘higher interest rates are just around the corner’ here they are,” said Shaun Cathcart, CREA’s Senior Economist. “But it’s less about what the Bank of Canada has done so far. It’s about a pretty steep pace of continued tightening that markets expect to play out over the balance of the year, because that is already being factored into fixed mortgage rates. Of course, those have, for that very reason, been on the rise since the beginning of 2021, so why the big market reaction only now? It’s likely because typical discounted 5-year fixed rates have, in the space of a month, gone from the low 3% range to the low 4% range. The stress test is the higher of 5.25% or the contract rate plus 2%. For fixed borrowers, the stress test has just moved from 5.25% to the low 6% range – close to a 1% increase in a month! It won’t take much more movement by the Bank of Canada for this to start to affect the variable space as well.”

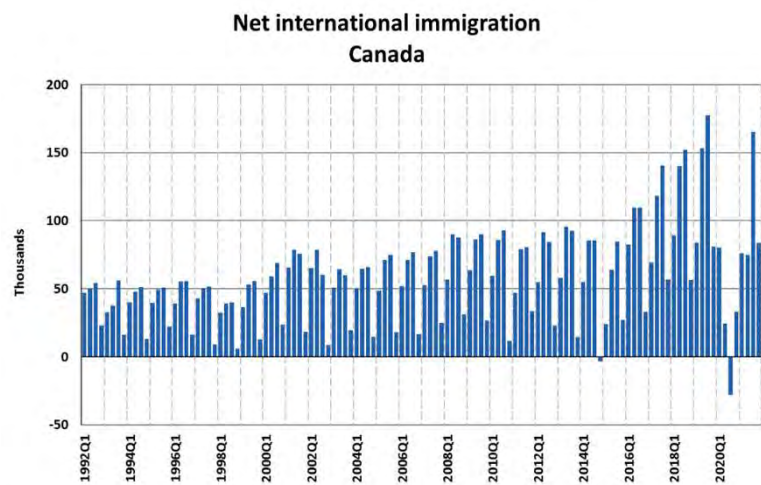
The number of newly listed homes edged back by 2.2% on a month-over-month basis in April. The small monthly decline was the result of a fairly even split between markets where listings rose and those where they fell. With sales falling by quite a bit more than new listings in April, the sales-to-new listings ratio eased back to 66.5% — its lowest level since June 2020. This reading is right on the border between what would constitute a seller’s and a balanced market. The long-term average for the national sales-to-new listings ratio is 55.2%. A little more than half of local markets were balanced markets based on the sales-to-new listings ratio being between one standard deviation above or below the long-term average in April 2022. A little less than half were in seller’s market territory. There were 2.2 months of inventory on a national basis at the end of April 2022, still historically very low but up from slightly lower readings in the previous eight months. The long-term average for this measure is a little over 5 months. The Aggregate Composite MLS® Home Price Index (HPI) edged down 0.6% on a month-over-month basis in April 2022 – the first month-over-month decline since April 2020. Regionally, most of the monthly declines were seen in markets in Ontario, although many Ontario markets were also up, while some others were flat. Prices climbed modestly across the Prairies in April, while price growth remained robust in Eastern Canada.

The non-seasonally adjusted Aggregate Composite MLS® HPI was still up by 23.8% on a year-over-year basis in April (Chart B)

The actual (not seasonally adjusted) national average home price was a little over \$746,000 in April 2022, up 7.4% from the same month last year. The national average price is heavily influenced by sales in Greater Vancouver and the GTA, two of Canada's most active and expensive housing markets. Excluding these two markets from the calculation in April 2022 cuts \$138,000 from the national average price.

Changes in population from migration and immigration:

International immigration added 83,529 people to Canada's population in the fourth quarter of 2021. This was an increase of 152% from the same period in 2020. Interprovincial migration slowed in the fourth quarter of 2021 compared to the rest of the year but was still well-above levels seen a year prior.



Canada Economy Data

	2015	2016	2017	2018	2019
Population (million)	35.7	36.1	36.5	37.0	37.5
GDP per capita (USD)	43,621	42,409	45,202	46,381	46,361
GDP (USD bn)	1,556	1,529	1,649	1,716	1,736
Economic Growth (GDP, annual variation in %)	0.7	1.0	3.2	2.0	1.7
Domestic Demand (annual variation in %)	0.3	0.5	3.3	2.1	1.3
Consumption (annual variation in %)	2.3	1.9	3.7	2.2	1.6
Investment (annual variation in %)	-4.3	-4.0	4.0	1.8	-0.4
Exports (G&S, annual variation in %)	3.4	1.4	1.4	3.1	1.3
Imports (G&S, annual variation in %)	0.8	0.1	4.2	2.6	0.6
Industrial Production (annual variation in %)	-0.5	0.1	4.5	3.1	-0.9
Retail Sales (annual variation in %)	2.6	5.2	7.1	2.9	1.6
Unemployment Rate	6.9	7.0	6.3	5.8	5.7
Fiscal Balance (% of GDP)	-0.1	-0.5	-0.1	-0.4	-0.4
Public Debt (% of GDP)	91.2	91.7	90.5	89.7	-
Money (annual variation in %)	6.0	8.5	5.8	5.2	7.8
Inflation Rate (CPI, annual variation in %, eop)	1.6	1.5	1.9	2.0	2.2
Inflation Rate (CPI, annual variation in %)	1.1	1.4	1.6	2.3	1.9
Inflation (PPI, annual variation in %)	-0.8	-0.2	3.1	3.9	-0.1
Policy Interest Rate (%)	0.50	0.50	1.00	1.75	1.75
Stock Market (annual variation in %)	-11.1	17.5	6.0	-11.6	19.1
Exchange Rate (vs USD)	1.38	1.34	1.26	1.36	1.30
Exchange Rate (vs USD, aop)	1.28	1.32	1.30	1.30	1.33
Current Account (% of GDP)	-3.5	-3.1	-2.8	-2.5	-2.0
Current Account Balance (CAD bn)	-69.6	-62.6	-60.2	-55.5	-47.0
Trade Balance (CAD billion)	-24.6	-25.0	-24.1	-22.1	-18.4

www.focus-economics.com

www.crea.ca

www.bankofcanada.ca

City of Peterborough

Peterborough is situated in Central Ontario within the Kawartha Lakes region. Peterborough is located 130km east of Toronto and approximately 35 km north of Lake Ontario. The city is sited on a series of rapids in the Otonabee River and completely surrounds the only lake on the Otonabee, Little Lake, and the Trent Canal runs along the eastern edge of the city, connecting Little Lake to a section of the Otonabee above the rapids. Therefore, it is known as the gateway to the Kawarthas, "cottage country", a large recreational region of the province.

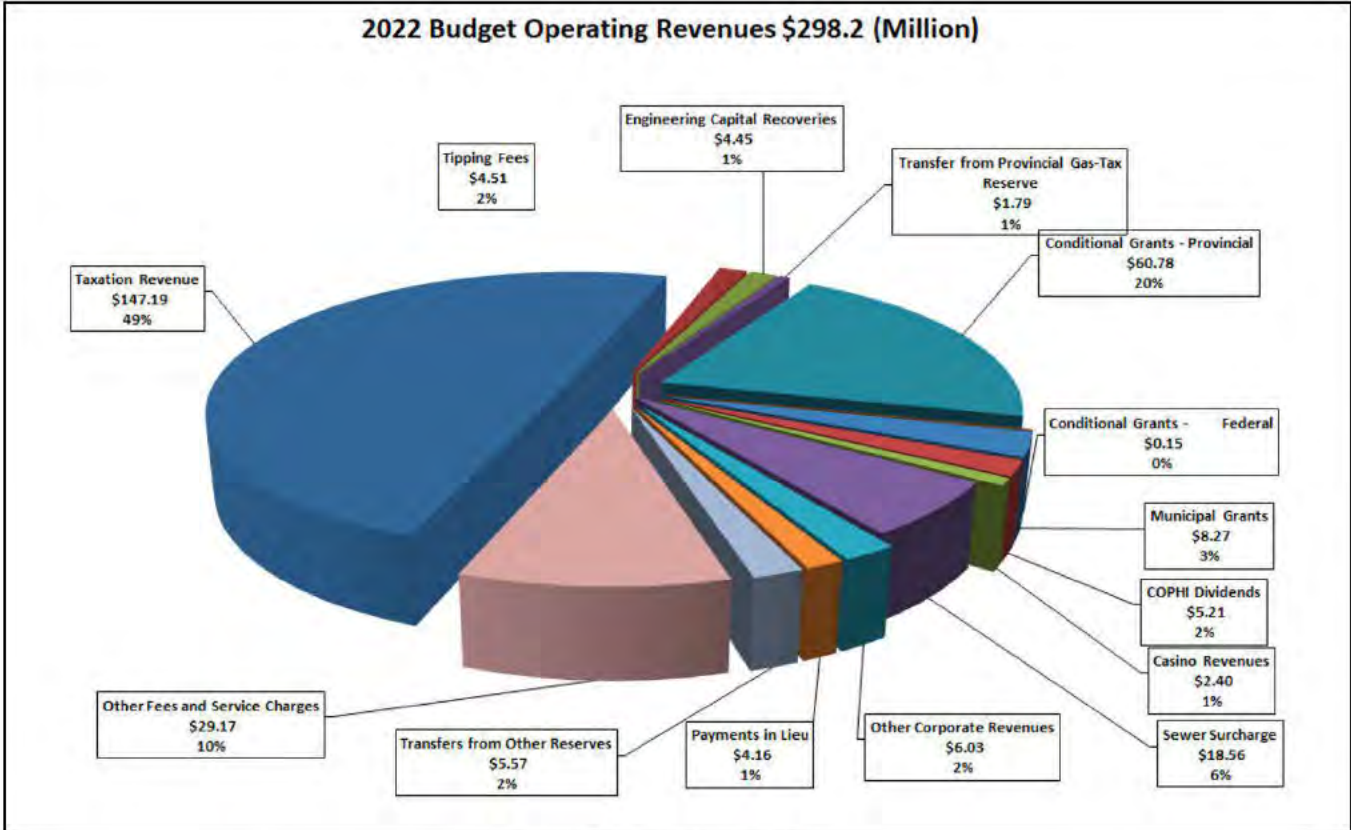
Peterborough is served by provincial Highway 115, a freeway that connects the city to Toronto via Highway 401 and Highway 407 East. Provincial Highway 7, part of the Trans-Canada Highway, connects to Lindsay heading west and eventually to Ottawa heading east. Other Provincial Highways important to Peterborough are Highway 7A and Highway 28. Public transit in the city is currently run by Peterborough Transit and GO Transit. There is a recreation and business airport, which is the Peterborough Airport, offering no scheduled flights by any airlines.

In the 2021 Census of Population conducted by Statistics Canada, Peterborough had a population of 83,651. According to provincial estimates in the Growth Plan for the Greater Golden Horseshoe, 2019, the City is forecast to grow to 103,000 residents by 2031 and to 115,000 residents by 2041. The Peterborough Census Metropolitan Area (CMA) is characterized by a large and expanding senior population. Seniors (persons aged 65 and over) account for 21.4% of the population of the Peterborough CMA; this places the CMA tied for first in Ontario and tied for second nationally among CMAs. Residents of the Peterborough CMA have a median age of 44.6 years – the second highest in Ontario and fifth nationally.

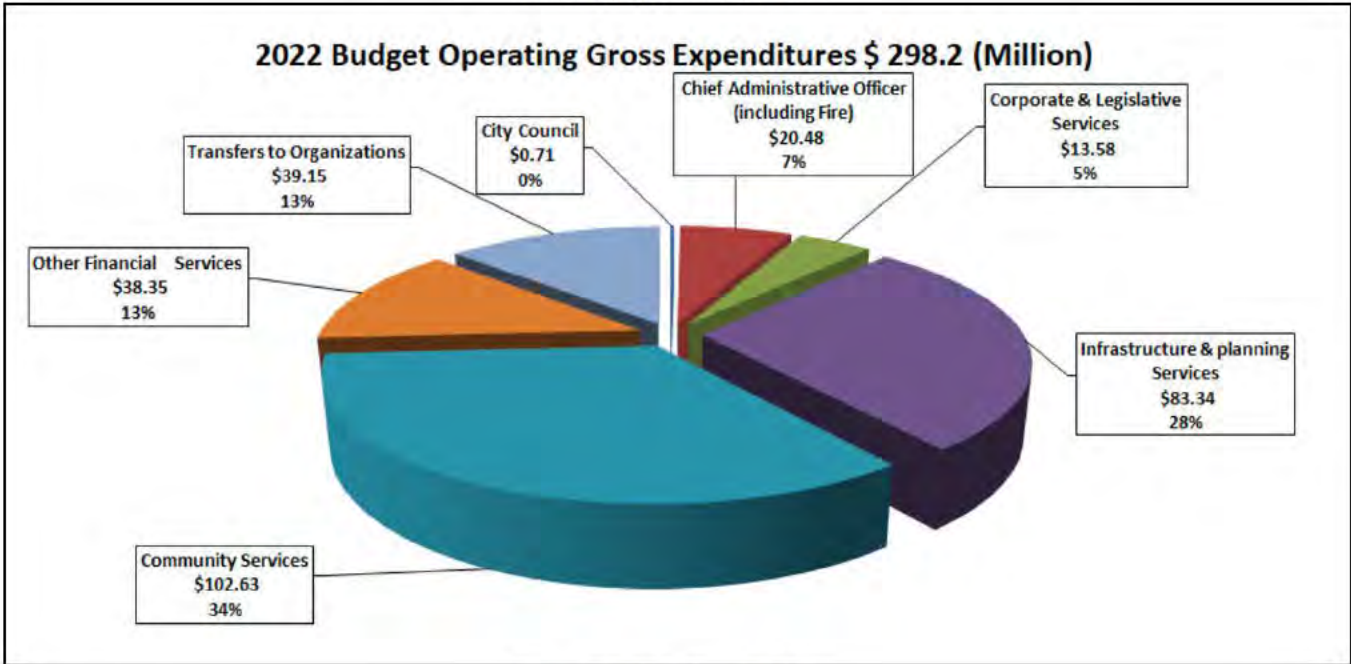
Peterborough is a strategically important urban centre in central Ontario. It is home to important electricity utility and manufacturing industries, and is the urban hub for a wider agricultural area. In addition, its cottage country attracts hundreds of thousands of visitors each year. The urban centre has well-above-average employment in the health-care and community college sectors, as well as in a number of retail and wholesale trade sectors. Peterborough has several manufacturing sectors with high concentrations of employment relative to the national workforce, including plastic products (2.4 times as many employed) and electric power generation, transmission and distribution (more than twice as many employed). In addition, the community has 1.4 times as many workers in machinery manufacturing, relative to the national workforce.

According to the 2016 Census, the City had a median household income of \$58,127, substantially lower than the median of \$74,287 for Ontario and \$70,336 for Canada. Based on this provincial definition of 'affordable', in Peterborough, the 2019 maximum affordable house price is estimated to have been \$298,032. Forecasts from CMHC's Market Outlook Report approximate 2,750 residential sales occurring in 2019. According to CMHC, the average market rent for the CMA was \$785 for a bachelor apartment, \$935 for a 1-bedroom apartment, \$1,103 for a 2-bedroom apartment, and \$1,296 for an apartment with 3 or more bedrooms units in 2019. The rental apartment vacancy rate for the Peterborough CMA was 2.0%, a slight increase from 1.5% in 2018.

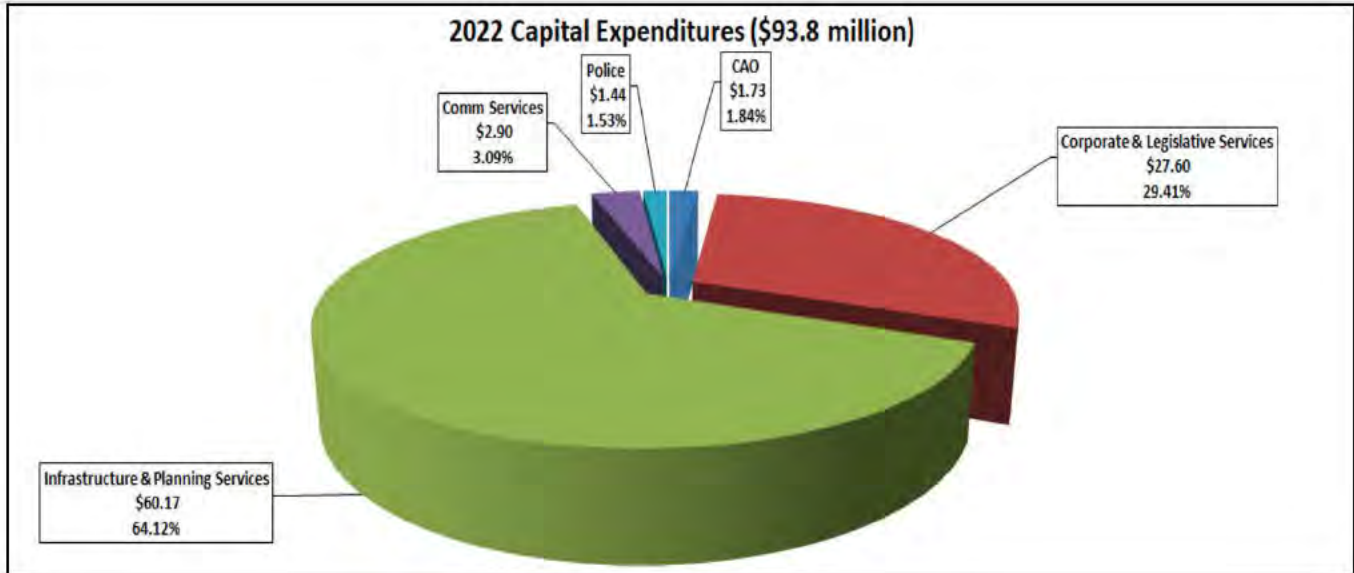
On December 13, 2021, the City Council approved the 2022 budget with a 2.87% increase that balances the pressures from the COVID-19 pandemic and other economic factors while continuing to move the community forward with investments in infrastructure and services. An all-inclusive property tax increase of 2.87% equals an annual increase of \$47.09 or a monthly increase of \$3.92 per \$100,000 of residential assessment.



Source: City of Peterborough Website



Source: City of Peterborough Website



Source: City of Peterborough Website

2021 - 2022 Municipal Tax Rates

Description	2021 Approved	2022 Recommended	Variances 2021 - 2022	
			Over (Under) 2021 Budget %	Over (Under) 2021 Budget \$
Municipal Tax Rates				
<u>Residential</u>				
Residential	1.2952480%	1.3365290%	3.2%	0.041281%
Multiresidential	2.5221200%	2.6025030%	3.2%	0.080383%
New Multi-residential	1.2952480%	1.3365290%	3.2%	0.041281%
<u>Commercial</u>				
Commercial Class	1.9428720%	2.0047940%	3.2%	0.061922%
Commercial Class New Construction	1.9428720%	2.0047940%	3.2%	0.061922%
Commercial Class Vacant Units	1.9428720%	2.0047940%	3.2%	0.061922%
Commercial Class Vacant Units New Construction	1.9428720%	2.0047940%	3.2%	0.061922%
Commercial Class, Vacant Land	1.9428720%	2.0047940%	3.2%	0.061922%
Commercial Class, Vacant Land New Construction	1.9428720%	2.0047940%	3.2%	0.061922%
<u>Industrial</u>				
Industrial Class	1.9428720%	2.0047940%	3.2%	0.061922%
Industrial Class New Construction	1.9428720%	2.0047940%	3.2%	0.061922%
Industrial Tax Vacant Units	1.9428720%	2.0047940%	3.2%	0.061922%
Industrial Tax Vacant Units New Construction	1.9428720%	2.0047940%	3.2%	0.061922%
Industrial Class, Vacant Land	1.9428720%	2.0047940%	3.2%	0.061922%
Industrial Class, Vacant Land New Construction	1.9428720%	2.0047940%	3.2%	0.061922%
<u>Other</u>				
Pipeline	1.6457420%	1.6981940%	3.2%	0.052452%
Farm Property	0.3238120%	0.3341320%	3.2%	0.010320%
Farm Land Awaiting Development	0.9714360%	1.0023970%	3.2%	0.030961%
Managed Forest	0.3238120%	0.3341320%	3.2%	0.010320%

Source: City of Peterborough Website

Q1 2022 Cap Rates			
Downtown Office		Δ Q/Q	
AA	4.00% - 4.50%	◀▶	
A	4.25% - 4.75%	◀▶	
B	4.75% - 5.25%	◀▶	
Suburban Office			
A	5.50% - 6.25%	◀▶	
B	6.25% - 7.00%	◀▶	
Industrial			
A	3.00% - 3.50%	◀▶	
B	3.50% - 4.00%	◀▶	
Retail			
Regional	4.25% - 6.00%	◀▶	
Power	6.00% - 7.25%	◀▶	
Neighbourhood	5.00% - 6.25%	◀▶	
Strip	4.50% - 5.75%	◀▶	
Strip (non-anchored)	5.50% - 6.50%	◀▶	
Urban Streetfront	3.75% - 4.50%	◀▶	
High Street	3.75% - 4.25%	◀▶	
Multifamily			
High Rise A	2.65% - 3.75%	◀▶	
High Rise B	2.90% - 4.00%	◀▶	
Low Rise A	2.75% - 3.75%	◀▶	
Low Rise B	3.00% - 4.00%	◀▶	
Seniors Housing			
Independent/Assisted Living A	5.50% - 6.00%	◀▶	
Independent/Assisted Living B	6.50% - 7.25%	◀▶	
Long Term Care A	6.75% - 7.25%	◀▶	
Hotel			
Downtown Full Service	4.50% - 6.50%	◀▶	
Suburban Limited Service	7.50% - 8.50%	◀▶	
Focused Service	7.00% - 8.00%	◀▶	

Source: CBRE Q1 2022 Cap Rate Report Toronto

According to the CBRE Q1 2022 Toronto investment summary:

Toronto's investment market had a strong start to 2022. Preliminary figures show that first quarter investment volumes increased by nearly 75.0% year-over-year. The market is currently experiencing the initial impacts of rising bond yields and interest rates. Investors are closely monitoring the impacts of these trends on returns and the cost of capital. Demand for office and retail assets has continued to accelerate due to enticing relative yields compared to the industrial and multifamily sectors. Despite compressed yields in the top sectors, investor appetite remains elevated, and groups have remained aggressive on any offerings which reach the market. The land sector has also remained active as rising costs have spurred trading activity.

Multi-Family Apartment					
High-Rise		Low-Rise		Q3 Prediction	
Low	High	Low	High	H	L
3.00%	3.75%	2.75%	3.75%	◀▶	◀▶

Source: Colliers Q1 2022 Cap Rate Report City of Toronto

Peterborough – Average Rent by Bedroom Type by Zone

SAVE SHARE EXPORT

October 2021 Row / Apartment TABLE CHART MAP

	BACHELOR	1 BEDROOM	2 BEDROOM	3 BEDROOM +	TOTAL
Downtown	783 a	997 a	1,242 a	1,440 c	1,125 a
Remainder of CMA	872 c	1,135 a	1,344 b	1,324 b	1,286 a
Peterborough	805 a	1,048 a	1,305 a	1,365 b	1,210 a

CMHC Peterborough October 2021

Peterborough – Vacancy Rates by Bedroom Type by Zone

SAVE SHARE EXPORT

October 2021 Row / Apartment TABLE CHART MAP

	BACHELOR	1 BEDROOM	2 BEDROOM	3 BEDROOM +	TOTAL
Downtown	**	1.3 a	0.4 a	**	1.0 a
Remainder of CMA	0.0 d	0.0 c	1.3 a	1.8 c	1.1 a
Peterborough	1.2 d	0.8 a	1.0 a	1.8 c	1.0 a

CMHC Peterborough October 2021

Neighbourhood

The neighbourhood is located in Kawartha Heights. There are a number of commercial buildings to the south of the subject including Canadian Tires, bank branches, restaurants, coffee shops and Sobeys. To the north of the subject there are single family dwellings. The immediate neighbourhood is generally bounded by the following major arterial roads:

North:	Sherbrooke St
South:	Lansdowne St
East:	The Parkway
West:	Brealey Dr

Access to the major highways is considered good via the major arterial roads. Public transit is available in the area including along Clonsilla Ave. There are a number of places of worship, parks, golf clubs and schools in the immediate vicinity. There is a large commercial complex east of the subject which has various retail stores including Walmart, Winners, Best Buy, Value Village, etc. Kawartha Golf Club is located just west of the subject. The subject is located 4 km southwest of the Downtown Peterborough. Overall, the location of the subject property is considered to be average within the City of Peterborough.

Aerial View



DESCRIPTION OF SITE

Location

The subject is located on the east side of Whitefield Dr in the City of Peterborough. Surrounding uses include commercial properties, single family dwellings, schools, parks, and places of worship. There are some apartment buildings just east of the subject along Clonsilla Ave which is a 4 lane commuter street. Peterborough Transit buses run along Clonsilla Ave and allows for good access to the downtown area of Peterborough which is to the east. The site is improved with a 3 storey 27 unit apartment building.

Legal Description

The legal description of the property is: Pt Lts 8 & 9 Pl 22q(North Monaghan) As In R227329 Lying E Of Whitefield Drive, Except R235039, S/T Easement Over Pt Lt 8 Being Pt 1 45r-12197 In Favour Of Bell Canada As In Lt91763; Peterborough Together With An Easement Over Part Lot 9, Plan 22q North Monaghan, Part 1, 2 & 3 Plan 45r16694 As In Pe308340.

Site Dimensions/Area/and Site Improvements

The site is irregular in shape and has the following measurements:

Frontage	300.98'
Depth	N/A
Site area	1.19 acres

There is surface parking available at the front of the subject building. The site appears to slope downwards from north to south.

Access

Access is provided in from the front of the property off of Whitefield Dr. Parking can be accessed via a curb cut from Whitefield Dr. There is one main entrance that allow access to the front of the subject from the main parking lot. There is also a side entrance that fronts onto Whitefield Dr.

Services

Full municipal services are provided including natural gas, hydro, water, and telephone. Whitefield Dr is an asphalt paved road with sanitary sewers, curbs, streetlights and sidewalk.

Topography and Drainage

The site has relatively flat topography, and it is at grade with the neighbouring properties. No drainage problems were evident on the site.

Soil Characteristics

It is assumed that in view of the size of the structures on the surrounding properties and the subject that has soils within the area are capable of handling reasonable heavy building loads. Based on my inspection of the subject property, no visible contamination was noted. An environmental assessment has not been supplied or reviewed. For the purpose of this appraisal, we have assumed that there are no environmental problems or concerns.

DESCRIPTION OF IMPROVEMENTS

The improvements consist of a 3 storey brick detached apartment building. The subject consisted of a 27 unit apartment building. There is an elevator in the building and also a common stairwell. There is a common hallway on each floor which leads to the entrance of each apartment unit. Finishes in common areas include carpet tile flooring, painted drywall, acoustic tbar and/or painted ceilings, wall lamps and/or pot lights.

There are 2 one bedroom apartment units, 21 two bedroom units, and 4 three bedroom units. An interior inspection of the subject property was completed for unit #101, #107 and #303. Each unit has a 4 piece washroom, kitchen, laundry and living/dining room area. Finishes include LVT flooring, painted drywall and ceilings and flush mount lights. There were 3 out of 27 units that were unoccupied as of the effective date. All of the units had walkout patios or balconies.

There is a large parking lot in the front of the improvements which allows for ample parking spaces for the tenants.

As per the owner, the construction of the subject was less than two years ago.

Construction Details:

The following is a structural analysis of the subject:

Foundation/Floor: The improvements were constructed with concrete foundation as the building was completed less than two years ago.

Exterior/Interior Walls: The exterior is brick with some vinyl siding as well and the interior is a combination of drywall and plaster.

Roof: There is a slanted asphalt roof that appeared to be in good condition.

Windows: The windows were vinyl appeared to be in good condition.

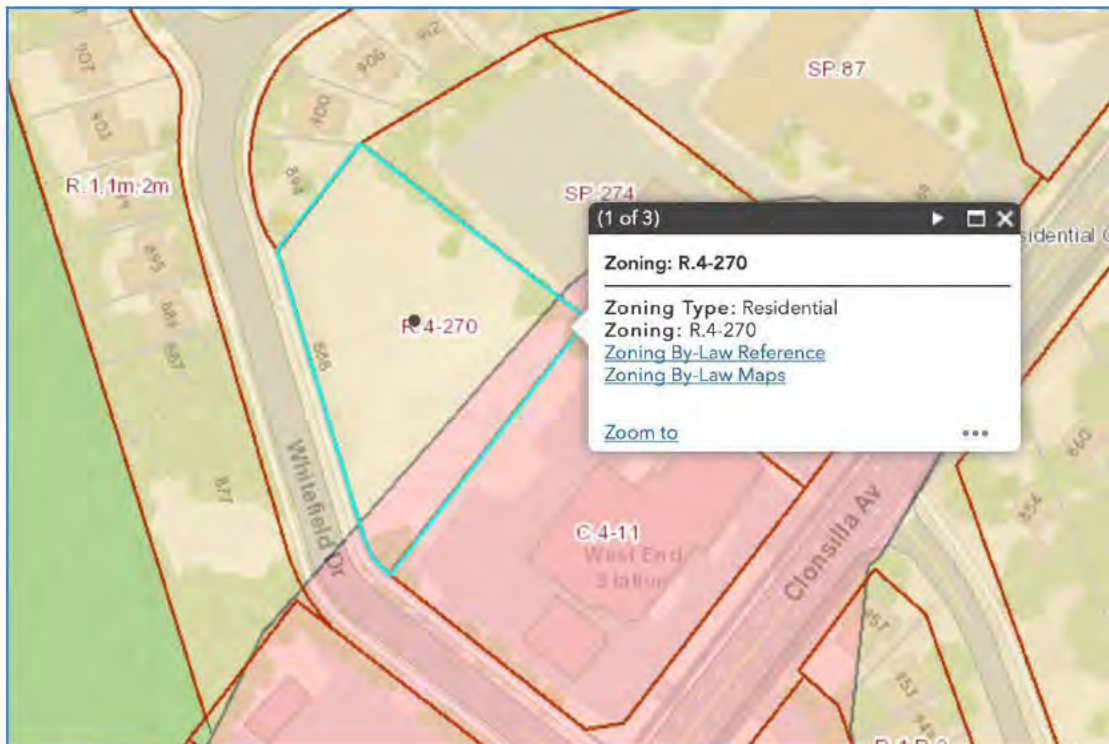
Heating System The unit appeared to be heated and cooled with a forced air HVAC system.

Services: The roof drainage system is connected to the storm sewer lines. All normal municipal plumbing services are provided.

Electrical Service: The electrical service is assumed to be adequate to service the building. All the units were separately metred for hydro.

Age/Condition: The improvements were constructed under 2 years ago and were in good condition overall. The improvements have a remaining economic life of 58 years.

LAND USE CONTROLS



The subject is zoned R.4-270. R stands for Residential area.

Permitted Uses in the R.4 zone

SECTION 10	
RESIDENTIAL DISTRICT 4 (R.4)	
PERMITTED USES	
10.1	No person shall within an R.4 District use any land or erect, alter or use any building or part thereof for any purpose other than:
(a)	a Dwelling
(b)	a Lodging House.

The subject is currently operating as a 27 unit apartment building. As per land registry it appears that the subject improvement is designated as a legal multiplex. See below some information from land registry:

Structure	Property Description: Multi-residential, with 7 or more self-contained units (excludes row-housing)
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The subject was also built within the last two years and it is assumed that all necessary permits and approvals were received in order to build the subject building.

Based on all the above information it appears that that subject is a legal conforming use.

HIGHEST AND BEST USE

Highest and Best Use

Real estate is valued in terms of its highest and best use. Highest and best use is defined as:

The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability.

*Source: The Dictionary of Real Estate Appraisal
Third Edition, 1993
Appraisal Institute*

To properly analyse highest and best use, two determinations must be made. First, the highest and best development of the site as though vacant and available for use is made. Second, the highest and best use of the property as improved is analysed and estimated. The highest and best use of both the land as though vacant and the property as improved must meet four criteria: physically possible, legally permissible, financially feasible, and maximally productive. Of the uses that satisfy the first three tests, the use that produces the highest price or value consistent with the rate of return warranted by the market is the maximally productive use.

Subject Property – As Though Vacant

Physically Possible

Analysis of the site characteristics and nearby improvements in the area indicates the subject site could adequately support physical development.

Legally Permissible

The City of Peterborough zoning by law permits a range of residential uses including a lodging house. The subject is operating as a 27 unit apartment building.

Financially Feasible

A multi unit residential use is a financially feasible as some of the available land has been developed with similar multiplex buildings, semi-detached buildings, rooming houses, apartment, condominium buildings, commercial buildings and demand for them has been steady.

Maximally Productive

Given the surrounding uses, an improvement constructed to its maximum zoning potential is deemed the maximally productive and would comply with the zoning bylaw.

Subject Property – As Vacant

The subject property is best suited for a residential improvement under existing zoning by-laws and the highest and best use as vacant is a is to develop a multiplex building to the maximum density under the zoning by laws.

Subject Property – As Improved

The subject is currently improved and provides a 27 unit apartment building. The subject was recently built and it is assumed that all approvals in order to maximize the potential on the subject site were achieved. Thus, it is the current use that appears to be the highest and best use.

VALUATION TECHNIQUE

There are three generally recognized approaches to estimate the value of real property:

1. The Cost Approach

This approach is based on the theory that a purchaser would pay no more for a property than it would cost to build. It is based on the estimated cost to construct the improvement(s) of equal utility considering estimated loss through various forms of depreciation, i.e. accrued depreciation, to which the estimated value of the underlying land value is added.

2. Direct Market Comparison Approach

The Direct Comparison Approach is the analysis of property sales and listings and comparing them to the subject property. This approach is an application of the Principal of Substitution which affirms that when a property is replaceable no prudent buyer would pay more for the property than the cost to acquire an equally desirable substitute.

3. Income Approach

The Income approach is a method that converts current and anticipated income to be derived from a property into an estimate of value through the application of a market derived capitalization rate. This approach is especially relevant in the valuation of investment properties that are typically bought and sold on the basis of the future anticipated income. The belief that value can be related to the present worth of the income stream that a property is capable of generating when developed to its Highest and Best Use.

Conclusion as to Approaches to Value

The Cost Approach was not used, as investors are generally aware of replacement cost however, they place little reliance on the fully developed Cost Approach when determining a value for acquisition purposes. Thus, the Cost Approach was not developed. The Income Approach has been heavily relied upon as most properties such as the subject that are income producing properties are analyzed based on their ability to produce income. The Direct Market Comparison Approach has also been developed although less weight was placed on this approach. It is considered to be a less sophisticated approach to value for an asset such as the subject and is commonly only used as a benchmark of value. The Income Approach and the Direct Market Comparison Approach were developed and considered below.

Reasonable Exposure Time

Exposure time may be defined as follows:

"The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a current estimate based upon an analysis of past events assuming a competitive and open market."

The subject is located in an average location within the City of Peterborough. A reasonable exposure time of 3 weeks-4 months is estimated.

INCOME APPROACH

The Income Capitalization Approach includes analysis of the market for similar comparable properties that have leased within a meaningful time frame, and a performance estimation of a Year 1 stabilized net operating income is developed.

The Direct Capitalization Approach is developed, which typically converts an estimate of a single year’s income expectancy into an indication of value using an appropriate capitalization rate. After analysis of pertinent data to select an appropriate capitalization rate, the net operating income is stabilized and capitalized to an estimation of current market value.

Subject Occupancy

The following is a chart outlining the rent roll of the subject building as of May 24, 2022. As per the rent roll provided by the owner 3 units appeared to be vacant as of May 24, 2022. Additionally it appeared that Unit 305 was occupied although the rent for this unit was unknown. Units 110 and 201 did not appear to pay for parking although all the other units did. It was necessary to determine an appropriate market lease rate for the subject’s vacant units and also for Unit 305. It was also necessary to see where the occupied units fall within the rental range established by the market. As per the owner all the units were separately metred for hydro and paid for by the tenants.

Unit #	Type	Start Date	Monthly Base Rent	Parking	Total Montly Rent	Total Annual Rent
101	1 Bd A	Vacant				
102	2 bd	21-12-01				
103	2 bd A	N/A				
104	3 bd	21-08-01				
105	2 bd	2021-12-01				
106	2 bd	21-08-01				
107	2bd	Vacant				
108	2 bd	21-09-01				
109	2 bd	21-12-01				
110	3 bd	21-05-06				
201	2 bd	unknown				
202	2 bd	21-09-01				
203	2 bd	21-06-01				
204	2 bd	21-08-01				
205	2 bd	21-11-01				
206	2bd	21-07-01				
301	2 bd	21-05-17				
302	1 Bd	22-02-01				
303	2 bd	Vacant				
304	2 bd A	21-04-15				
305	2 bd A	N/A				
306	3 bd A	21-08-15				
307	3 bd	21-07-01				
308	2 bd	21-10-01				
309	2 bd	22-04-01				
310	2 bd	21-09-01				
311	2bd	21-11-01				
Totals						

Market Rent

Rental rates of similar apartment buildings are below.

#	Address, Peterborough	# of Bed	Date	Comments	parking	heat	Hydro
1	406 Summerhill Dr	3	11/14/2021	Bungalow/Dated	Yes	No	No
2	280 London St Upper	3	04/29/2022	Upper floor of bungalow	Yes	No	No
3	1045 Silverdale Rd Main	3	09/08/2021	Upper floor, Average conditoin	Yes	No	No
4	867 Broadway Blvd	3	10/25/2021	Townhouse	Yes	No	No
5	229 Rowberry Blvd	3	06/03/2021	Townhouse	Yes	No	No
6	1379 Hancox Crt	1	12/16/2021	Townhome	Yes	No	No
7	199 Dalhousie St	1	09/15/2021	Main floor	Yes	Yes	No
8	402 Summerhill Dr, Basement	1	05/08/2022	Basement, Average plus condition	Yes	Yes	No
9	650 Whitaker St #8	1	07/23/2021	Average conditoin	Yes	No	No
10	1041 High St, Bsmnt	2	05/04/2022	Basement, Average condition	Yes	No	No
11	506 Spillsbury Dr #305	2	08/10/2021	Good condition	Yes	No	No
12	1259 Clonsilla Ave B	2	04/18/2022	Good condition	Yes	No	No
13	89 Milroy Dr	2	07/20/2021	Large unit	Yes	Yes	Yes

The rental rates above show a range of [REDACTED] for 1 bedroom apartments, a range of [REDACTED] for two bedroom apartments and [REDACTED] for three bedroom units. Rates are driven by factors such as location, condition, and above grade or basement unit as well as the size of the unit. Due to the fact that the subject was recently built, all the leases for the subject building were signed within the last ~14 months with the first lease being signed in April 2021. The subject's contractual lease rates are within the range established by the market and are all within a relatively narrow range. Variances in the subject's rental rate depend on unit size as some sizes of the units vary within the unit type i.e. some two bedroom units are larger than others. Unlike some older apartments buildings it does not appear that any of the units have leases in place with rents that are far below market. The subject's contractual lease rates will be utilized in the analysis as they fall within the range established by the market. The subject has three vacant units of which one was a one bedroom unit and the other two were two bedroom units. There was also one unit that was occupied although the lease rate was unknown. This was a two bedroom unit and a lease rate had to be applied to this unit as well. For the one bedroom unit a lease rate of [REDACTED] will be utilized as a recent lease was signed for a one bedroom unit at this rate. For the two vacant 2 bedroom units a lease rate of [REDACTED] will be utilized. This is based on market rental rates as well as a lease rate towards the upper end of the in place rental rates for two bedroom units. For the one two bedroom unit that the lease rate was unknown a rate of [REDACTED] will be used as it is assumed that this was an older tenant and [REDACTED] appears to be more reflective of the rates at the time of lease up. A rent roll is shown below that reflects the above referenced rental rates for the 3 vacant units and for the one unit where the rent was unknown.

Unit #	Type	Start Date	Monthly Base Rent	Parking/Month	Total Montly Rent	Total Annual Rent
101	1 Bd A	N/A				
102	2 bd	21-12-01				
103	2 bd A	N/A				
104	3 bd	21-08-01				
105	2 bd	2021-12-01				
106	2 bd	21-08-01				
107	2bd	N/A				
108	2 bd	21-09-01				
109	2 bd	21-12-01				
110	3 bd	21-05-06				
201	2 bd	unknown				
202	2 bd	21-09-01				
203	2 bd	21-06-01				
204	2 bd	21-08-01				
205	2 bd	21-11-01				
206	2bd	21-07-01				
301	2 bd	21-05-17				
302	1 Bd					
303	2 bd	N/A				
304	2 bd A					
305	2 bd A	N/A				
306	3 bd A					
307	3 bd					
308	2 bd					
309	2 bd					
310	2 bd					
311	2bd					
Totals						

General Vacancy and Collection Loss

The CMHC average vacancy rates for the City of Peterborough appeared to be quite low ranging from close to 0% to under 2%. Thus, a vacancy and bad debt amount equal to 1% of effective gross income will be utilized in the analysis.

Operating Expenses

Most of the operating expenses were not provided and had to be estimated. Property taxes were confirmed to be [REDACTED]. Insurance rates have increased significantly with some premiums having doubled. An estimate of \$ [REDACTED] will be used. The property has minimal common area utility expenses as the units are separately metred for hydro, gas, and water. An estimate of [REDACTED] for each or a total of [REDACTED] will be utilized. Maintenance is estimated to be [REDACTED] or [REDACTED] as this is the amount that is typically used for apartment buildings similar to the subject. This includes items like waste removal, landscaping, snow removal, and day to day repairs. Below is a summary of the operating expense.

**Management Fee**

The management fee is estimated at 3.5% +HST of effective gross income.

Miscellaneous

An amount equal to 1% of effective gross income will be deducted for expenses such as legal fees, bank charges, telephones fees, advertising, office/general expenses.

Structural Reserve

No structural reserve will be applied as the subject building was just completed.

Capitalization Technique

In the evaluation of real property, the marketplace has proven that there is a relationship between the income and value. In light of this, the Appraiser methodology has several tools available to measure this relationship, resulting in an estimate of value to the subject property through the capitalization of the Net Income. In today's marketplace, two methods are widely accepted which may yield a good estimate of value. These methods are the Mortgage Equity Capitalization Technique and the Direct Capitalization Technique. It is the Direct Capitalization Technique which will be used in this report.

The Direct Capitalization Technique involves the analysis of sales of similar types of properties to derive a relationship between the selling price and the Annual Net Operating Income. This overall rate is expected to represent what an informed, prudent and rational investor is requiring for similar competitive properties in the marketplace. Similar refers to similarities with respect to risk and durability of income or investment return of specific properties. The Direct Capitalization Technique is usually an excellent means of estimating Market Value when revenue producing properties are the subject matter. This technique is especially useful where standard or typical type of revenue producing properties are concerned.

I have investigated the market for sales of similar apartment buildings to determine an appropriate capitalization rate for the subject. I have included various comparables which are considered to reasonably provide an estimated capitalization rate for the subject.

The following is a summary of my findings.

No.	Sale Date	Location	Type	Estimated Net Income	Sale Price	Going In Capitalization Rate
1	03/07/2022	1245 Clonsilla Ave, Peterborough	Apartment			
2	09/17/2021	283 Park St N, Peterborough	Apartment			
3	12/14/2021	1235 Clonsilla Ave, Peterborough	Apartment			
4	02/20/2022	1267 Clonsilla Ave, Peterborough	Apartment			
5	05/12/2022	282 & 288 Romaine St, Peterborough	Apartment			
6	04/01/2022	151 North Park St, Peterborough	Apartment			
7	11/04/2021	246 Spillsbury Dr, Peterborough	Apartment			
9	12/01/2021	21 Albert St S, Lindsay	Apartment			
10	05/30/2022	840 Water St, Peterborough	Apartment			
11	12/03/2021	1279 Clonsilla Ave, Peterborough	Apartment			

Summary

The capitalization rates indicate a range [REDACTED]. Capitalization rates are largely driven by factors such as the size of the improvements which drives the overall purchase price. Typically smaller assets sell at lower capitalization rates as there is a larger pool of investors and thus a larger demand. Many of the comparable capitalization rates were of apartment buildings that were much smaller than the subject such as fourplexes and this would signify a higher capitalization rate for the subject which is a 27 unit building. Additionally many apartment buildings are bought for the potential upside in income upon a unit turning over in scenarios where the units are below market rents. However, in the case of the subject there was little upside potential in rent as all the units had been leased in the last ~14 months. This would also signify a capitalization rate towards the upper end of the range. Lastly, due to the recent increase in interest rates it appears that this has caused a corresponding increase in capitalization rates as the two are often tied together. As per all the signals from the Canadian government, there will be more rises in interest rates in the near future. Thus, sales that occurred in the last few months or older would appear to be lower than the rate for the subject due to the current interest rate environment. Based on all the aforementioned a capitalization rate range for the subject that is at the upper end of the range and slightly above the range established by the market of 5% - 5.75% is considered appropriate and will be utilized in the analysis. Although there is no one rate that supports the higher end of 5.75%, this due to the lack of very recent sales that are reflective of the current environment with the interest rate hikes.

Direct Capitalization - Stabilized Year 1	
Rental Revenue	[REDACTED]
Vacancy	[REDACTED]
EFFECTIVE GROSS INCOME	[REDACTED]
Operating Expenses	[REDACTED]
Management Fee	[REDACTED]
Miscellaneous	[REDACTED]
NET OPERATING INCOME	[REDACTED]

Using the subject's NOI of [REDACTED] and a capitalization rate range of [REDACTED] final value estimate range by the Income Approach [REDACTED] as of the effective date of this appraisal.

Direct Market Comparison Approach

The estimated value range based on the Income Approach above [redacted] indicates a price per unit [redacted] for the subject property. The metric of price per unit is considered less sophisticated and only really used as a benchmark or high level indication of the appropriate value for a property. Generally, the price per unit is tied to the average revenue per unit which in turn is generally tied to the size of the units. For example, rental townhomes will generally sell at a higher price per unit than a bachelor unit due to the townhouse being able to generate a higher rental rate than the bachelor unit. Additionally, newer building similar to the subject would typically sell at a higher price per unit due to all the rents being at or close to the top end of the market and thus it maximizes the net revenue per unit. Also, newer buildings such as the subject are typically more efficient and have a lower expense ratio than older buildings. Lastly, the subject building has many larger 2 and three bedroom units which would point to a higher price per unit. Below is a chart that summarizes the net revenue per unit and sale price per unit for some of the comparable sales that were referenced above as part of the capitalization rate analysis.

Number	Address	# of Units	Net Operating Income	Sale Price	Net Revenue Per Unit	Sale Price per Unit
1	840 Water St, Peterborough	34	[redacted]	[redacted]	[redacted]	[redacted]
2	282 & 288 Romaine St, Peterborough	30	[redacted]	[redacted]	[redacted]	[redacted]
3	246 Spillsbury Dr, Peterborough	50	[redacted]	[redacted]	[redacted]	[redacted]
4	151 North Park St, Belleville	36	[redacted]	[redacted]	[redacted]	[redacted]
5	1245 Clonsilla Ave, Peterborough	8	[redacted]	[redacted]	[redacted]	[redacted]
S	888 Whitefield Dr	27	[redacted]	[redacted]	[redacted]	[redacted]

Although there are other factors involved and thus the relationship between net revenue per suite and the corresponding sale price per unit is not a perfect correlation, the general thesis is reflected in the summary above. Comparable sales #3 is a townhouse site and thus it generates the highest net revenue per unit and thus the highest price per unit. Comparable sale #2 is the sale of two properties with 15 units each that had a fair amount of upside potential and thus the net revenue per unit was the lowest from all the comparable sales and the corresponding sale price per unit was also close to the lowest. Comparable sale #4 also had a low revenue per unit and thus a low price per unit. Based on the aforementioned a price per unit for the subject in the range of [redacted] is considered appropriate. When applied to the subject’s 27 units this results in a value range of [redacted]

RECONCILIATION AND FINAL ESTIMATE OF VALUE

The purpose of this appraisal is to estimate the current value of a 27 unit apartment building. The subject is located at 888 Whitefield Dr, City of Peterborough. The effective date of the valuation and inspection date is May 17, 2022. The intended use of this report is to assist with setting a sale price for the subject property. My analysis has provided the following estimate range of value:

VALUATION



The Income Approach to value involves the conversion of anticipated benefits (dollar income or amenities) into a value estimate. Properties such as the subject that are income producing properties are generally traded based on their income producing capabilities. Thus, the income approach was heavily weighted in the final analysis.

The Direct Market Comparison Approach to value was used in my analysis and involves the study of the market with comparable sales, which after making the necessary adjustments, provides a benchmark indication of Market Value for the subject. The Direct Market Comparison Approach was based on an analysis of market transactions although it is considered a less sophisticated approach than the Income Approach. The value obtained through the Direct Market Comparison Approach was used as support, but little weight was put in this analysis.

Based on the aforementioned the Income Approach has been given the most weight in the final analysis. The Direct Market Comparison Approach was given little weight but still is considered supportive of the value obtained from the Income Approach.

As such, the final value estimate, as of the effective date of this appraisal is:



UNDERLYING ASSUMPTIONS AND LIMITING CONDITIONS

SUBJECT: 888 Whitefield Dr, City of Peterborough, Province of Ontario
 PROPERTYINTEREST: Leased Fee Interest
 EFFECTIVE DATE: May 17, 2022

AT THE REQUEST OF OUR CLIENT, BRYAN GELMAN, I HAVE INSPECTED THE SUBJECT PROPERTY DESCRIBED IN THIS REPORT AND CONSIDERED ANY RELEVANT MATTERS WITH RESPECT TO FORMING AN OPINION OF CURRENT VALUE OF THE SUBJECT PROPERTY, IN ORDER TO ASSIST ALBERT GELMAN INC., COURT-APPOINTED LIQUIDATOR IN SETTING A SALE PRICE FOR THE SUBJECT PROPERTY.

The certification that appears in this report is subject to compliance with the Personal Information and Electronics Documents Act (PIPEDA), Canadian Uniform Standards of Professional Appraisal Practice (“CUSPAP”) and the following conditions:

1. This report is prepared only for the client, and authorized users specifically identified in this report and only for the specific use identified herein. No other person may rely on this report or any part of this report without first obtaining consent from the client and written authorization from the authors. Liability is expressly denied to any other person and, accordingly, no responsibility is accepted for any damage suffered by any other person as a result of decisions made or actions taken based on this report. Liability is expressly denied for any unauthorized user or for anyone who uses this report for any use not specifically identified in this report. Payment of the appraisal fee has no effect on liability. Reliance on this report without authorization or for an unauthorized use is unreasonable.
2. Because market conditions, including economic, social and political factors, may change rapidly and, on occasion, without warning, this report cannot be relied upon as of any date other than the effective date specified in this report unless specifically authorized by the author(s).
3. The author will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The property is appraised on the basis of it being under responsible ownership. No registry office search has been performed and the author assumes that the title is good and marketable and free and clear of all encumbrances. Matters of a legal nature, including confirming who holds legal title to the appraised property or any portion of the appraised property, are outside the scope of work and expertise of the appraiser. Any information regarding the identity of a property’s owner or identifying the property owned by the listed client and/or applicant provided by the appraiser is for informational purposes only and any reliance on such information is unreasonable. Any information provided by the appraiser does not constitute any title confirmation. Any information provided does not negate the need to retain a real estate lawyer, surveyor or other appropriate experts to verify matters of ownership and/or title.
4. Verification of compliance with governmental regulations, bylaws or statutes is outside the scope of work and expertise of the appraiser. Any information provided by the appraiser is for informational purposes only and any reliance is unreasonable. Any information provided by the appraiser does not negate the need to retain an appropriately qualified professional to determine government regulation compliance.
5. No survey of the property has been made. Any sketch in this report shows approximate dimensions and is included only to assist the reader of this report in visualizing the property. It is unreasonable to rely on this report as an alternative to a survey, and an accredited surveyor ought to be retained for such matters.
6. This report is completed on the basis that testimony or appearance in court concerning this report is not required unless specific arrangements to do so have been made beforehand. Such arrangements will include, but not necessarily be limited to: adequate time to review the report and related data, and the provision of appropriate compensation.

7. Unless otherwise stated in this report, the author has no knowledge of any hidden or unapparent conditions (including, but not limited to: its soils, physical structure, mechanical or other operating systems, foundation, etc.) of/on the subject property or of/on a neighbouring property that could affect the value of the subject property. It has been assumed that there are no such conditions. Any such conditions that were visibly apparent at the time of inspection or that became apparent during the normal research involved in completing the report have been noted in the report. This report should not be construed as an environmental audit or detailed property condition report, as such reporting is beyond the scope of this report and/or the qualifications of the author. The author makes no guarantees or warranties, express or implied, regarding the condition of the property, and will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. The bearing capacity of the soil is assumed to be adequate.
8. The author is not qualified to comment on detrimental environmental, chemical or biological conditions that may affect the market value of the property appraised, including but not limited to pollution or contamination of land, buildings, water, groundwater or air which may include but are not limited to moulds and mildews or the conditions that may give rise to either. Any such conditions that were visibly apparent at the time of inspection or that became apparent during the normal research involved in completing the report have been noted in the report. It is an assumption of this report that the property complies with all regulatory requirements concerning environmental, chemical and biological matters, and it is assumed that the property is free of any detrimental environmental, chemical and biological conditions that may affect the market value of the property appraised. If a party relying on this report requires information about or an assessment of detrimental environmental, chemical or biological conditions that may impact the value conclusion herein, that party is advised to retain an expert qualified in such matters. The author expressly denies any legal liability related to the effect of detrimental environmental, chemical or biological matters on the market value of the property.
9. The analyses set out in this report relied on written and verbal information obtained from a variety of sources the author considered reliable. Unless otherwise stated herein, the author did not verify client-supplied information, which the author believed to be correct.
10. The term “inspection” refers to observation only as defined by CUSPAP and reporting of the general material finishing and conditions observed for the purposes of a standard appraisal inspection. The inspection scope of work includes the identification of marketable characteristics/amenities offered for comparison and valuation purposes only.
11. The opinions of value and other conclusions contained herein assume satisfactory completion of any work remaining to be completed in a good and workmanlike manner. Further inspection may be required to confirm completion of such work. The author has not confirmed that all mandatory building inspections have been completed to date, nor has the availability/issuance of an occupancy permit been confirmed. The author has not evaluated the quality of construction, workmanship or materials. It should be clearly understood that this visual inspection does not imply compliance with any building code requirements as this is beyond the professional expertise of the author.
12. The contents of this report are confidential and will not be disclosed by the author to any party except as provided for by the provisions of the CUSPAP and/or when properly entered into evidence of a duly qualified judicial or quasi-judicial body. The author acknowledges that the information collected herein is personal and confidential and shall not use or disclose the contents of this report except as provided for in the provisions of the CUSPAP and in accordance with the author’s privacy policy. The client agrees that in accepting this report, it shall maintain the confidentiality and privacy of any personal information contained herein and shall comply in all material respects with the contents of the author's privacy policy and in accordance with the PIPEDA.
13. The author has agreed to enter into the assignment as requested by the client named in this report for the use specified by the client, which is stated in this report. The client has agreed that the performance of this report and the format are appropriate for the intended use.

14. This report, its content and all attachments/addendums and their content are the property of the author. The client, authorized users and any appraisal facilitator are prohibited, strictly forbidden, and no permission is expressly or implicitly granted or deemed to be granted, to modify, alter, merge, publish (in whole or in part) screen scrape, database scrape, exploit, reproduce, decompile, reassemble or participate in any other activity intended to separate, collect, store, reorganize, scan, copy, manipulate electronically, digitally, manually or by any other means whatsoever this appraisal report, addendum, all attachments and the data contained within for any commercial, or other, use.
15. If transmitted electronically, this report will have been digitally signed and secured with personal passwords to lock the appraisal file. Due to the possibility of digital modification, only originally signed reports and those reports sent directly by the author can be reasonably relied upon.
16. This report form is the property of the Appraisal Institute of Canada (AIC) and for use only by AIC members in good standing. Use by any other person is a violation of AIC copyright.
17. Where the intended use of this report is for financing or mortgage lending or mortgage insurance, it is a condition of reliance on this report that the authorized user has or will conduct lending, underwriting and insurance underwriting and rigorous due diligence in accordance with the standards of a reasonable and prudent lender or insurer, including but not limited to ensuring the borrower's demonstrated willingness and capacity to service his/her debt obligations on a timely basis, and to conduct loan underwriting or insuring due diligence similar to the standards set out by the Office of the Superintendent of Financial Institutions (OSFI), even when not otherwise required by law. Liability is expressly denied to those that do not meet this condition. Any reliance on this report without satisfaction of this condition is unreasonable.
18. As of the date of this report Canada and the Global Community is experiencing unprecedented measures undertaken by various levels of government to curtail health related impacts of the Covid-19 Pandemic. The duration of this event is not known. While there is potential for negative impact with respect to micro and macro-economic sectors, as well as upon various real estate markets, it is not possible to predict such impact at present, or the impact of current and future government countermeasures. There is some risk that the Covid-19 Pandemic increases the likelihood of a global recession, however without knowledge of further anticipated government countermeasures at the national and global levels it is not possible to predict any impact at this point in time. Accordingly, this point-in-time valuation assumes the continuation of current market conditions, and that current longer-term market conditions remain unchanged. Given the market uncertainties of the Covid-19 pandemic, a force majeure event, we reserve the right to revise the value estimation set out in this report for a fee, with an update appraisal report under a separate appraisal engagement, incorporating market information available at that time.
19. The appraiser was provided with the income and expense information for the subject property by the client. No back up for the revenue in the form of leases was provided. Additionally, only some back up in the form of invoices/bills or financial statements was provided for the operating expenses. Thus, the information that was provided to the appraiser from the owner of the subject property is assumed to be accurate. IF IT IS FOUND TO BE INACCURATE THEN THE VALUE CONTAINED HEREIN IS SUBJECT TO CHANGE AND/OR BE VOID.

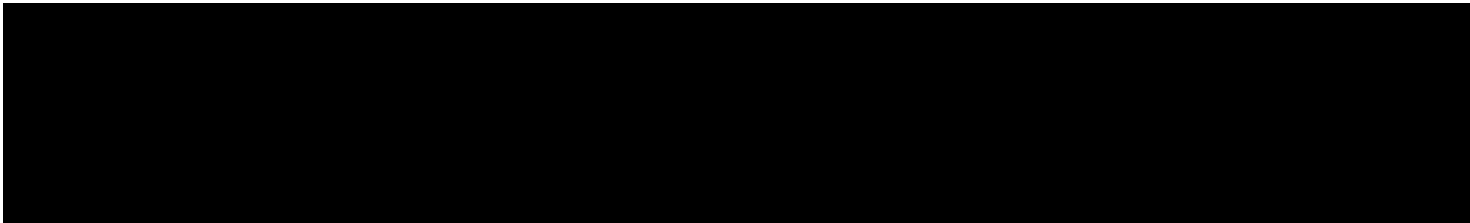
CERTIFICATION

ADDRESSED TO: Albert Gelman Inc., Court-Appointed Liquidator
SUBJECT PROPERTY: 888 Whitefield Dr, City of Peterborough
INSPECTION DATE: May 17, 2022

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct, and I have considered all factors believed to affect the value of the property.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and is my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
- I have no bias with respect to the properties that are the subject of this report or to the parties involved with this assignment.
- My compensation is not contingent upon any action or event resulting from the analyses, opinions, or conclusions in or the use of the report.
- My analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP).
- I have the knowledge and experience to complete the assignment competently.
- I, Tracey Smith, reviewed the report.
- I, Yehuda Belzberg assisted in completing this report.
- No one provided significant professional assistance to the persons signing this report.
- The Appraisal Institute of Canada has a Mandatory Recertification Program for designated members. As of the date of this report, we have fulfilled the requirements of the program.

The final estimate of the current value, as at the effective date of the appraisal date is:



Y. Belzberg

June 30, 2022

Yehuda Belzberg, Candidate Appraiser

Date

Tracey Smith

June 30, 2022

Tracey Smith, BA, AACI, P. App.

Date