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Q+A: Insolvency expert Bryan Gelman breaks down the growing wave of distressed real estate

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The Albert Gelman, president and co-founder, says receivership doesn't spell the end of a project

Canadian markets have seen a rise in distressed properties this year, with insolvencies climbing and lenders looking for recourse as they attempt to recover funds from faltering developments.

That wave of financial strain is keeping licensed insolvency trustees such as Bryan Gelman quite busy these days. His firm, Albert Gelman, specializes in helping small and midsize businesses navigate restructuring.

Green Street News spoke with Gelman about today's distressed-property landscape – and the stabilizing role trustees play when projects are in trouble.

What is the role of an insolvency trustee?

We work on both sides of the lender-creditor relationship. Sometimes the lender calls us to say they're overleveraged and need a receiver to sell. Because the mortgage company doesn't want to be deemed in possession of the property, they put in a receiver, which insulates them. The receiver sells the property and gets court approval for the selling price so that there's no comeback.

We also work on the other side. For example, if you're a developer, you will want to know and understand your options if your lender has issued demands for repayment, as you only have 10 days to deal with it, so you need to call a professional to figure out what your options are immediately.

If a lender is about to pull the plug on a project and has issued demands to get repaid, the way to stop that is to file a formal restructuring process under the Bankruptcy and Insolvency Act or [Companies' Creditors Arrangement Act]. You present your plan to the creditors and court, and a formal trustee like my firm manages that process.

How does a restructuring process unfold?

The court process is very efficient: The lender will initiate the process, [the court will] put in a receiver, and then the receiver comes up with the plan to sell.

I'm simplifying, but at a high level, the receiver will go in and conduct due diligence and get an appraisal and decide, in conjunction with stakeholders, the best way to move forward with a plan. Do the lenders want their money now? Do they wait two years? Most times, they don't want to wait, so [the receiver] will list the property for sale with a broker. That could take a couple months, it could take a year, it just depends on if there's a buyer out there.

Certain [distressed] properties these days are taking between six to nine months to sell.

Where are you seeing the most distress?

I'm seeing it all across the board. I would say it's less so for industrial properties and more for commercial and residential.

We have two properties in receivership right now in Owen Sound, Ont., where there's retail on the main floor and 15 to 20 residential units upstairs. When people bought buildings like these, they may have overspent, and now, when interest rates increase, they can't dig themselves out of the hole when their mortgage comes up for renewal. The income that the property generates can't support the new mortgage payments, so they get private loans – a second or third [mortgage] – just to maintain cashflow, hoping that the economic landscape turns around.

We’re also seeing a lot of action on the development side where people are buying land that has a retail plaza or something small generating a bit of income. They’re trying to develop the property, applying for zoning amendments or submitting a planning application to get as much square footage as they can. And again, their mortgage comes up for renewal or they need more capital and can’t as easily go to a bank anymore, so they’re using private lenders at 15% to 20% interest or more. And they get to a point where the lenders are foreclosing or trying [to trigger a] power of sale.

> *“When people bought buildings like these, they may have overspent, and now, when interest rates increase, they can’t dig themselves out of the hole when their mortgage comes up for renewal”*

Does a restructuring process spell the end of a project?

No, it just means you’re recalibrating. You’re bringing in somebody who, as a receiver, oversees the process and ensures that the right people get paid and the project moves smoothly.

For example, we are the receiver of a land development in Richmond Hill, Ont. The process was not fine-tuned. Costs were spiraling out of control. The lender appointed us to go in and do a complete assessment of the site. We ended up fully stopping construction because of safety issues and other matters; there were still certain units needing to be framed, roofs hadn’t gone on yet, but we decided to stop the process and regroup.

Ultimately, we found a new construction manager to take over, had new trade contracts signed. We liaised with the city, and [provincial consumer protection agency] Tarion. We stabilized the site, getting a proper plan and budget in place and moving the project forward to completion. So we come in, we stabilize and we build. Right now, that project is near completion.

> *“You’re bringing in somebody who, as a receiver, oversees the process and ensures that the right people get paid and the project moves smoothly”*

What investors are specializing in distressed property?

There are certain vulture funds and family offices who have a lot of money, but they don’t necessarily want to be involved in a court-approved sales and investment solicitation process. They want an introduction to the lender or borrower beforehand.

If a lender’s in for $15m, they will buy that debt for $10m and hope they can sell the debt for $12m or a much bigger number. There are many family offices that are seeing distress as a huge opportunity to buy up debt or assets that can be turned around and sold at a later date for a profit.

What are you expecting for future distressed activity?

I think there’s going to be a lot more activity to come because there are many delinquent loans that haven’t surfaced yet, particularly in the land sector. Lenders will need to start their enforcement process – such as appointing a receiver – quickly and, ultimately, someone is either going to buy the loan or the underlying assets.

At a high level, people have less disposable income and interest rates are higher, so they can’t afford to buy at the prices that they used to. As a result, builders are holding off building until they have more comfort that the economy will turn around. The developers don’t have the capital to build because they can’t get loans or more capital.

I think we’re going to hit a low in the housing market in 2026 or 2027 because people aren’t yet selling at lower prices for what the market might want to buy. You’ll see it when properties start to sell for lower prices because they will either be forced by the lender to sell or there is no other choice but to sell or face insolvency so that the lenders can manage the sale process.