



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ ENDORSEMENT FORM

COURT FILE NO.: CV-23-00707989-00CL

DATE: OCTOBER 23, 2024

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NO. ON LIST: @11:30AM

TITLE OF PROCEEDING: 1180554 ONTARIO LIMITED VS CBJ DEVELOPMENTS

BEFORE: JUSTICE W.D. BLACK

**PARTICIPANT INFORMATION**

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**ENDORSEMENT OF JUSTICE W.D. BLACK:**

- [1] This was a motion by the receiver TDB Restructuring Limited (the “Receiver”) seeking approval of the sale of three properties of CBJ-Clearview Garden Estates Inc., CBJ Bridle Park II Inc., and CBJ Developments Inc. (collectively the “Debtors”) to the first mortgagee 1180554 Ontario Limited (“118”) and vesting title in those properties to and in the designated purchaser.
- [2] The Receiver and 118 entered into an asset purchase agreement (“APA”) dated July 24, 2024 contemplating 118’s purchase of the properties through a credit bid.
- [3] The matter was last before Kimmel J. on October 7, 2024.
- [4] At that time, Kimmel J. granted a brief adjournment at the request of the second mortgagee, First Global Financial Corp. (“FGFC”), whose counsel advised Her Honour that his client had received certain materials and details concerning the proposed transaction relatively late in the day, and wanted an opportunity to review the proposed transaction to satisfy itself that, as the Receiver asserted, there was “no actionable transaction available under which there will be surplus funds for distribution to the second mortgagee.”
- [5] In granting the brief adjournment, Kimmel J. admonished the second mortgagee not to “treat this as an invitation to object just for the sake of objecting.” Her Honour observed that the record “discloses a very robust sales process that has not produced a single bid from any third party....despite the fact that the Properties have been listed for sale for almost a year, on and off and thus have been well exposed to the market.”
- [6] To their credit, the second mortgagee and its counsel took Kimmel J’s comments to heart, and advised Receiver’s counsel about a week ago that the second mortgagee would not be taking a position relative to the relief sought by the Receiver.
- [7] Today however, counsel who was in the process of being retained on behalf of an entity called TGP Canada Management Inc. (“TGP”) advised that he was seeking an adjournment on behalf of his soon-to-be client (of another two weeks) in order to have the opportunity to either buy out 118’s position or present a better offer.
- [8] TGP’s soon-to-be counsel was appropriately even-handed in his submissions seeking the adjournment, but was not able to point to any details of any proposed further offer, and, through no fault of his own was mistaken as to the timing of TGP’s initial involvement in this matter. Suffice it to say that, contrary to TGP’s apparent advice to its proposed counsel that it had only become aware of and involved in this proceeding on or about October 8, 2024, there is specific evidence showing TGP’s involvement as of October 4, (TGP sent a letter of that date to Mr. Tannenbaum of the Receiver explaining the nature of TGP’s interest and its wish for an adjournment of the hearing then pending before Kimmel J.). There was also information provided by 118’s counsel (as opposed to evidence in the record) suggesting that TGP has in fact been involved for some months before that.
- [9] Leaving that inconsistency aside, however, there is as noted no evidence before the court as to any substance of TGP’s proposed offer (or offer it will arrange), and simply no evidence to refute the Receiver’s evidence – seemingly confirmed by the market – that there will be no economic interest for anyone following the 118 transaction.

- [10] As such, so long as I find that the sales process and related steps taken by the Receiver meet the Soundair principles – which I do, echoing Kimmel J.’s finding in that regard – there is no basis to further delay these proceedings and the closing of the 118 transaction.
- [11] As noted, the sales process has been robust, has been ongoing over the course of many months, and has yielded no available transaction to compete with the 118 APA. There is nothing before me to suggest that the Receiver has been improvident or that the process has been unfair.
- [12] In the submissions of proposed counsel for TGP, it appears that in fact TGP’s concerns are with FGFC, and that, to the extent TGP has any remedy it would be as against FGFC. I do not have any evidence before me from which I could adjudicate that proposition, and in any event, for the reasons discussed, no basis or need to do so.
- [13] In the circumstances I am denying TGP’s request for an adjournment.
- [14] I am also granting the relief sought by the Receiver, and attach signed orders confirming that relief.



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W.D. BLACK J.

**DATE: OCTOBER 23, 2024**