

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

B E T W E E N :

**CITY OF TORONTO**

Applicant

-and-

**HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.**

Respondent

**FACTUM OF THE RECEIVER  
(MOTION RETURNABLE ON DECEMBER 11, 2025)**

December 9, 2025

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**TABLE OF CONTENTS**

<b>PART I – NATURE OF THE MOTION .....</b>	<b>1</b>
<b>PART II – THE FACTS.....</b>	<b>2</b>
(a)    The RFEIQ Process.....	2
(b)    Applications for Membership and Unit Transfers .....	4
<b>PART III – ISSUES AND LAW .....</b>	<b>5</b>
I.    Authorization and Direction to Develop Options and Voting Procedures .....	5
II.    Authorizing Receiver to process Membership and Unit Transfer Applications.....	7
III.    Approval of Reports and Activities of the Receiver.....	8
IV.    Approval of the Interim Statement of Receipts and Disbursements.....	8
V.    Approval of Professional Fees and Disbursements .....	9
<b>PART IV – RELIEF REQUESTED.....</b>	<b>11</b>

## PART I – NATURE OF THE MOTION

1. Pursuant to the endorsement of the Honourable Justice Kimmel, the Receiver brings this motion to report on the results of the RFEIQ Process (as defined below) and for advice and directions.
2. The Receiver, therefore, requests an order:
  - (a) Authorizing and directing the Receiver to continue developing the requirements and viability of the Options (as defined below) available to HSC for the purpose of developing a process, subject to approval of this Court:
    - (i) for calling and counting votes of the Members with respect to the Members' preferred Option (the "**Voting Procedures**"), provided that the votes of Members are not binding on any person, including the Receiver, with respect to HSC;
    - (ii) to disseminate information to the members of HSC (the "**Members**") in respect of the Options and the Voting Procedures; and,
    - (iii) for holding a further town hall meeting with the Members with respect to the Options and Voting Procedures;
  - (b) Authorizing the Receiver to engage in considering and, where appropriate, approving applications for membership to HSC and unit transfer requests, in accordance with the provisions of the *Co-Operative Corporations Act* (Ontario) (the "**Co-op Act**") and the by-laws of HSC;

- (c) Approving the Third Report to the Court dated November 20, 2025 (the “**Third Court Report**”) and the activities and conduct of the Receiver described therein;
- (d) Approving the interim statement of receipts and disbursements of the Receiver; and,
- (e) Approving the fees and disbursements of the Receiver and its counsel.

## **PART II – THE FACTS**

- 3. Detailed facts relevant to the relief sought on this motion are set out in the Third Court Report. Capitalized terms not otherwise defined in this Factum are as defined in the Third Court Report.
- (a) **The RFEIQ Process**
- 4. Pursuant to the Order of Justice Kimmel dated June 20, 2025 (signed on July 4, 2025), the Receiver implemented the Request for Expressions of Interest and Qualifications Process (the “**RFEIQ Process**”). The steps taken by the Receiver are summarized in Section 5.0 of the Third Court Report.
- 5. The purpose of the RFEIQ Process was to provide information to the Co-op’s entire membership, and to determine if there is a pool of Members who (i) are interested in volunteering to serve on the Co-op’s Board and (ii) have the requisite qualifications to do so, with a view to providing the Receiver with sufficient information to formulate a recommendation for the Court’s consideration on the question of whether it is viable for the Housing Project to continue operating within the co-operative housing model.

6. As reported in the Third Court Report, only eight Expressions of Interest Forms (“**EIQ Forms**”) were delivered to the Receiver under the RFEIQ Process, some of which were not completed properly.<sup>1</sup> The by-laws of HSC require a minimum of seven board members and as a result, the Receiver questions whether a meaningful election can occur for a new slate of board members.<sup>2</sup>
7. The Receiver, in consultation with the City of Toronto, CHFT and York University, has identified four options that could be viable for the housing project (the “**Options**”):<sup>3</sup>
  - (i) ***Ordinary election administered by the Receiver and/or CHFT.*** This option presumes that more qualified members are nominated for a board seat to ensure a meaningful election and not simply an acclamation of a few candidates.
  - (ii) ***Election with a supported board.*** This option adopts a prior effort to provide training and support to the HSC board. It contemplates a by-law amendment to permit a set number of non-resident board members (likely to be put forward by CHFT), with the non-resident board members gradually rolling off and being replaced by a Member.
  - (iii) ***Turnover to a non-profit operator.*** This option contemplates the sale of the housing project to a non-profit operator that maintains the social housing program. The housing project will lose its co-operative governance

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<sup>1</sup> Motion Record of the Receiver dated December 3, 2025 (“**MR**”), Tab 2, Third Report to the Court of TDB Restructuring Limited dated November 20, 2025 (“**Third Court Report**”), at para. 58.

<sup>2</sup> **MR**, Tab 2, Third Court Report, at para. 75.

<sup>3</sup> **MR**, Tab 2, Third Court Report, at paras. 77 – 90.

structure but will benefit from a well-established non-profit housing provider bringing stability to finances and operations, while maintaining appropriate status under the HSA.

- (iv) ***Hybrid land trust model.*** This option maintains the co-operative membership structure with respect to membership and residence matters, but turns over all financial, maintenance and property management matters to a land trust corporation, controlled by CHFT. This structure has been implemented in Ontario by CHFT on other projects.
8. The Receiver seeks authorization to further develop these Options, including further consultation with key stakeholders and analysis of the legal and practical requirements associated with the Options, with a view to providing the information to the Members and allowing the Members to vote on their preferred Option.
9. The Receiver then contemplates returning to the Court with a more fulsome outline of the Options, a proposed information package for the Members, a proposed town hall meeting, and proposed Voting Procedures to evaluate the preference of the Members.

**(b) Applications for Membership and Unit Transfers**

10. The Receiver understands that membership and unit transfer applications have not been processed since the Receiver's appointment, a process that is normally implemented by the Board.<sup>4</sup> As a result of certain membership application requests, the Receiver requests

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<sup>4</sup> MR, Tab 2, Third Court Report, at paras. 94 – 95.

authorization to work with CFDI to receive, evaluate and process membership and unit transfer applications.

11. Given the nature of irregularities reported in the Second Court Report and the apparent lack of any Board activities or meetings, the Receiver believes that in consultation with CFDI, the Receiver can, and should, implement this process on behalf of HSC.

### **PART III – ISSUES AND LAW**

12. The issues on this motion are whether this Court should:

- (a) Authorize and direct the Receiver to further develop the requirements and viability of the Options and to develop the Voting Procedures, disseminating information on the Options to Members and holding a town hall meeting;
- (b) Authorize the Receiver to consider and, where appropriate, approve membership and unit transfer applications;
- (c) Approve the Third Court Report and the activities and conduct of the Receiver as described therein;
- (d) Approve the Receiver's interim statement of receipts and disbursements; and,
- (e) Approve the fees and disbursements of the Receiver and its counsel.

#### **I. Authorization and Direction to Develop Options and Voting Procedures**

13. Section 96(2) of the *Housing Services Act, 2011* (the “HSA”) provides:

When it is appropriate, in the opinion of the service manager, to return control to the housing provider, the service manager shall seek the termination by the court of the appointment of the receiver or receiver and manager.<sup>5</sup>

14. To be clear, the service manager (being the City of Toronto) has not indicated that it is appropriate to return control to the housing provider (HSC). The Receiver has continued to consult with the City of Toronto, in its capacity as service manager, with respect to an eventual termination of the receivership. The Options were developed in consultation with the City of Toronto, among others.
15. The Appointment Order does not specifically address the power or authority of the Receiver to change the legal or governance structure of HSC. However, the Appointment Order at paragraph 29 authorizes the Receiver to apply to the Court from time to time for advice and directions in the discharge of its powers and duties.
16. The Receiver submits that in the circumstances of this case, given the history of HSC and the housing project, the results of the RFEIQ Process, and the views of the City of Toronto, CHFT and York University, simply returning management of the housing project to HSC is not in the best interests of the Members or other stakeholders. The Receiver submits that the Options represent a realistic spectrum of governance options for the housing project that best maintains the character of a designated housing project subject to the HSA.
17. The Receiver requires additional time to further develop these Options, both from a legal and practical perspective. In addition, the Receiver proposes a process to allow the

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<sup>5</sup> *Housing Services Act, 2011, SO 2011, c 6, Sch 1, s 96.*

Members to consider these Options and provide their input to be considered in the Receiver's recommendation to the Court.

18. Therefore, in the circumstances of this case, the Receiver submits that it is appropriate that the Court provides the Receiver with the authority and direction to continue and return to Court, as set out above.

## **II. Authorizing Receiver to process Membership and Unit Transfer Applications**

19. The Co-op Act provides that an application for membership is to be approved by the board of directors, in addition to compliance with the by-laws governing admission of members.<sup>6</sup>
20. The Appointment Order, at paragraph 2(q) and (r), authorizes the Receiver to increase rents and housing charges, and to terminate the occupancy of any resident in accordance with the HSA and its regulations, and the *Residential Tenancies Act*. There is no express authority to consider and approve, where appropriate, membership and unit transfer applications.
21. However, the list of powers enumerated in paragraph 2 is not exhaustive, as the list is expressly stated as “without in any way limiting the generality of the foregoing”, “providing that, in doing so, the Receiver complies with the HSA and its regulations.”
22. The Third Court Report, which includes this recommendation to permit the Receiver to process such applications, was delivered to the Service List and posted on the Receiver's website on or about November 20, 2025. To date, the Receiver has not received any

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<sup>6</sup> *Co-operative Corporations Act*, RSO 1990, c C.35, as amended, [s. 61\(2\)](#).

communication from any person objecting to the Receiver's proposal to exercise this power under the Co-op Act.

23. The Receiver submits that it is appropriate in the circumstances to authorize the Receiver to undertake this exercise of processing membership and unit transfer applications, provided that in doing so, the Receiver may consult with CFDI, and shall adhere to the provisions of the Co-op Act and the by-laws of HSC.

### **III. Approval of Reports and Activities of the Receiver**

24. As set out in *Target Canada Co (Re)*,<sup>7</sup> this Court's approval of a receiver's report is necessary, as it: allows the receiver and stakeholders to move forward confidently with the next steps in the proceeding; allows the Court an opportunity to address any problems of stakeholders; provides certainty to the process; and allows the Court to satisfy itself that the receiver's court-mandated activities have been conducted in a product and diligent manner.
25. The Receiver submits that it is entitled to the relief sought with respect to the approval of the Third Court Report, and the activities and conduct of the Receiver described therein.

### **IV. Approval of the Interim Statement of Receipts and Disbursements**

26. The Receiver provided its interim statement of receipts and disbursements ("Interim SRD") for the period March 14, 2023 to November 17, 2025, in connection with its reporting mandate pursuant to the Appointment Order.

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<sup>7</sup> *Target Canada Co (Re)*, 2015 ONSC 7574, at [para. 12](#).

27. The Interim SRD is in a form consistent with the requirements of the *Bankruptcy and Insolvency Act*. As reported, the Receiver has worked with the City of Toronto in respect of its budgets and requests for funding and the City of Toronto has no objection to the Interim SRD.
28. As such, the Receiver submits that the Interim SRD should be approved by this Court.

#### **V. Approval of Professional Fees and Disbursements**

29. The Appointment Order provides that the Receiver and its counsel are to be paid their reasonable fees and disbursements at their standard rates and charges, incurred both before and after the making of the Appointment Order.<sup>8</sup> The Appointment Order also provides that the Receiver and its counsel shall pass their accounts before the Court.<sup>9</sup>
30. As established in *Confectionately Yours Inc. (Re)*, when a receiver seeks court approval for its compensation, the onus is on the receiver to demonstrate that the requested amount is fair and reasonable.<sup>10</sup> Demonstrating that the compensation sought is fair and reasonable is typically accomplished through an affidavit.<sup>11</sup> When a receiver's disbursements include fees paid to its solicitors, the solicitors are also required to verify their fees and disbursements by way of affidavit.<sup>12</sup>
31. Here, two affidavits have been provided to the Court to demonstrate the reasonableness of the Receiver's fees and disbursements. Those affidavits are the Dhanani Fee Affidavit and

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<sup>8</sup> Appointment Order, at para. 20, MR, Third Court Report, Tab 2-A.

<sup>9</sup> Appointment Order, at para. 21, MR, Third Court Report, Tab 2-A.

<sup>10</sup> *Confectionately Yours Inc. (Re)*, 2002 CanLII 45059 (ON CA), at [para. 31](#).

<sup>11</sup> *Jethwani v Damji*, 2017 ONSC 1702 (CanLII), at [para. 11](#).

<sup>12</sup> *Confectionately Yours Inc. (Re)*, 2002 CanLII 45059 (ON CA), at [para. 40](#).

the Cho Fee Affidavit (together, the “**Fee Affidavits**”). The Fee Affidavits show that the fees incurred are fair and reasonable, based on the (i) nature, extent and value of the assets; (ii) the complications and difficulties encountered, (iii) the time spent by the court officer, (iv) the receiver’s knowledge, experience and skill, (v) the diligence and thoroughness displayed, (vi) the responsibilities assumed, (vii) the results achieved, and (viii) the costs of comparable services.<sup>13</sup>

32. In the case at bar, the Receiver continues to stabilize a difficult situation requiring extensive repairs and capital improvements and implemented the RFEIQ Process. The Receiver’s counsel has assisted the Receiver with various areas of legal advice including on corporate and statutory compliance matters regarding the Co-op, and several acrimonious issues raised by the Board. The City, the most affected stakeholder in relation to professional fees, has supported the actions of the Receiver and its counsel.
33. The Receiver submits that the fees and disbursements of the Receiver and its counsel, as set out in the Fee Affidavits should be approved. The invoices are a fair and accurate description of the services provided and the amounts charged by the professionals.

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<sup>13</sup> *Ibid*, at [para. 45](#).

**PART IV – RELIEF REQUESTED**

34. The Receiver submits that the relief sought on this motion should be approved and an order granted substantially in the forms set out in the Motion Record.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

Date: December 9, 2025



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**WeirFoulds LLP**  
**Per: Philip Cho**  
**Lawyers for TDB Restructuring Limited, in its**  
**capacity as court-appointed receiver-manager**  
**of Harry Sherman Crowe Housing Co-**  
**operative Inc.**

**STATEMENT OF AUTHENTICITY**

Pursuant to Rule 4.06(2.1), I, **PHILIP CHO**, lawyer for the Receiver, TDB Restructuring Limited, am satisfied as to the authenticity of every authority cited in this factum dated December 9, 2025.



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WeirFoulds LLP  
**Lawyers for TDB Restructuring Limited, in  
its capacity as court-appointed receiver-  
manager of Harry Sherman Crowe  
Housing Co-operative Inc.**

**Schedule “A”**  
**List of Authorities**

1. *Target Canada Co (Re), 2015 ONSC 7574*
2. *Confectionately Yours Inc. (Re), 2002 CanLII 45059 (ON CA)*
3. *Jethwani v Damji, 2017 ONSC 1702 (CanLII)*

**Schedule “B”**  
**Statutory Authorities**  
**Housing Services Act, 2011, SO 2011, c 6, Sch 1**

**Court appointed receiver, etc.**

**96 (1)** This section applies with respect to the exercise of the remedy to seek the appointment of a receiver or receiver and manager under paragraph 7 of section 85. 2011, c. 6, Sched. 1, s. 96 (1).

**Return of control**

(2) When it is appropriate, in the opinion of the service manager, to return control to the housing provider, the service manager shall seek the termination by the court of the appointment of the receiver or receiver and manager. 2011, c. 6, Sched. 1, s. 96 (2).

**Co-operative Corporations Act, RSO 1990, c C.35, as amended,**

**Becoming a member**

**61 (1)** Each incorporator of a co-operative who has subscribed for a membership share in the co-operative or who has paid a membership fee, if any, shall upon the effective date of incorporation be entered upon the register of members. R.S.O. 1990, c. C.35, s. 61 (1); 1994, c. 17, s. 2.

**Applicants for membership**

(2) No person shall become a member of a co-operative until the person’s application for membership has been approved by the directors and the applicant has complied fully with the by-laws governing admission of members. R.S.O. 1990, c. C.35, s. 61 (2).

**Membership in multi-stakeholder co-operative**

(2.1) Despite subsection (2), the by-laws governing admission of members of a multi-stakeholder co-operative may provide that no person shall become a member of the co-operative until the person’s application for membership has been approved by the directors elected by the appropriate stakeholder group and the person has complied fully with the by-laws governing admission of members. 1994, c. 17, s. 17.

**Membership**

(3) A subscription for membership shares in a co-operative with share capital constitutes an application for membership and the allotment of the minimum number of membership shares required for membership to the applicant constitutes admission to membership. 2001, c. 8, s. 13 (1).

**Idem**

(4) An application for authorization of the transfer of membership shares in a co-operative with share capital constitutes an application for membership and the passing of the resolution authorizing the transfer constitutes admission to membership. R.S.O. 1990, c. C.35, s. 61 (4); 1994, c. 17, s. 2.

**Jointly held membership**

(5) Two or more persons may jointly hold a membership if the by-laws of the co-operative provide for joint membership and, in determining the number of members for the purposes of this Act, those persons shall count as one member. [2001, c. 8, s. 13 \(2\)](#).

**CITY OF TORONTO**  
Applicant

-and-

**HARRY SHERMAN CROWE HOUSING CO-OPERATIVE  
INC.**  
Respondent

Court File No. CV-22-00688248-00CL

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

PROCEEDING COMMENCED AT  
TORONTO

**FACTUM OF THE RESPONDING PARTY, THE  
RECEIVER, TDB RESTRUCTURING LIMITED**

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