

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERICAL 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 June 29, 2026)**

June 17, 2026

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(as at June 11, 2026)

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PART 1 - OVERVIEW

1. The Receiver¹ brings this motion to, among other things, request an order:
 - (i) Authorizing and directing the Receiver to implement the Consultation Process with respect to the four governance and transition Options, including:
 - (1) Dissemination of the Information Package to the Members;
 - (2) Holding of a Town Hall meeting with Members;
 - (3) Solicitation and receipt of non-binding input and voting results from Members regarding their preferred Option;
 - (4) Engaging with key stakeholders, including the City of Toronto and CHFT;
 - (ii) Authorizing the Receiver to approve applications for membership to HSC;
 - (iii) Approving the Fourth Court Report and the Supplemental Report and the activities and conduct of the Receiver described therein;
 - (iv) Approving the interim statement of receipts and disbursements of the Receiver; and,
 - (v) Approving the fees and disbursements of the Receiver and its counsel as set out in the Fee Affidavits.

2. A Responding Motion Record was delivered, ostensibly by the Respondent, through Betty's Law Office, which included two affidavits (the "**Responding Affidavits**") and written submissions by counsel (the "**Responding Submissions**").² The Responding Submissions³

¹ Capitalized terms not otherwise defined in this Factum have the meanings set out in the Fourth Report to the Court of TDB Restructuring Limited dated March 30, 2026 (the "**Fourth Court Report**"), Motion Record of the Receiver dated March 31, 2026 ("**MR**"), E4831 and the Supplement to the Receiver's Fourth Report to the Court dated May 22, 2026 (the "**Supplemental Report**"), Reply Motion Record of the Receiver dated May 22, 2026 ("**Reply MR**"), E517, filed on this motion.

² Responding Motion Record dated May 14, 2026 ("**RMR**"), B-1-1267.

³ RMR, Tab 1, Response to Receiver Motion Record, B-1-1271.

should not be considered by this Court as they were not delivered in any format permitted by the *Rules of Civil Procedure*, or any other procedurally acceptable format.

3. The Responding Motion Record reveals a troubling and concerning course of conduct undertaken by the Board or at least, certain members of the Board, that attempt to undermine the Receiver's activities and the process as contemplated by this Court.

PART 2 - FACTS

4. The facts regarding the Options and the activities of the Receiver are set out in the Fourth Court Report.⁴ A brief summary of certain facts is set out below.

A. Consultation Process

5. This motion arises out of an order of this Court made December 11, 2025, authorizing and directing the Receiver to continue developing the Options and return to Court for approval of the Voting Procedures, the Information Package and holding a further Town Hall.⁵

6. There are four Options proposed by the Receiver for consideration by the stakeholders: (1) Regular Election; (2) Supported Board Election; (3) Transfer to Non-Profit Housing Provider; and (4) Land Trust Model.⁶

7. The Receiver has considered and proposed the Consultation Process to engage and consult with Members with respect to the Options, which process includes providing clear, accessible information, a forum for Members to ask questions and seek clarifications, and for the

⁴ MR, Tab 2, Fourth Court Report, [E4831](#).

⁵ MR, Tab 2, Fourth Court Report, para. 9, [E4836](#); Appendix H to the Fourth Court Report, [E4969](#).

⁶ MR, Tab 2, Fourth Court Report, paras. 47-85, [E4848](#).

Receiver to solicit input from Members on their preferences for the Options. The Consultation is intended to be informational and consultative only, with the information obtained from the Members to be one of the factors considered by the Receiver in making a recommendation to the Court on the future of HSC.⁷

8. The Receiver prepared a draft Information Package, appended to the Fourth Court Report, that includes the Notice to Members, a plain-language summary of the Options, notice of the Town Hall and a summary of the Voting Procedures.⁸

9. Following the service of its Motion Record on March 31, 2026, a meeting (the “**Members’ Meeting**”) was held in the community room at HSC, ostensibly organized by Sharon Richards, a former member of the Board, which the Receiver assisted in facilitating through directing CFDI to print copies of materials for the Members’ Meeting. Based on representations made by Ms. Richards, the Receiver understood the Members’ Meeting would be “neutral” and “even-handed”, with no recommendations being made to Members.⁹

10. However, the Receiver discovered that Mr. Betty was not only present, but spoke for large portions of the Members’ Meeting, identifying himself as counsel for the Members, and not disclosing his engagement as counsel to the Board with respect to serious allegations regarding the Board’s conduct in relation to Members’ interests.¹⁰

⁷ MR, Tab 2, Fourth Court Report, paras. 87-88, E4865.

⁸ MR, Tab 2, Fourth Court Report, paras. 89-90, E4865; Appendix N to the Fourth Court Report, E5034.

⁹ Reply MR, Tab 1, Supplemental Report, paras. 12-15, E5134; Appendix C to the Supplemental Report, E5200.

¹⁰ Reply MR, Tab 1, Supplemental Report, para. 18, E5135.

11. The information provided at the Members' Meeting is of serious concern as in many cases, the information was inaccurate at best, and misleading at worst. Further, spurious and inflammatory comments were made regarding the Receiver in an effort to discredit the Receiver.¹¹

12. Certain Members (the "**Independent Members**") reached out to the Receiver or its counsel to raise concerns regarding the Members' Meeting and the information disseminated. The Receiver understands that these Independent Members wish to remain anonymous from the Board and other Members out of fear of reprisal. The Receiver learned of prior incidents that included verbal abuse, threats of eviction and vandalism to personal property.¹²

13. The Independent Members raised concerns regarding the Members' Meeting, particularly, who influenced the content of the meeting, the accuracy of the information and potential conflicts of interest. The Independent Members identified inaccuracies in the information given at the Members' Meeting and what appeared to be an effort to create fear in the community and undermine trust in the process.¹³

B. Membership Applications

14. Membership applications have not been processed by HSC since the appointment of the Receiver.¹⁴ The Receiver has learned that a Member has had issues with her father's application for membership since prior to the Receiver's appointment. According to Ms. Case, her father, Donald Case, has been a resident for approximately 10 years and that his membership

¹¹ Reply MR, Tab 1, Supplemental Report, para. 22, [E5136](#).

¹² Reply MR, Tab 1, Supplemental Report, para. 20, [E5135](#).

¹³ Reply MR, Tab 1, Supplemental Report, para. 23, [E5137](#).

¹⁴ MR, Tab 2, Appendix G to the Fourth Court Report, para. 95, [E4964](#).

application had been approved by a prior board of directors, but then overturned by the Board. Ms. Case disputes the overturning but before any resolution was reached, the Receiver was appointed.¹⁵

15. Despite the Board's opposition to the Receiver's request to seek the authority to process membership applications at the December 11, 2025 hearing, and the Receiver's follow up, the Receiver did not receive any feedback on a proposed process for addressing membership applications from the Board or its counsel, Mr. Betty.¹⁶

16. The Responding Affidavits largely raise issues that are unsupported by the evidence or have been previously addressed by this Court. The Affidavit of Sharon Richards (the "**Richards Affidavit**")¹⁷ makes broad and bald statements attesting to the ability of the Members to self-govern without providing any evidence to support such a statement. There is no specific reference to any steps taken to address the issues that lead to the appointment of the Receiver (i.e. the "**Triggering Events**"). No evidence is provided with respect to the proposed advisory board members confirming their willingness to serve on any advisory board nor any proposed mandate for such an advisory board. The complaints raised regarding repairs and maintenance issues are not relevant to the Receiver's motion, and in any event, have been addressed by the Receiver appropriately.¹⁸

¹⁵ MR, Tab 2, Fourth Court Report, paras. 25-27, E4843.

¹⁶ MR, Tab 2, Fourth Court Report, paras. 23-24, E4843; Appendix K to the Fourth Court Report, E4983.

¹⁷ RMR, Tab 2, Affidavit of Sharon Richards sworn on May 13, 2026, B-1-1284.

¹⁸ Reply MR, Tab 1, Supplemental Report, paras. 28-36, E5140.

17. The Affidavit of Sareeda Nur¹⁹ repeats issues raised previously by Rosell Kerr in her Affidavit sworn on June 6, which were addressed by the Receiver in its Third Supplement to the Second Report.²⁰

PART 3 - ISSUES AND LAW

18. The Receiver submits that the following issues are to be decided on this motion:

- (i) Whether to authorize and direct the Receiver to implement the Consultation Process, despite any preliminary views that may have been expressed at the Members' Meeting;
- (ii) Whether the Receiver should be authorized and directed to process membership applications in accordance with the statute and the by-laws of the HSC;
- (iii) Whether the Court should approve the Fourth Court Report and the Supplemental Report, together with the activities and conduct described therein;
- (iv) Whether the interim statement of receipts and disbursements should be approved; and,
- (v) Whether the fees and disbursements of the Receiver and its counsel should be approved.

A. Consultation Process should be approved

19. Despite the Members' Meeting and efforts made to persuade Members to prefer a particular Option over the others, the Receiver submits that it remains appropriate in the circumstances to implement the Consultation Process.

¹⁹ RMR, Tab 3, Affidavit of Sareeda Nur sworn on May 14, 2026, B-1-1448.

²⁰ Supplemental Report, paras. 37-38, E5145; Appendix H to the Supplemental Report, E5239; Appendix I to the Supplemental Report, E5466.

20. The Receiver notes that there are Members, such as the Independent Members, that did not approve of the conduct and content of the Members' Meeting. There is good reason to believe that other Members may not be aligned with the views expressed at the Members' Meeting but are fearful of reprisal. Thus, there is a heightened need for the Receiver to disseminate the Information Package, substantially in the form drafted, and provide an opportunity for other Members to ask questions and obtain more information regarding the Options.

21. As indicated, the solicitation of votes from Members is not intended to be binding on the Members or the Receiver. Since the body of Members is a disparate collection of individuals, consultation with the Members is more challenging than consulting with a discrete entity such as the City of Toronto, CHFT or York University. Moreover, given the concerns brought forward to the Receiver as to the conduct of the Board, the issues identified by the Receiver regarding Board conduct and unit allocation and renovations, and the efforts made at the Members' Meeting to undermine the Consultation Process, there is no reliable representative that can provide confidence to the Receiver and the Court as to the Members' interests.

22. The Consultation Process is consistent with, and authorized by, paragraph 2(1) of the Appointment Order²¹, expressly conferring on the Receiver the power to "meet with and discuss with such Persons... as the Receiver deems appropriate on all matters relating to the Property and the receivership..." and where not expressly provided, paragraph 3(s)²² of the Appointment Order provides that the Receiver is expressly conferred with the power to "take any

²¹ MR, Appendix A to the Fourth Court Report, p. 56, E4872.

²² MR, Appendix A to the Fourth Court Report, p. 57, E4872.

steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations”.

23. Paragraph 3 of the Appointment Order²³ further provides that where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons... *including the Respondent, and the Respondent’s Board of Directors, and without interference from the Respondent, the Respondent’s Board of Directors, and any other Person.*”

24. The Consultation Process was developed by the Receiver to provide a meaningful opportunity for Members to give input to the Receiver regarding the Options. The Receiver views the input of the Members as a fundamental and necessary factor in developing recommendations to the Court as to the receivership and the future of HSC.

25. The Receiver rejects any attempt to characterize the Receiver as having any other motive. Rather, it is the conduct of the Board, its members or former members, and counsel to the Board that should be sanctioned by this Court for having seriously risked undermining the Receiver’s actions and efforts to engage with Members. Counsel for the Board was aware of the purpose of the within motion and the Members’ Motion pre-empted the Receiver’s proposed Consultation Process and Town Hall.

26. The Receiver submits that the Court should direct that attendees of the Town Hall be restricted to Members only, without interference from the Board or its counsel, such that a Board member will be permitted to attend solely in their capacity as a Member. The Receiver

²³ MR, Appendix A to the Fourth Court Report, E4872.

submits that such a restriction is reasonable in the circumstances, as no rights are being affected at the Town Hall.

B. The Receiver should process membership applications

27. Paragraph 2 of the Appointment Order²⁴ expressly authorizes the Receiver to:

- (c) manage, operate, and carry on the business of the Respondent...;
- (q) increase the rents, housing charges, and any other fees and charges the occupants of the Housing Project ... are required to pay, as the Receiver deems appropriate under the circumstances, and in accordance with the provisions of the *Housing Services Act, 2011* (the “HSA”), the HSA’s regulations, and the *Residential Tenancies Act, 2006* (the “RTA”);
- (r) terminate the occupancy of any resident of the Property, in accordance with the HSA, the HSA’s regulations, and the RTA; and,
- (s) take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

28. It is wholly consistent with the exercise of these powers that the Receiver be authorized and directed to process membership applications given the length of the Receiver’s appointment, the lack of any effort of the Board to address membership applications, and the real prejudicial impact that lack of membership status may have on residents of HSC.

29. As a court-officer, and consistent with the Appointment Order²⁵, the Receiver will act in accordance with the legislation and HSC’s by-laws in carrying out the function of processing

²⁴ MR, Appendix A to the Fourth Court Report, E4873.

²⁵ MR, Appendix A to the Fourth Court Report, E4872.

membership applications. As required, the Receiver will consult with CFDI and CHFT in considering membership applications.

30. To the extent any applicant wishes to appeal the Receiver's decision on membership, such a person may appeal, and the Receiver can seek the Court's advice and directions as appropriate. The Receiver submits that there is no reasonable basis on which the Board should oppose this relief.

C. The Court should approve the Fourth Court Report and the Supplemental Report, together with the activities and conduct described therein

31. As set out in *Target Canada Co (Re)*,²⁶ 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 prudent and diligent manner.

32. In the case at bar, the Receiver seeks approval of its activities set out in its Fourth Court Report and the Supplemental Report, together with the Consultation Process set out therein.

33. While the Board opposes this aspect of the Receiver's motion, the Board's opposition is without merit. The Board's opposition reflects a pattern of conduct throughout this Receivership of baldly opposing every aspect of the Receiver's activities, conduct which should be discouraged.

²⁶ [Target Canada Co \(Re\)](#), 2015 ONSC 7574, at [para 12](#); this Court has applied these principals in the context of court-appointed receivers: see [KEB Hana as Trustee v. Mizrahi Commercial \(THE ONE\) LP et al.](#), 2024 ONSC 1678, at [para 40](#).

34. The Receiver submits that it is entitled to the relief sought with respect to the approval of the Fourth Court Report²⁷, including the Supplemental Report²⁸, and the activities and conduct of the Receiver described therein.

D. The interim statement of receipts and disbursements should be approved

35. The interim statement of receipts and disbursements (the “**Interim SRD**”) are appended to the Fourth Court Report as Appendix O.²⁹

36. The Interim SRD is cumulative. The Board’s position erroneously interprets the information in the Interim SRD as being for the period between the last Interim SRD and the present one. The Board’s opposition to the Interim SRD mischaracterizes or misinterprets the information set out in the Interim SRD. No weight should be given to the Board’s opposition.³⁰

37. The Receiver, as a court-appointed officer and licensed insolvency trustee, prepares the Interim SRD in accordance with its statutory and professional obligations.³¹

38. The Receiver submits that it is appropriate in the circumstances to approve the Interim SRD.

E. The fees and disbursements of the Receiver and its counsel should be approved

39. 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

²⁷ MR, Tab 2, Fourth Court Report, [E4831](#).

²⁸ Reply MR, Tab 1, Supplemental Report, [E5127](#).

²⁹ MR, Appendix O to the Fourth Court Report, [E5045](#).

³⁰ Reply MR, Tab 1, Supplemental Report, at paras. 7-10, [E5131](#).

³¹ *Bankruptcy and Insolvency Act*, [RSC 1985, c B-3](#), as amended, [s. 246](#).

and after the making of the Appointment Order.³² The Appointment Order also provides that the Receiver and its counsel shall pass their accounts before the Court.³³

40. 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.³⁴ Demonstrating that the compensation sought is fair and reasonable is typically accomplished through an affidavit.³⁵ 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.³⁶ Here, the Fee Affidavits have been provided to the Court to demonstrate the reasonableness of the Receiver's fees and disbursements.³⁷

41. 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.

42. The Board has opposed the Receiver's motions at every turn and late-filing materials resulting in adjournments, and the preparation and filing of supplementary reports. The lack of cooperation from the Board is evident, which has contributed to an increase in the Receiver and its counsel's fees.

³² MR, Appendix A to Fourth Court Report, at paras. 20-22, [E4881](#).

³³ MR, Appendix A to Fourth Court Report, at paras. 20-22, [E4881](#).

³⁴ [Confectionately Yours Inc. \(Re\)](#), 2002 CanLII 45059 (ON CA), at [para 31](#).

³⁵ [Jethwani v Damji](#), 2017 ONSC 1702 (CanLII), at [para 11](#).

³⁶ [Confectionately Yours Inc. \(Re\)](#), 2002 CanLII 45059 (ON CA), at [para 40](#).

³⁷ MR, Appendix P to the Fourth Court Report, [E5048](#); Appendix Q to the Fourth Court, [E5071](#).

43. The Board opposes the Receiver's professional fees and legal disbursements, which it considers excessive and unjustified. It is unclear to the Receiver, however, what issue the Board takes with the fees of the Receiver and its counsel, particularly since HSC is neither funding those fees nor deprived of any resources to which it is entitled.³⁸

44. As such, the fees and disbursements of the Receiver and its counsel should be approved.

PART 4 - RELIEF REQUESTED

45. The Receiver respectfully submits that an order should go substantially in the form set out in Tab 3 of the Motion Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

June 17, 2026



Philip Cho
WeirFoulds LLP
Lawyers for the Receiver

³⁸ Reply MR, Tab 1, Supplemental Report, at para. 11, E5133.

STATEMENT OF AUTHENTICITY

Pursuant to Rule 4.06(2.1), I, **PHILIP CHO**, lawyer for the Receiver, TBD Restructuring Limited, am satisfied as to the authenticity of every authority cited in this factum dated June 17, 2026.



WeirFoulds LLP
Lawyers for the Receiver

SCHEDULE “A”**List of Authorities**

Tab	Description
1	<i>Target Canada Co (Re)</i>, 2015 ONSC 7574
2	<i>KEB Hana as Trustee v. Mizrahi Commercial (THE ONE) LP et al.</i>, 2024 ONSC 1678
3	<i>Confectionately Yours Inc. (Re)</i>, 2002 CanLII 45059 (ON CA)
4	<i>Jethwani v Damji</i>, 2017 ONSC 1702 (CanLII)

SCHEDULE “B”**Statutory Authorities**

Bankruptcy and Insolvency Act, [RSC 1985, c B-3](#), as amended

Receiver’s statement

246 (1) A receiver shall, forthwith after taking possession or control, whichever occurs first, of property of an insolvent person or a bankrupt, prepare a statement containing the prescribed information relating to the receivership, and shall forthwith provide a copy thereof to the Superintendent and

(a) to the insolvent person or the trustee (in the case of a bankrupt); and

(b) to any creditor of the insolvent person or the bankrupt who requests a copy at any time up to six months after the end of the receivership.

Receiver’s interim reports

(2) A receiver shall, in accordance with the [General Rules](#), prepare further interim reports relating to the receivership, and shall provide copies thereof to the Superintendent and

(a) to the insolvent person or the trustee (in the case of a bankrupt); and

(b) to any creditor of the insolvent person or the bankrupt who requests a copy at any time up to six months after the end of the receivership.

Receiver’s final report and statement of accounts

(3) A receiver shall, forthwith after completion of duties as receiver, prepare a final report and a statement of accounts, in the prescribed form and containing the prescribed information relating to the receivership, and shall forthwith provide a copy thereof to the Superintendent and

(a) to the insolvent person or the trustee (in the case of a bankrupt); and

(b) to any creditor of the insolvent person or the bankrupt who requests a copy at any time up to six months after the end of the receivership.

Intellectual property — sale or disposition

246.1 (1) If the insolvent person or the bankrupt is a party to an agreement that grants to another party a right to use intellectual property that is included in a sale or disposition by the receiver, that sale or disposition does not affect that other party’s right to use the intellectual property — including the other party’s right to enforce an exclusive use — during the term of the agreement, including any period for which the other party extends the agreement as of right, as long as the other party continues to perform its obligations under the agreement in relation to the use of the intellectual property.

Intellectual property — disclaimer or resiliation

(2) If the insolvent person or the bankrupt is a party to an agreement that grants to another party a right to use intellectual property, the disclaimer or resiliation of that agreement by the receiver does not affect that other party's right to use the intellectual property — including the other party's right to enforce an exclusive use — during the term of the agreement, including any period for which the other party extends the agreement as of right, as long as the other party continues to perform its obligations under the agreement in relation to the use of the intellectual property.

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