

**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

**RESPONDING MOTION RECORD OF THE RECEIVER
(RETURNABLE ON MAY 30, 2025)**

May 16, 2025

WEIRFOULDS LLP

Barrister & Solicitors
66 Wellington Street West, Suite 4100
P.O. Box 35, Toronto-Dominion Centre
Toronto, ON M5K 1B7

Philip Cho (LSO # 45615U)

pcho@weirfoulds.com

Tel: 416.365.1110

**Lawyers for the Receiver,
TDB Restructuring Limited**

TO: THE SERVICE LIST

SERVICE LIST
(as at May 13, 2025)

<p>TDB Restructuring Limited 11 King St. W., Suite 700 Toronto, Ontario M5H 4C7</p> <p>Arif Dhanani adhanani@tdbadvisory.ca</p> <p>Bryan Tannenbaum btannenbaum@tdbadvisory.ca</p> <p>Tel: 647.725.0183</p> <p>Receiver</p>	<p>WeirFoulds LLP Barristers & Solicitors TD Bank Tower Suite 4100, P.O. Box 35 66 Wellington Street West Toronto, ON M5K 1B7</p> <p>Philip Cho (LSO # 45615U) pcho@weirfoulds.com</p> <p>Kelsey Ivory (LSO# 75071M) kivory@weirfoulds.com</p> <p>Tel: 416.365.1110</p> <p>Counsel to the Receiver</p>
<p>City Solicitor's Office City of Toronto Station 1260, 26th floor, Metro Hall 55 John Street Toronto, Ontario M5V 3C6</p> <p>Mark Siboni (LSO #50101V) mark.siboni@toronto.ca</p> <p>Tel: 416.392-9786</p> <p>Ryan Krahm (LSO #74645M) ryan.krahm@toronto.ca</p> <p>Tel: 416.338.1395</p> <p>Lawyers for the Applicant</p>	<p>Betty's Law Office 2300 Yonge St., Suite 1600 Toronto, Ontario M4P 1E4</p> <p>Courtney Betty (LSO #28347U) betty@bettyslaw.com</p> <p>Tel: 416.972.9472</p> <p>Lawyers for the Respondent</p>

CANADA REVENUE AGENCY c/o Department of Justice Ontario Regional Office The Exchange Tower, Box 36 130 King Street West, Suite 3400 Toronto, ON M5X 1K6 AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca	MINISTRY OF FINANCE (ONTARIO) Lega; Services Branch 33 King Street West, 6 th Floor Oshawa, ON L1H 8H5 insolvency.unit@ontario.ca
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EMAIL

adhanani@tdbadvisory.ca; btannenbaum@tdbadvisory.ca; pcho@weirfoulds.com;
kivory@weirfoulds.com; mark.siboni@toronto.ca; ryan.krahn@toronto.ca;
betty@bettyslaw.com; AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca;
insolvency.unit@ontario.ca

**ONTARIO
SUPERIOR COURT OF JUSTICE
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TAB 1



TDB Restructuring Limited
Licensed Insolvency Trustee

11 King St. W, Suite 700 
Toronto, ON M5H 4C7

info@tdbadvisory.ca 
416-575-4440 
416-915-6228 

tdbadvisory.ca

IN THE MATTER OF THE RECEIVERSHIP OF
HARRY SHERMAN CROWE HOUSING COOPERATIVE INC.

SECOND SUPPLEMENT TO THE SECOND REPORT TO THE COURT OF
TDB RESTRUCTURING LIMITED

MAY 16, 2025

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

ONTARIO

SUPERIOR COURT OF JUSTICE

(COMMERCIAL LIST)

BETWEEN:

CITY OF TORONTO

Applicant

-and-

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

Respondent

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1.0 INTRODUCTION

1. By order of the Ontario Superior Court of Justice (the “**Court**”) dated March 14, 2023, RSM Canada Limited was appointed receiver and manager (the “**Receiver**”), without security, of all of the assets, undertakings and properties of Harry Sherman Housing Cooperative Inc. (“**HSC**” or the “**Co-op**”) acquired for, or used in relation to a business carried on by HSC, including all proceeds thereof (the “**Appointment Order**”).
2. On March 1, 2024, the Court granted an order substituting the name TDB Restructuring Limited in place of RSM Canada Limited as Receiver.
3. This report (the “**Second Supplemental Report**”) is a further supplement to the second report to the Court of the Receiver dated April 30, 2025 (the “**Second Court Report**”) and should be read in conjunction with the Second Court Report and the first supplement to the Second Court Report dated May 8, 2025 (the “**Supplemental Report**”). Capitalized terms, unless otherwise expressly defined, shall have the meaning set out in the Second Court Report and the Supplemental Report.
4. All amounts set out in the Second Supplemental Report are in Canadian dollars, unless stated otherwise.

1.1 Purpose of the Second Supplemental Report

5. The purpose of the Second Supplemental Report is to provide the Court with the Receiver’s reply in connection with the motion made by HSC (the “**Fee Motion**”) in connection with the fees owed to Betty’s Law Office (“**Betty’s Law**”) for representing the board of directors of HSC (the “**Board**”) prior to the appointment of the Receiver and for ongoing legal fees incurred by the Board for continuing representation by Betty’s Law.

2.0 REPRESENTATION BY BETTY’S LAW

6. Betty’s Law indicates in the Fee Motion, served on May 12, 2025 and uploaded to Case Center on May 13, 2025, that the respondent, HSC, is making a motion for payment of the pre-receivership and ongoing legal fees of Betty’s Law from the Co-op’s funds.

The Receiver would like to clarify that HSC has been and currently is in the possession and control of the Receiver since the Receiver's appointment on March 14, 2023. The Receiver has not, nor has it ever requested representation by Betty's Law on behalf of HSC. A copy of the Fee Motion is attached hereto as **Appendix "A"**.

7. The Receiver's counsel is WeirFoulds LLP.
8. The Receiver understands from the hearing held on May 13, 2025, that Betty's Law represents the Board.

3.0 PRE-RECEIVERSHIP FEES OF BETTY'S LAW

9. The Receiver understands from the Fee Motion that the pre-receivership fees of Betty's Law for representing the Board total \$30,809.08.
10. Based on information provided to the Receiver by the former property managers of HSC, the Receiver finalized and mailed out on March 22, 2023, its Notice and Statement of Receiver (the "**Notice**") pursuant to S. 245/246 of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"). A copy of the Notice is attached hereto as **Appendix "B"**.
11. At the time of the Receiver's appointment, HSC was an insolvent entity with approximately \$1.1 million owed to its unsecured creditors.
12. With respect to the pre-receivership fees owed by HSC to Betty's Law, the Receiver considers Betty's Law to be an unsecured creditor of HSC along with the numerous unsecured creditors listed in the Notice. Payment of the pre-receivership fees of Betty's Law from HSC's funds over and above the claims of other unsecured creditors of HSC is a preference pursuant to S. 95 of the BIA or pursuant to the *Assignment and Preferences Act* (Ontario).

4.0 FINANCIAL STATUS OF THE CO-OP POST-RECEIVERSHIP

13. The Receiver, in its supplement to its First Court Report dated April 22, 2024 (the "**Supplement to the First Court Report**"), stated the following:

- a) prior to the Receiver's appointment, the Board filled vacated units with market rent households instead of RGI households, notwithstanding the City of Toronto's (the "City") requirements, and either did not provide the City with accurate reporting or any reporting at all. As a result, the City provided a level of subsidy based on the misreported or historical number of RGI households, which subsidy levels exceeded warranted amounts. On the basis that the Receiver has now provided the City with audited financial statements and annual information reports for the years ended June 30, 2022 and 2023, the City has advised that it intends to recoup the excess subsidies paid historically by reducing its monthly subsidy on a go forward basis. The Receiver is now managing the costs of operating the Coop with a lower monthly subsidy from the City.

A copy of the Supplement to the First Court Report, without appendices, is attached hereto as **Appendix "C"**.

- 14. The repayment to the City during the Co-op's 2025 fiscal year (ending June 30, 2025) exceeds \$100,000 and the Receiver has arranged with the City to reduce the monthly subsidies received by the Co-op over a number of months in order to reduce the impact on the Co-op's working capital.
- 15. The level of repairs and maintenance currently required to upkeep the Co-op due to the neglect of required repairs and maintenance prior to the Receiver's appointment is significant. Substantially all of the Co-op's working capital and its entire reserve fund, were used to renovate certain units in the Co-op. The Receiver believes that if these funds were utilized to complete required repairs and regular maintenance of the Co-ops building systems and plumbing that the level of repairs and maintenance currently required would be substantially lower. A copy of the Co-op's audited financial statements for the year ended June 2023 are attached hereto as **Appendix "D"**.
- 16. As set out in the First Court Report and the Second Court Report, the Receiver engaged with the City and entered into the COCHI Agreement for the receipt of funds related to various significant capital projects. An initial advance of \$431,250 was made by the City. The funds from this initial advance have been used in full to pay suppliers for invoices rendered in connection with the capital projects. On a go-forward basis, the mechanism to recoup further funds from the City for invoices

rendered by trades and consultants in connection with these capital projects is for the Co-op to send copies of the invoices to the City for reimbursement. The City takes anywhere between six to eight weeks, and possibly longer, to reimburse the Co-op for the invoices submitted. As such, the Receiver is currently carefully managing the Co-op's: (i) payments to suppliers in connection with the COCHI projects; and (ii) working capital, so that suppliers for utilities, repairs and maintenance and other operating items are not prejudiced or not paid in the ordinary course of business due to a lack of funds.

17. As at March 31, 2025 and April 30, 2025, the cash balance held in the Receiver's trust account for the Co-op was \$9,038 and \$62,282, respectively. A copy of the Receiver's statement of receipts and disbursements as at April 30, 2025, which was prepared and included with its S. 246(2) report, filed with the Office of the Superintendent of Bankruptcy on May 6, 2025, is attached hereto as **Appendix "E"**.
18. Payments to suppliers are significant and are made twice a month. This is evidenced by the balance in the Receiver's trust account as at April 20, 2025 of \$221,277 (Appendix U to the Second Court Report), and as at April 30, 2025 of \$62,282.

5.0 POST-RECEIVERSHIP FEES OF BETTY'S LAW

19. As stated above, during its appointment the Receiver has never engaged Betty's Law for any purpose. The Receiver is unclear as to whether the Board or only specific individuals on the Board have engaged Betty's Law.
20. With regard to payment of the post-receivership fees of Betty's Law, the Receiver is concerned that incurring legal fees for the benefit of the Board, which fees the Fee Motion contemplates being paid from the Co-op's funds, will compromise the Co-op's working capital and ability to pay its obligations in the ordinary course of business.

6.0 PAYMENT OF THE RECEIVER AND ITS COUNSEL'S FEES

21. The Receiver and its counsel's fees have been fully funded by the City. The Receiver understands from the City that:

- a) it sought a remedy to inaction by the Board to resolve the triggering events and that remedy was the appointment of the Receiver;
 - b) it recognizes that the Receiver requires independent legal counsel as part of the remedy; and
 - c) the fees of the Receiver and its counsel are a cost of implementing such remedy.
22. None of the Receiver's fees or its counsel's fees have been paid from the working capital of the Co-op.

7.0 RECEIVER'S COMMENTS ON REQUEST FOR FEES

23. For the purpose of responding to the Fee Motion, the Receiver has appended the relevant written correspondence with Betty's Law regarding payment of fees, some of which were reproduced in prior Reports (and where the Receiver and/or its counsel are copied). These written exchanges are summarized below:
- a) Email exchange between Mark Siboni, lawyer for the City, and Mr. Betty dated May 2, 2025, in which Mr. Siboni responds to a comment from Mr. Betty that as per a previous discussion, the City cannot make a decision as to whether the Co-op funds can be accessed for Betty's Law's fees and that it should be presented to the Court by way of a formal motion (**Appendix "F"**);
 - b) Email exchange between Mr. Siboni and Mr. Betty dated May 9, 2025, in which Mr. Siboni summarizes some of the information in the Affidavits of Julie Western-Set filed in these proceedings that set out in detail the City's obligation to fund the Co-op's housing project, and how it is prescribed by statute and regulation, and repeating that there is no authority for the City (as Service Manager) to provide funding outside of the formula and framework provided by the governing legislation (**Appendix "G"**).
24. With respect to the evidence of Ms. Rosell Kerr filed in support of the Fee Motion, the Receiver makes the following comments:
- a) Ms. Kerr makes clear that the legal services provided by Betty's Law were incurred by the Board;

- b) Ms. Kerr acknowledges that the City sought to appoint a receiver due to “its concerns about governance, financial control, and property management”, which the Receiver notes are functions of the Board to oversee and manage;
 - c) Betty’s Law was retained by the Board to represent the Board in relation to the receivership application and that Betty’s law “has continued to assist the Board in its efforts to participate meaningfully in receivership proceedings and to protect the interests of Co-op members”. The Receiver notes that where the receivership application sought to relieve the Board of its management function over the Co-op by appointing a receiver-manager, it is not clear what, if any, role should be played by the Board. However, where the Board sought to resist the appointment of a receiver, or regain management functions over the Co-op, the services provided by Betty’s Law would be personal to the Board;
 - d) Ms. Kerr anticipates that the Board will incur “ongoing legal fees” to effectively participate in “legal processes and governance transition planning”, review future filings, respond to the RFEIQ process, and attend before the Court. The Receiver notes that these anticipated activities by the Board are either not obviously necessary or appropriate. Firstly, given the nature of the proposed RFEIQ process, the Receiver, as an officer of the Court, intends to engage with the Co-op members, and develop recommendations for governance transition. Secondly, given the nature of the concerns identified in respect of the Board on the application to appoint the Receiver, and the findings in the Second Report, there is, at least, an appearance of a conflict of interest if the Board (as presently constituted) purports to act on behalf of, or represent the interests of, the Co-op or its members.
25. To the extent the Board seeks legal representation to respond to, or to address, the findings of the Receiver and its property manager as reported in the Second Report, or the concerns raised by the City in its application, these are interests that are personal to the Board – and are distinct from the interests of the Co-op and its members.

8.0 CONCLUSION

26. Based on the foregoing, the Receiver respectfully recommends that Betty's Law seek payment of its post-receivership fees from its client.

All of which is respectfully submitted to this Court as of this 16th day of May 2025.

TDB RESTRUCTURING LIMITED, solely in its capacity as Receiver and Manager of Harry Sherman Crowe Housing Cooperative Inc. and not in its personal or corporate capacity

Per:



Arif Dhanani, CPA, CA, CIRP, LIT
Managing Director

APPENDIX A

COURT FILE NO. CV-22-00688248-00CL

**ONTARIO SUPERIOR COURT OF JUSTICE-
COMMERCIAL LIST**

BETWEEN:

CITY OF TORONTO

Applicant

And

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

Respondent

NOTICE OF MOTION

The Respondent, Harry Sherman Crowe Housing Co-operative Inc. (the "Co-op"), will make a motion to a Judge of the Ontario Superior Court of Justice (Commercial List) at 330 University Avenue, Toronto, Ontario, on May 13, 2025, 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 (*choose appropriate option*)

☐ In writing under subrule 37.12.1 (1) because it is (*insert one of 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.

at the following location

(*Courthouse address for in person hearing or telephone conference or video conference details, such as a dial-in number, access code, video link, etc., if applicable*)

THE MOTION IS FOR:

1. An order authorizing the City of Toronto and the Receiver TDB Restructuring Limited, to pay legal fees outstanding since 2023 in the amount of \$30,809.08 (CAD). The said fees incurred by the Board were in response to ongoing legal issues including Board representation on the issues of Receivership presently before the Court. Attempts to resolve this issue to date has been unsuccessful.
2. An order further authorizing the Receiver to pay all ongoing legal fees reasonably incurred by the Board of Directors for continued legal representation by Mr. Courtney Betty of Betty's Law Office. These payments to be made from the Co-op's market funds, currently controlled by the Receiver.
3. Such further and other reliefs as this Honourable Court may deem just, recognizing that representation of the Harry Sherman Co-op is required to ensure the smooth transitioning of the Co-op out of Receivership.

THE GROUNDS FOR THE MOTION ARE:

1. On October 2022, the City of Toronto, in its capacity as Service Manager, brought an application for the appointment of a Receiver over the property, assets, and undertaking of the Co-op pursuant to s. 85(7) of the Housing Services Act, 2011 and s. 101 of the Courts of Justice Act.
2. By Order of this Honourable Court dated March 14, 2023 (the "Appointment Order"), RSM Canada Limited was appointed as Receiver and Manager of the Co-op's assets. RSM was later substituted by TDB Restructuring Limited pursuant to an Omnibus Order dated March 01, 2024.
3. The Appointment Order granted the Receiver full control over all funds and operations of the Co-op.
4. Since 2022, the Board of Directors of the Co-op retained, Betty's Law Office as its legal counsel to provide legal advice to issues raised by the City of Toronto.
5. Presently there are legal fees in the amount of \$30,809.08 (CAD) which have and remain outstanding since 2023. The Board of Directors does not have access to independent funds, and any disbursement requires Court approval due to the control of all assets by the Receiver. To date the fees outstanding has not been challenged after a detailed review by Counsel for the City.
6. The Board continues to require ongoing legal representation to participate in receivership proceedings, respond to motions by the Receiver, and protect the rights and interests of Co-op members as governance issues remain unresolved and the RFEIQ process proceeds.
7. The anticipated legal work includes, but is not limited to, reviewing Receiver reports, preparing materials for further motions or hearings, communicating with the Receiver, and attending discussions with stakeholders including the City of Toronto and York University.
8. Authorizing the Receiver to pay ongoing reasonable legal fees incurred by the Board, without the need for repeated court motions, promotes procedural efficiency and protects the Board's ability to respond meaningfully to complex receivership developments.

9. The request does not prejudice any stakeholders and mirrors the Court's prior approval of Receiver and counsel fees. The Receiver will retain the ability to object should any future legal fees be unreasonable or disputed.
10. On April 29, 2024, this Honourable Court issued an order approving the Receiver's activities and fees for the reporting period, affirming the continuation of the receivership.
11. The payment of legal fees from the Co-op's market funds will not prejudice any other creditors or stakeholders and is necessary to ensure continued legal representation of the Co-op during the ongoing receivership proceedings.
12. Sections 101 and 106 of the Courts of Justice Act, Rules 1.04, 2.03, 37, and 40 of the Rules of Civil Procedure, and the Court's equitable jurisdiction.
13. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- a) The Affidavit of Rosell Kerr sworn on May 12, 2025.
- b) The Appointment Order dated March 14, 2023.
- c) The Order of the Honourable Justice Penny dated April 29, 2024.
- d) Invoice or summary of legal fees from Betty's Law Office.
- e) Such further and other material as counsel may advise and this Honourable Court may permit.

Dated at Toronto this 12 day of May, 2025.

BETTY'S LAW OFFICE

2300 Yonge, Street Suite 1600 Toronto,
ON M4P 1E4

Courtney Betty (LSO # 28347U)

Tel: 416-972-472

Email: betty@bettyslaw.com

Cc: tenechia@bettyslaw.com

TO: CITY SOLICITOR'S OFFICE

City of Toronto

Station 1260, 26th Floor

Metro Hall, 55 John Street

Toronto, Ontario M5V 3C6

Mark Siboni (LSO #50101V)

Tel: (416) 392-9786

Fax: (416) 397-5624

Email: mark.siboni@toronto.ca

And To : WeirFoulds LLP

Barristers & Solicitors

TD Bank Tower Suite 4100, P.O. Box 35

66 Wellington Street West Toronto,

ON M5K 1B7

Philip Cho (LSO # 45615U)pcho@weirfoulds.com

Tel: 416-365-1110

Fax: 416-365-1876

Counsel to the Receiver

BETWEEN

CITY OF TORONTO and HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

(Applicant)

(Respondent)

ONTARIO

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION

BETTY'S LAW OFFICE

2300 Yonge, Street Suite

1600 Toronto, ON

M4P 1E4

Courtney Betty (LSO # 28347U)

Tel: 416-972-472

Email: betty@bettyslaw.com

tenechia@bettyslaw.com

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

**ONTARIO SUPERIOR COURT OF JUSTICE-
COMMERCIAL LIST**

BETWEEN:

CITY OF TORONTO

Applicant

And

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

Respondent

AFFIDAVIT OF ROSELL KERR

(Sworn on May 12, 2025)

I, Rosell Kerr, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the duly elected Chair of the Board of Directors (the “Board”) of Harry Sherman Crowe Housing Co-operative Inc. (the “Co-op”), and as such have knowledge of the matters hereinafter deposed to, save and except where stated to be on information and belief and, in such cases, I believe them to be true.
2. I have served as a member of the Board since 2019 and have resided in the Co-op community for several years. Our board in order to address issues raised by the City of Toronto approved retaining Betty’s Law Office to provide legal assistance and guidance. Betty’s Law Office even in the challenging situations has continued to assist the Board by providing representation.
3. I swear this affidavit in support of a motion requesting that this Honourable Court authorize the payment of legal fees incurred by the Board to its legal counsel, Betty’s Law Office, from the Co-op’s funds currently held by the court-appointed Receiver.


4. On March 14, 2023, the Ontario Superior Court of Justice (Commercial List) issued an Order (the “Receivership Order”) appointing RSM Canada Limited as Receiver and Manager (the “Receiver”) of all assets, undertakings, and properties of the Co-op under section 85(7) of the Housing Services Act, 2011, and section 101 of the Courts of Justice Act.
5. The Receivership was sought by the City of Toronto in its role as Service Manager under the HSA due to its concerns about governance, financial control, and property management. The Receiver was granted broad powers, including control over all funds of the Co-op.
6. In 2022, in anticipation of the Receivership Application and in response to escalating governance concerns, the Board retained the law firm Betty’s Law Office, represented by Mr. Courtney Betty, to provide legal counsel and representation. Mr. Betty represented the Board in the initial receivership proceedings before this Honourable Court, in subsequent related hearings, and in ongoing communications with the Receiver and the City. Mr. Betty also attended cross-examinations relating to the matter.
7. Since its appointment, Betty’s Law Office has continued to assist the Board in its efforts to participate meaningfully in receivership proceedings and to protect the interests of Co-op members. This has included reviewing court filed documents, prepared responding motion materials, and advising on governance issues arising under the HSA.
8. On April 29, 2024, this Honourable Court approved the Receiver’s activities, its quarterly reports, and its fees and disbursements incurred in connection with the receivership. The Board continues to require legal representation as the receivership remains ongoing.
9. Betty’s Law Office has submitted accumulative invoices for legal fees totaling \$30,908.00 CAD for services rendered to the Board from 2023 through early 2025. A true copy of the invoices are attached hereto and marked as **Exhibit "A"**.
10. All legal services provided were necessary, performed in good faith, and billed at reasonable rates consistent with comparable services. The Board supports the disbursement of these fees.
11. In addition to the outstanding amount, the Board expects to incur **ongoing legal fees** as the receivership proceedings continue. These fees will be incurred in good faith for the purpose of ensuring the Board’s effective participation in legal processes and governance transition planning. Legal counsel may be required to review future filings, respond to the RFEIQ process, and attend before this Honourable Court or with external stakeholders. The Board requests that this Honourable Court authorize the Receiver to disburse such ongoing legal fees as they arise, subject to reasonableness, without requiring further motions unless the Receiver objects. This relief would ensure that the Board is not placed in a position of disadvantage due to lack of independent financial access.
12. The Board does not have access to independent operational funds. All Co-op accounts and financial assets remain under the exclusive control of the Receiver. As such, the Board respectfully requests that the Court authorize the Receiver to pay the outstanding legal fees from either market funds or general Co-op funds currently under the Receiver’s control.
13. The Board confirms that payment of these fees will not prejudice any other stakeholders or creditors of the Co-op. The amount sought represents a modest and fair disbursement necessary to ensure the Board continues to be represented during the Receivership.

14. The Board further requests that, should the Receiver decline to initiate the payment, this Honourable Court authorize the Board to directly access the necessary funds currently held by the Receiver for this limited purpose.
15. I swear this affidavit in support of the within motion and for no improper purpose.

SWORN by Rosell Kerr
 of the City of Toronto in the
 Province of Ontario, before me at
 the City of Toronto, in the Province of Ontario,
 on May 12, 2025, in accordance with O. Reg. 431/20,
 Administering Oath or Declaration Remotely.

Julian Castro Ortiz

Julian Castro Ortiz (May. 12, 2025.17:51.CDT)
 Commissioner for Taking Affidavits
 Julian Castro Ortiz
 Barrister and Solicitor LSO #77258V


Rosell Kerr (May. 12, 2025.18:44.EDT)
 Rosell Kerr
 Signature of the Deponent

This is **Exhibit “A”** mentioned and referred to in the

Affidavit of Rosell Kerr

Affirmed this 12th day of May 2025

Julian Castro Ortiz

Julian Castro Ortiz (May 12, 2025 17:51 CDT)

.....
A Commissioner for Taking Affidavit

Betty's Law Office Professional Corporation

2300 Yonge Street
Suite 1600
Toronto, ON M4P 1E4
Phone: 416-972-9472

INVOICE

Harry Sherman Crowe Housing Co-operative
51 The Chimneystack Road
North York, M3J 3L9

Date: 03/01/2023

Attention: Harry Sherman Crowe Housing Co-operative

Invoice #: 1123

File #: 21-1015

Our Fee Herein

Date	LWR	Description	Hours	Rate	Amount
01/24/2023	CB	discussions Rosell, Discussions mortgage company re second mortgage, discussions Cheryl re grant applications, communications with York communications with Javon	1.05	\$500.00	\$525.00
01/27/2023	CB	Email- discussion in relation to Costs for an appointed receiver	0.03	\$500.00	\$16.67
01/27/2023	CB	Discussion lawyers City of Toronto. Discussion Management company re info required. Preparation and research for cross examinations	2.15	\$500.00	\$1,075.00
01/27/2023	CB	Cousnel Meeting	0.75	\$500.00	\$375.00
01/30/2023	CB	Meeting with Auditors, Board and Accountant	1.42	\$500.00	\$708.33
02/02/2023	CB	Preparation for Cross Examination Review of documents and questions in preparation for cr ex on Julie Western Set and Suzana Lama	4.95	\$500.00	\$2,475.00
02/03/2023	CB	Cross Examinations Cross Examination on Julie Western Set Affidavit and examination of Suzane Lama as a Witness before a Court Hearing	4.75	\$500.00	\$2,375.00
02/09/2023	CB	Counsel Meeting with Mark Siboni Further discussion whether the City was minded to appoint an independent financial advisor for the co-op	0.75	\$500.00	\$375.00
02/16/2023	CB	review of affadavit . Review of audited statements. Review of Insolvency laws. Draft organizing of factum. Discussions Javon. Discussions Rosell	3.20	\$500.00	\$1,600.00
02/17/2023	CB	Continued prep for fact. Discussions John Leslie re legal help. Review of draft audit. Discussions Javon and Rosell	2.95	\$500.00	\$1,475.00
02/22/2023	CB	Meeting with Auditors Discussion on the draft Audited Report to get clarity on the deficit and entries	1.00	\$500.00	\$500.00
02/23/2023	CB	Teleconference with Rosell Kerr	1.00	\$500.00	\$500.00

Betty's Law Office Professional Corporation

2300 Yonge Street
Suite 1600
Toronto, ON M4P 1E4
Phone: 416-972-9472

CB had discussions to receive some instructions in relation to a proposal for settlement to enter a consent order.

02/24/2023	CB	Counsel Meeting- City of Toronto v HSC Discussions in relation to a proposed settlement for a receiver with a prescribed role and collaboration with the Co-op	0.50	\$500.00	\$250.00
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02/24/2023	CB	Counsel Meeting- Maple Property Management v HSC Discussion in relation to a potential settlement and request for ext. of time to file a Defence	0.50	\$500.00	\$250.00
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For professional services rendered	25.00	\$12,500.00
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HST	\$1,625.00
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Invoice Amount	\$14,125.00
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Balance Due	\$14,125.00
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Retainer Balance (as of 03/14/2023)	\$10,000.00
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HST# Total HST \$1,625.00

Transactions since last invoice

Date	Ref#	Account	Payee	Deposit	Withdrawal
02/02/2023	DEPOSIT	Trust Acct	Harry Sherman Crowe Housing Co-operative	\$8,380.84	
02/14/2023	WW155	Trust Acct	Betty's Law Office Professional Corporation		\$8,380.84

Betty's Law Office Professional Corporation

2300 Yonge Street
Suite 1600
Toronto, ON M4P 1E4
Phone: 416-972-9472

INVOICE

Harry Sherman Crowe Housing Co-operative
51 The Chimneystack Road
North York, M3J 3L9

Date: 03/14/2023

Attention: Harry Sherman Crowe Housing Co-operative

Invoice #: 1124

File #: 21-1015

Our Fee Herein

Date	LWR	Description	Hours	Rate	Amount
03/05/2023	CB	review of Consent order. Numerous issues. Spoke to Javon Cheryl re next steps. Draft response and preparation of stragy	1.80	\$500.00	\$900.00
03/06/2023	CB	Review of Statement of Claim and Finalization of Defence & CounterClaim- Maple Property	1.83	\$500.00	\$916.67
03/07/2023	CB	Communication from the City. Reviewed and response. Communications Chair, Devon prep for hearing.	3.10	\$500.00	\$1,550.00
03/08/2023	CB	Counsel Meeting- City of Toronto v HSC Had discussion in relation to some changes and issues in the draft consent order	0.75	\$500.00	\$375.00
03/08/2023	CB	discussions Meetings and preparation for hearing Settlement discussions with City of Toronto	3.40	\$500.00	\$1,700.00
03/10/2023	CB	Review of materials and prep for hearing	4.20	\$500.00	\$2,100.00
03/10/2023	TW	Review of Receivership Application, Applicant Factum and Drafting of Respondent Factum	3.42	\$150.00	\$512.50
03/11/2023	CB	Communications with Board. Preparation of Factum.	3.90	\$500.00	\$1,950.00
03/12/2023	CB	Meeting with Board. discussions re settlement and review of updated documentation	3.30	\$500.00	\$1,650.00
03/13/2023	CB	Counsel Meeting- City of Toronto v HSC Had discussions with Mark Siboni in relation to the proposed terms of the settlement offer	0.50	\$500.00	\$250.00
03/14/2023	CB	Attendance for Virtual Court Hearing Entered consent order to appoint RSM as Receiver	1.50	\$500.00	\$750.00

For professional services rendered **27.70**

\$12,654.17

HST

\$1,645.04

Betty's Law Office Professional Corporation

2300 Yonge Street
Suite 1600
Toronto, ON M4P 1E4
Phone: 416-972-9472

Invoice Amount	<u>\$14,299.21</u>
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Previous Invoices Balance	\$14,125.00
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Balance Due	<u>\$28,424.21</u>
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Retainer Balance (as of 03/14/2023)	\$10,000.00
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HST# Total HST \$1,645.04

Transactions since last invoice

Date	Ref#	Account	Payee	Deposit	Withdrawal
03/06/2023	DEPOSIT	Trust Acct	Harry Sherman Crowe Housing Co-operative	\$13,355.66	
03/08/2023	HY015	Trust Acct	Betty's Law Office Professional Corporation		\$13,355.66
03/14/2023	DEPOSIT	Trust Acct	Harry Sherman Crowe Housing Co-operative	\$10,000.00	

Betty's Law Office Professional Corporation

2300 Yonge Street
Suite 1600
Toronto, ON M4P 1E4
Phone: 416-972-9472

INVOICE

Harry Sherman Crowe Housing Co-operative
51 The Chimneystack Road
North York, M3J 3L9

Date: 05/01/2024

Attention: Harry Sherman Crowe Housing Co-operative

Invoice #: 1247

File #: 21-1015

Our Fee Herein

Date	LWR	Description	Hours	Rate	Amount
03/25/2024	CB	Virtual Hearing: Motion of the Receiver filed on March 19, 2024 Matter was rescheduled based on consent	0.50	\$500.00	\$250.00
03/25/2024	TW	Prepared Hearing Request Form to schedule matter for 29 April 24 Prepared hearing request form, communicated with counsel for the Receiver and the City to seek consent to adjourn the matter to April 29, 2024. Communicated with Court to bring the form to the attention of Justice Penny	1.00	\$150.00	\$150.00
04/10/2024	JC	Review of Motion Record filed by Receiver and several email exchanges with Rosell Kerr to draft Affidavit	3.00	\$325.00	\$975.00
04/11/2024	CB	Review and analysis of Motion Record filed by the Receiver to commence drafting Affidavit of Rosell Kerr	1.25	\$500.00	\$625.00
04/15/2024	CB	Meeting with Rosell Kerr to review and discuss Affidavit in response to Receiver Motion	0.50	\$500.00	\$250.00
04/16/2024	TW	Telephone discussion with Rosell Kerr in relation to Affidavit	0.25	\$150.00	\$37.50
04/16/2024	TW	Prepared & filed affidavit of service Served affidavit of Rosell Kerr on Receiver and the City	0.83	\$150.00	\$125.00
04/16/2024	TW	Reviewed, finalized and filed Affidavit of Rosell Kerr Reviewed draft prepared by Julian. Had discussion with CB on the draft. Reviewed all motion records filed by the Receiver, Applicant & Respondent. Had discussion with CB on another approach to redraft the affidavit.	3.70	\$150.00	\$555.00
04/23/2024	CB	Meeting with Rosell Kerr to review and finalize factum	0.75	\$500.00	\$375.00
04/25/2024	TW	Prepared and submitted AOS to file Factum	0.75	\$150.00	\$112.50
04/25/2024	JC	Drafting of Factum in response to Receiver's Motion for fees & disbursements	1.42	\$325.00	\$460.42
04/25/2024	TW	Finalized and submitted Factum to be filed into court	1.00	\$150.00	\$150.00

Betty's Law Office Professional Corporation

2300 Yonge Street
Suite 1600
Toronto, ON M4P 1E4
Phone: 416-972-9472

04/25/2024	CB	Counsel Meeting with Receiver	0.50	\$500.00	\$250.00
04/25/2024	CB	Review and internal discussion of the factum of the receiver	0.75	\$500.00	\$375.00
04/26/2024	CB	Counsel Meeting: Discussion with Mark Siboni	0.25	\$500.00	\$125.00
04/29/2024	CB	Virtual Hearing on motion for fees and disbursements to be approved	1.00	\$650.00	\$650.00

For professional services rendered	17.45	\$5,465.42
HST		\$710.50

Disbursements and Other Charges

Date	LWR	description	Quantity	Rate	Amount
03/22/2023	CB	Filing Fees Filing of Defence and Counterclaim today. HSC vs Maple Property	1	\$77.00	\$77.00

Total additional charges	\$77.00
HST	\$0.00

Invoice Amount	\$6,252.92
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Previous Invoices Balance	\$18,424.21
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Balance Due	\$30,809.08
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Retainer Balance (as of 05/03/2024)	\$0.00
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HST# Total HST \$710.50

Transactions since last invoice

Date	Ref#	Account	Payee	Deposit	Withdrawal
04/16/2023	LR213	Trust Acct	Betty's Law Office Professional Corporation		\$10,000.00

Betty's Law Office Professional Corporation

2300 Yonge Street
Suite 1600
Toronto, ON M4P 1E4
Phone: 416-972-9472

INVOICE

Harry Sherman Crowe Housing Co-operative
51 The Chimneystack Road
North York, M3J 3L9

Date: 05/03/2024

Attention: Harry Sherman Crowe Housing Co-operative

Invoice #: 1251

File #: 21-1015

Disbursements and Other Charges

Date	LWR	description	Quantity	Rate	Amount
02/22/2023	CB	Disbursements for transcripts RE: Victory Verbatim Transcripts for cross examination on Julie Western Set and Suzana Lama Invoices: 512890 & 512521	1	\$2136.50	\$2,136.50
04/27/2023	CB	Disbursement- Consultations services from Dickerson Wright LLP Invoice no.. 1802294	1	\$3290.00	\$3,290.00

Total additional charges **\$5,426.50**

HST **\$705.45**

Invoice Amount **\$6,131.95**

Previous Invoices Balance **\$24,677.13**

Balance Due **\$30,809.08**

Retainer Balance (as of 05/03/2024) **\$0.00**

HST# Total HST \$705.45

CITY OF TORONTO and HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

(Applicant)

(Respondent)

ONTARIO

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

SUPPORTING AFFIDAVIT OF ROSELL KERR

BETTY'S LAW OFFICE

2300 Yonge, Street Suite
1600 Toronto, ON
M4P 1E4

Courtney Betty (LSO # 28347U)

Tel: 416-972-472

Email: betty@bettyslaw.com

tenechia@bettyslaw.com

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

**ONTARIO SUPERIOR COURT OF JUSTICE-
COMMERCIAL LIST**

BETWEEN:

CITY OF TORONTO

Applicant

And

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

Respondent

DRAFT ORDER

THIS MOTION, made by the Respondent, Harry Sherman Crowe Housing Co-operative Inc. (the “Co-operative”), for an order authorizing the disbursement of legal fees incurred by the Co-operative and its legal counsel, Betty’s Law, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Respondent, including the Affidavit of Rosell Kerr sworn May 12, 2025, and on hearing the submissions of counsel for the Co-operative, counsel for the Receiver, and any other counsel present.

1. THIS COURT ORDERS that the Receiver is authorized and directed to pay to the Co-operative’s legal counsel, Betty’s Law Office, the outstanding legal fees and disbursements incurred to date in connection with these proceedings, in the amount of \$30, 809.08 inclusive of HST, from the Co-operative’s [fund, e.g., market reserve or operating fund] held under the Receiver’s administration.
2. THIS COURT ORDERS that any future legal fees and disbursements reasonably incurred by Betty’s Law in the continued representation of the Co-operative shall be submitted to the Receiver for review and paid on a monthly basis, subject to the Receiver’s right to dispute or defer payment pending further direction from the Court.
3. THIS COURT ORDERS that the Receiver shall maintain appropriate records of any such disbursements and include a summary of same in its next report to the Court.

4. THIS COURT ORDERS that service and filing of this Order is hereby abridged and validated so that this motion is properly returnable today and that further service thereof is hereby dispensed with.

5. THIS COURT ORDERS that there shall be no costs of this motion.

Justice of the Superior Court
(Commercial List)

BETWEEN

CITY OF TORONTO and HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

(Applicant)

(Respondent)

ONTARIO

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

DRAFT ORDER

BETTY'S LAW OFFICE
2300 Yonge, Street Suite
1600 Toronto, ON
M4P 1E4
Courtney Betty (LSO # 28347U)
Tel: 416-972-472
Email: betty@bettyslaw.com
tenechia@bettyslaw.com

APPENDIX B

**IN THE MATTER OF THE RECEIVERSHIP OF
HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.
NOTICE AND STATEMENT OF RECEIVER**

(PURSUANT TO SECTION 245(1) AND 246(1) OF THE BANKRUPTCY AND INSOLVENCY ACT)

The receiver gives notice and declares that:

1. On the 14th day of March, 2023, the undersigned RSM Canada Limited was appointed by the Ontario Superior Court of Justice as receiver (the “**Receiver**”) in respect of all of the assets, undertakings and properties of Harry Sherman Crowe Housing Co-Operative Inc. (the “**Co-op**”), that are described below:

<u>Assets</u>	<u>Net Book Value**</u>
Cash	\$ 98,829.12
Prepaid assets	25,859.40
Accounts receivable	480,819.38
Capital assets	<u>9,289,332.98</u>
Total	<u>\$9,894,840.88</u>

** Net book values are those of the Co-op as at March 15, 2023 as provided to the Receiver by the Property Manager of the Co-op.

2. The receivership of the Co-op occurred on March 14, 2023 and RSM Canada Limited was appointed receiver and manager, pursuant to section 85(7) of the Housing Services Act (“**HSA**”).
3. The undersigned became a receiver in respect of the property described above (the “**Property**”) by virtue of being appointed by the Ontario Superior Court of Justice.
4. The undersigned took possession and control of the Property described above on the 15th day of March, 2023.
5. The following information relates to the receivership:
 - a) Address of the Debtor: 51 The Chimneystack Road, North York, Ontario M3J 3L9
 - b) Principal line of business: Social housing co-operative located on the lands of York University.
 - c) A list of creditors, and the amount owed to each creditor, relating to the Property is attached hereto. The attached list of creditors has been compiled by the Receiver based on information available and has not been audited or verified by the Receiver. The fact that persons are receiving this notice or are included on the creditors list does not mean that it has been determined that they are a creditor or that if they are a creditor, that their claim is admitted in the amount set out on that list.
 - d) The Receiver intends on working towards ensuring that the Co-op is compliant with the **HSA**.

e) Contact person for the Receiver:

Caitlin Caradonna
 RSM Canada Limited
 11 King Street West
 Suite 700, PO Box 27
 Toronto, Ontario M5H 4C7
 Telephone: (647) 727-3630
 Facsimile: (647) 730-1345
 E-mail: caitlin.caradonna@rsmcanada.com

Dated at Toronto this 22nd day of March, 2023.

RSM CANADA LIMITED, in its capacity as private Receiver
 of Harry Sherman Crowe Housing Co-Operative Inc. and not
 in its personal or corporate capacity

Per: 

Arif Dhanani, CPA, CA, CIRP, LIT
 Vice-President

**IN THE MATTER OF THE RECEIVERSHIP OF
HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.**

LIST OF CREDITORS

Secured Creditor

Amount

MCAP Financial Corporation	\$ 8,287,007.04
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Other Creditors

Name

Amount

Name	Amount
ACS Mechanicals	\$ 10,389.34
Appliance Canada	10,107.85
AW Plumbing Services	12,972.40
Betty's Law	18,424.21
Cancom Security Inc.	4,350.50
Cintas Canada Limited	1,162.03
City Water International	67.00
Co-Operative Housing Federation of Toronto	9,829.24
Coast Wholesale Appliances Inc.	1,157.11
Enbridge	18,061.13
Epiphany Fire Alarm Security Services Ltd.	2,901.28
Franklin Electric	1,779.75
H&S Building Supplies Ltd.	22,683.38
HD Supply	3,905.64
Helwins Maintenance Services	2,056.60
Home Depot Credit Services	724.08
K Paint Town Services	24.45
Leac Shield	749.22
Lesia Facey	535.50
Miscellaneous Vendor	1,371.00
Precise Park Link	161.19
Royal Roofing & Contracting	7,661.40
Saltcreek Landscaping & Snow Removal Inc.	13,673.00
Sherwin Williams Co.	92.21
Sinai Plumbing Inc.	225,570.60
Sun Out Glass Coating & Tint	1,695.00
Thyssenkrupp Elevator Ltd.	18,353.49
Xerox Canada	1,243.80
XTG Elevators	2,373.00
York University Finance Department	682,205.32
Total	\$ 1,076,280.72


Supplementary mailing list




Office of the Superintendent of Bankruptcy
Canada Revenue Agency
Minister of Finance Bankruptcy and Insolvency Unit

APPENDIX C



TDB Restructuring Limited
Licensed Insolvency Trustee

11 King St. W, Suite 700 
Toronto, ON M5H 4C7

info@tdbadvisory.ca 
416-575-4440 
416-915-6228 

tdbadvisory.ca

IN THE MATTER OF THE RECEIVERSHIP OF
HARRY SHERMAN CROWE HOUSING COOPERATIVE INC.

SUPPLEMENT TO THE FIRST REPORT TO THE COURT OF
TDB RESTRUCTURING LIMITED

APRIL 22, 2024

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

ONTARIO

SUPERIOR COURT OF JUSTICE

(COMMERCIAL LIST)

BETWEEN:

CITY OF TORONTO

Applicant

-and-

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

Respondent

Contents

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2.0	REPLY TO THE KERR AFFIDAVIT.....	1
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2.2	Triggering Events and Financial Stability of the Co-op.....	2
2.3	Market Rent vs. RGI Income and Financial Report	4
2.4	Maintenance and Repairs and Property Management Fees	5
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3.0	CONCLUSION	8

APPENDICES

Notice of Triggering Events	A
Audited Financial Statements.....	B

1.0 INTRODUCTION

1. By order of the Ontario Superior Court of Justice (the “**Court**”) dated March 14, 2023, RSM Canada Limited was appointed receiver and manager (the “**Receiver**”), without security, of all of the assets, undertakings and properties of Harry Sherman Housing Cooperative Inc. (“**HSC**” or the “**Co-op**”) acquired for, or used in relation to a business carried on by HSC, including all proceeds thereof (the “**Appointment Order**”).
2. On March 1, 2024, the Court granted an order substituting the name TDB Restructuring Limited (“**TDB**”) in place of RSM Canada Limited (“**RCL**”) as Receiver.
3. This report (the “**Supplemental Report**”) is a supplement to the first report to the Court of the Receiver dated March 19, 2024 (the “**First Court Report**”) and should be read in conjunction with the First Court Report. Capitalized terms, unless otherwise expressly defined, shall have the meaning set out in the First Court Report.

1.1 Purpose of the Supplemental Report

4. The purpose of the Supplemental Report is to provide the Court with information in reply to the Affidavit of Rosell Kerr sworn April 16, 2024 (the “**Kerr Affidavit**”) and clarify certain matters raised in the Kerr Affidavit.
5. The Receiver notes that the Kerr Affidavit does not expressly indicate whether Ms. Kerr has submitted her evidence on behalf of the Co-op or its board members (the “**Board**”), or in her personal capacity. Significantly, Ms. Kerr does not indicate in the Kerr Affidavit whether she is authorized by the Co-op members or the Board to submit her affidavit and “raise areas of concern” in respect of the relief requested by the Receiver.

2.0 REPLY TO THE KERR AFFIDAVIT

6. The Receiver’s comments with respect to certain of the issues raised in Ms. Kerr’s affidavit are set out below. As preliminary comments, the Receiver:

- a) has not addressed every matter raised by Ms. Kerr and cannot speak: (i) to events that transpired prior to the Receiver's appointment; and (ii) for the City of Toronto (the "**City**");
- b) understands that many, if not all, of the items raised by Ms. Kerr with respect to the City were addressed and at issue in the City's application for the appointment of the Receiver; and,
- c) has not engaged in "extensive audits" of the allegations made by the City, as suggested in paragraph 16 of the Kerr Affidavit, and is not aware of any such "audit".

2.1 Notification of Change of Name

- 7. On February 1, 2024, the name RCL was changed to TDB and, as referred to above, on March 1, 2024, the Court issued an order substituting the name TDB for RCL on all of RCL's ongoing mandates (the "**Omnibus Order**"). Community First Developments Inc. ("**CFDI**"), the property manager engaged by the Receiver, and the licensed insolvency trustees with carriage of this matter have remained the same throughout the receivership administration.
- 8. In paragraph 7 of the Kerr Affidavit, Ms. Kerr comments that the Omnibus Order was obtained without notice or service of any materials. The Receiver is unclear as to whether any issue is taken by Ms. Kerr, the Co-Op or the Board regarding notice of the application for the Omnibus Order, but the Receiver notes that the recitals to the Omnibus Order expressly state that the Application Record was served. The Receiver also notes that service of notice of the Application for the Omnibus Order is not required on stakeholders of the various mandates for which RCL was appointed as their rights or interests are not affected by the Omnibus Order.

2.2 Triggering Events and Financial Stability of the Co-op

- 9. As referred to in paragraph 20 of the Kerr Affidavit, certain triggering events led up to the appointment of the Receiver. These triggering events are identified pursuant to section 83 of the *Housing Services Act 2011* (the "**Act**") and summarized in the City's letter to the Co-op dated March 29, 2021 (the "**Notice of Triggering Events**"). A

copy of the Notice of Triggering Events is attached hereto as **Appendix “A”**. To summarize, the triggering events identified include:

- a) Contravening the Act or regulations by failing to comply with s. 75(1) of the Act to operate the housing project and govern itself in accordance with prescribed provincial requirements and local standards made by the Service Manager¹ and by failing to comply with s. 69(2) of the Act to ensure the project is well managed; and
 - b) Failing to operate the designated housing project properly.
10. The underlying issues giving rise to the triggering events leading up to the appointment of the Receiver, and the consequences arising therefrom, continue to be addressed by the Receiver, including the following items:
- a) CFDI is continuing to work with Rent-Geared-to-Income (“**RGI**”) households to obtain missing information in their files, which information was missing from prior to the Receiver’s appointment and continues to be outstanding notwithstanding repeated attempts by CFDI to obtain same;
 - b) as set out in the Kerr Affidavit, the number of RGI households required to be maintained by the Co-op is 90. The number of RGI units currently maintained by the Co-op is below the required threshold and the Receiver and CFDI are attempting to increase the number of RGI households as units within the Co-op are vacated over time by households paying market rent;
 - c) prior to the Receiver’s appointment, the Board filled vacated units with market rent households instead of RGI households, notwithstanding the City’s requirements, and either did not provide the City with accurate reporting or any reporting at all. As a result, the City provided a level of subsidy based on the misreported or historical number of RGI households, which subsidy levels exceeded warranted amounts. On the basis that the Receiver has now provided the City with audited financial statements and annual information reports for the years ended June 30, 2022 and 2023, the City has advised that it intends to

¹ The Service Manager under the Act is the City of Toronto

recoup the excess subsidies paid historically by reducing its monthly subsidy on a go forward basis. The Receiver is now managing the costs of operating the Co-op with a lower monthly subsidy from the City; and

- d) as described in the First Court Report, there are several capital projects that have been approved and partially funded by the City, which need to be completed by the Receiver.
11. In paragraph 20, the Kerr Affidavit states that the Receiver has invested \$431,250.00 in term deposits and that this is evidence that the Co-op is financially stable. At paragraphs 21 and 23 of the First Court Report and note 1 to the Receiver's statement of receipts and disbursements, the Receiver has explained that these funds have been advanced by the City for the specific purpose of completing capital projects approved by the City. The Receiver has invested the funds in a guaranteed investment certificate to: (i) earn a better rate of interest on the funds; and (ii) segregate the funds from general operating funds so that they are not unintentionally used for a purpose other than for what they have been specifically provided. The Receiver is uncertain as to whether Ms. Kerr has mistakenly understood that these funds are for general use. The financial stability of the Co-op is further discussed below.

2.3 Market Rent vs. RGI Income and Financial Report

12. As a preliminary matter, in paragraphs 21, 22 and 29 of the Kerr Affidavit, reference is made to the Receiver's "annual financial statements" or "annual financial report". To be clear, the Receiver has not provided financial statements or any form of annual financial report. The Receiver has provided quarterly reports and an annual report in accordance with its duties under the Appointment Order. The Receiver's report sets out the Receiver's activities, relevant information for the Court, the Receiver's interim statement of cash receipts and disbursements and fees to January 31, 2024 and seeks approval of the Court for same. The Receiver's interim statement of cash receipts and disbursements does not constitute a financial statement or financial report.
13. The Kerr Affidavit states at paragraph 22 that "the Board inquired from the Receiver answers in relation to the distinction between RGI income and market income. To date the Board have not received any clarification or breakdown from the Receiver."

The Receiver has no knowledge of any such request from Ms. Kerr or the Board to which she refers. Without any particulars as to the date and form in which these requests are alleged to have been made, the Receiver is unable to comment further.

14. In the Kerr Affidavit, at paragraph 25, Ms. Kerr has asked for a breakdown of, among other things, the subsidy paid by the City for the Receiver's fees. Paragraph 5 of the affidavit of Arif Dhanani states that the Receiver's fees and disbursements plus HST have been subsidized by the City of Toronto. To be clear, the full amount of the Receiver's fees, disbursements and HST associated therewith have been funded by the City and have not been paid from any subsidies intended for the housing project or in respect of RGI subsidies.
15. In order to be helpful and provide Ms. Kerr with financial information that she may be traditionally familiar with, the Receiver has attached hereto as **Appendix "B"**, the annual audited financial statements of the Co-op for the year ended June 30, 2023. The Receiver notes that:
 - a) although its financial position as at June 30, 2023 has improved slightly from June 30, 2022, the Co-op continues to be insolvent; and
 - b) the amount of the government subsidy (re)payable to the City has increased from the prior year. The Receiver believes that the subsidy (re)payable to the City may be even greater as at June 30, 2024 as a result of the full impact of the issue raised in 10 (c) above.

2.4 Maintenance and Repairs and Property Management Fees

16. In paragraph 27 of the Kerr Affidavit, Ms. Kerr sets out that repairs and maintenance costs reported by the Board's maintenance staff in 2022 were \$53,736 and that the forecast for 2023 was \$174,111; however, the audited financial statements set out that repairs and maintenance costs were actually much higher: (i) \$714,250 for the year ended June 30, 2022; (ii) \$658,319 for the year ended June 30, 2023; and (iii) the budgeted amount for repairs and maintenance costs for the year ended June 30, 2023 was \$440,586.

17. Property management fees have increased significantly on the basis that the Receiver engaged CFDI after evaluating the qualifications and performance of the property managers engaged by the Board following the Receiver's appointment. CFDI is a reputable property manager with a history of managing large properties and is well known in the non-profit and social housing sector, having a separate accounting department with appropriate internal controls and segregation of duties.
18. The Receiver's comments, observations and evaluation based on the Board's oversight of both the books and records of the Co-op, and the Co-op's property managers engaged prior to and at the time of the Receiver's appointment and CFDI's discussions with various residents after its engagement by the Receiver is set out below:
 - a) the property managers engaged by the Co-op at the time of the Receiver's appointment were two individuals;
 - b) there was no segregation of duties and one of the property managers was also completing the Co-op's accounting; however, this individual had no formal accounting accreditation or experience and the other individual did not appear to have any qualifications at all;
 - c) both property managers failed the Ontario Non-Profit Housing Association's RGI administration course, the successful completion of which is mandatory for all new RGI administrators in the City of Toronto regardless of whether new administrators have completed any previous training on RGI administration/simplification;
 - d) among other things, the books and records of the Co-op were in disarray, bank reconciliations had not been completed in several months until the Receiver requested that they be brought up to date and the Co-op's HST rebate claims had been rejected by Canada Revenue Agency on the basis that they were incorrectly filed;
 - e) the Co-op's former auditor advised that the June 30, 2022 financial statements had not been completed as there was missing information and outstanding questions that had not been answered by either the Board or the accounting/property management staff;

- f) the Receiver came to later learn from CFDI, based on resident complaints and work orders submitted, that a significant number of units, the common elements, and the building systems, had been neglected and that residents were suffering, among other things, from: (i) very significant pest control issues; (ii) severe plumbing issues; (iii) rotting kitchen and bathroom cabinets and raised flooring (as a result of leaks and flooding from the plumbing issues); and (iv) allergies from mould accumulation; and
 - g) a significant number of residents complained to CFDI about the above issues and that the issues were raised with the prior property managers and the Board and that nothing had been done about them.
19. The Receiver is of the view that the condition of the Property suffered from a lack of appropriate repairs and maintenance and as such, the present increase in property management fees and repair and maintenance fees, is appropriate and necessary. In addition, the Receiver recommends that its appointment continue until, among other things, the Property is brought back to an appropriate standard and condition, which includes the work described in the First Court Report.

2.5 Professional Fees and Disbursements

20. While the Kerr Affidavit sets out Ms. Kerr's opinion in paragraph 31 that the Receiver's average hourly rate of \$435.85 is excessive, based on the fee affidavits submitted by many of the Receiver's competitors in other insolvency proceedings, the Receiver's hourly rate in respect of this mandate is below market and was discounted to consider the nature of this particular engagement.
21. The webpage that Ms. Kerr refers to in paragraph 31 of her affidavit as something that "already existed" is misconstrued. The Receiver, as is standard practice in court-appointed receivership matters, is expected to create a case website in respect of these particular proceedings. The website referred to in the Receiver's invoices is the Receiver's website and the specific webpage referred to in the Receiver's invoices was set up in accordance with the Court's e-Service Protocol.
22. While the Receiver is surprised that it is required to provide this context, given the allegation made in the Kerr Affidavit at paragraph 32, it appears necessary. Mr.

Tannenbaum is the Receiver's senior restructuring partner and has significant experience with receivership administrations in the non-profit and social housing sector. While there are numerous comments about Mr. Tannenbaum's involvement with the file, including signing cheques and making electronic payments, it should be noted that the Receiver is a court-officer and a fiduciary and that it is responsible and accountable for the funds entrusted to it. The act of "signing cheques" involves Mr. Tannenbaum's review and approval of all disbursements from the Co-op's operating account and the Receiver's trust account, all of which are critical to ensuring that every disbursement made is appropriate and accurate. No one in the Receiver's office, other than a licensed insolvency trustee, has the ability or authority to sign cheques or make electronic payments. The approval and disbursement of trust funds is not an "administrative" task but is an important function reserved to be completed by a licensed insolvency trustee.

3.0 CONCLUSION

23. Based on the foregoing, the Receiver respectfully requests that the Court grant the order requested in the First Court Report.

All of which is respectfully submitted to this Court as of this 22nd day of April 2024.

TDB RESTRUCTURING LIMITED, solely in its capacity
as Receiver and Manager of Harry Sherman Crowe Housing
Cooperative Inc. and not in its personal or corporate capacity

Per:



Arif Dhanani, CPA, CA, CIRP, LIT
Managing Director

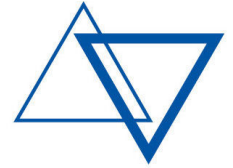
APPENDIX D

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

FINANCIAL STATEMENTS

JUNE 30, 2023

22 Stancroft Drive, Richmond Hill, Ontario L4C 4N1
Tel: 905 884-6320 Fax: 905 884-6346
Email: andrew.vahrmeyer@outlook.com



INDEPENDENT AUDITOR'S REPORT

To RSM Canada Limited, solely in its capacity as court appointed receiver and manager of Harry Sherman Crowe Housing Co-operative Inc. and the City of Toronto

Disclaimer of Opinion

We were engaged to audit the accompanying financial statements of Harry Sherman Crowe Housing Co-operative Inc. (the "Co-operative"), which comprise the balance sheet as at June 30, 2023 and the statements of revenues, expenditures and accumulated deficit, and cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

We do not express an opinion on the accompanying financial statements of the Co-operative. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of our report, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

Basis for Disclaimer of Opinion

Management was unable to provide certain written representations required by Canadian Auditing Standards Section 580, Written Representations, pertaining to the period prior to the Receiver's appointment on March 14, 2023. These representations include, but are not limited to, management's responsibility for preparing the financial statements in conformity with the Co-operative's financial reporting framework, providing all relevant information and access as agreed in the terms of the audit engagement, representing that all transactions have been recorded and are reflected in the financial statements, management's responsibility for the Co-operative's compliance with laws, regulations, and contractual obligations, and the presence or absence of fraud or suspected fraud.

Material Uncertainty Related to Going Concern

We draw attention to Note 1 in the financial statements which indicates that the Co-operative has an accumulated deficit of \$130,405 as at June 30, 2023 and a replacement reserve fund balance of \$Nil. As stated in Note 1, these events or conditions, along with other matters as set forth in Note 1, indicate that a material uncertainty exists that may cast significant doubt about the Co-operative's ability to continue as a going concern. Our disclaimer of opinion is not modified in respect of this matter.

Emphasis of Matter - Basis of Accounting and Restriction on Distribution and Use

We draw attention to Note 2 to the financial statements, which describes the basis of accounting. The financial statements are prepared to assist the Co-operative to comply with the financial reporting provisions of the HSA. As a result, the financial statements may not be suitable for another purpose. Our report is intended solely for the Co-operative and the City of Toronto and should not be distributed to or used by parties other than the Co-operative or the City of Toronto. Our disclaimer of opinion is not modified in respect of this matter.

Other Matter

The financial statements for the year ended June 30, 2022 were audited by another auditor who included a disclaimer of opinion on those financial statements on October 17, 2022 for the reasons described in the Basis for Disclaimer of Opinion section.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with the financial reporting provisions of the HSA, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Co-operative's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless management either intends to liquidate the Co-operative or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Co-operative's financial reporting process.

Auditor's Responsibilities for the Audit of the Financial Statements

Our responsibility is to conduct an audit of the Co-operative's financial statements in accordance with Canadian generally accepted auditing standards and to issue an auditor's report. However, because of the matters described in the Basis for Disclaimer of Opinion section of our report, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

We are independent of the Co-operative in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements.



Andrew T. Vahrmeyer Professional Corporation

Authorized to practice public accounting by the
Chartered Professional Accountants of Ontario

Richmond Hill, Ontario
December 20, 2023

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

BALANCE SHEET

AS AT JUNE 30, 2023

	2023	2022
ASSETS		
Current		
Cash	\$ 218,321	\$ 112,002
Short term investments (Note 3)	162,404	160,803
Members' receivable (net of allowance 2023 - \$6,412, 2022 - \$6,412)	30,241	43,486
HST rebate receivable	226,217	140,490
Government subsidy receivable	169,532	128,190
Other accounts receivable	26,154	3,547
Prepaid expenses	<u>94</u>	<u>28,311</u>
	832,963	616,829
Tangible capital assets (Note 5)	<u>7,020,514</u>	<u>8,191,884</u>
	<u>\$ 7,853,477</u>	<u>\$ 8,808,713</u>
LIABILITIES, RESERVE FUNDS AND ACCUMULATED DEFICIT		
Current		
Accounts payable and accrued liabilities (Note 7)	\$ 363,413	\$ 777,302
Members' rent deposits	124,786	117,771
Accrued mortgage payment	135,089	135,089
Government subsidy payable	292,119	153,238
HST payable	2,795	362
Deferred housing charge revenue	34,841	72,812
Current portion of mortgage payable (Note 6)	<u>1,240,946</u>	<u>1,171,370</u>
	2,193,989	2,427,944
Mortgage payable, net of current portion (Note 6)	<u>5,779,568</u>	<u>7,020,514</u>
	7,973,557	9,448,458
Replacement reserve fund (Note 8)	-	-
Contributed surplus	10,325	10,325
Accumulated deficit	<u>(130,405)</u>	<u>(650,070)</u>
	<u>\$ 7,853,477</u>	<u>\$ 8,808,713</u>

See accompanying notes to financial statements.

Approved by: RSM Canada Limited, solely in its capacity as court-appointed receiver and manager of Harry Sherman Crowe Housing Co-operative Inc., and not in its personal or corporate capacity



HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

STATEMENT OF REVENUES, EXPENDITURES AND ACCUMULATED SURPLUS

FOR THE YEAR ENDED JUNE 30, 2023

	2023 ACTUAL	2023 BUDGET	2022 ACTUAL
	(Note 13)		
Revenues			
Housing charges:			
Market	\$ 1,247,563	\$ 1,101,216	\$ 1,157,807
Rent geared to income	315,887	1,189,740	322,290
Utility charges	29,424	-	29,394
City of Toronto subsidy (Note 9):			
Original estimate	1,766,216	693,682	1,538,280
Year end reconciliation	(102,407)	-	(100,255)
Parking	99,690	100,761	86,132
Laundry	23,460	10,000	20,766
Investment income (loss)	2,175	-	(10,047)
Other	17,676	2,299	1,393
Recovery upon receivership - 2023 expenditures (Note 10)	<u>457,653</u>	<u>-</u>	<u>-</u>
	<u>3,857,337</u>	<u>3,097,698</u>	<u>3,045,760</u>
Expenditures			
Administrative overhead (Schedule 1)	486,066	187,358	270,715
Amortization of tangible capital assets	1,159,656	907,869	1,086,455
Bad debts (recovery)	2,232	3,000	(1,538)
Insurance	112,902	80,000	101,429
Repairs and maintenance (Schedule 2)	658,319	440,586	714,250
Mortgage interest	445,202	713,201	518,403
Municipal taxes	186,843	168,600	178,891
Utilities (Schedule 3)	474,162	443,000	436,960
Allocation to replacement reserve fund	<u>109,583</u>	<u>120,000</u>	<u>105,663</u>
	<u>3,634,965</u>	<u>3,063,614</u>	<u>3,411,228</u>
Shelter excess (deficiency) of revenues over expenditures before undernoted	222,372	\$ 34,084	(365,468)
Sector support (Schedule 4)	<u>7,219</u>	<u>23,568</u>	<u>7,369</u>
Excess (deficiency) of revenues over expenditures before undernoted	229,591	\$ 57,652	(358,099)
Recovery upon receivership - 2022 expenditures (Note 10)	<u>326,548</u>	<u>-</u>	<u>-</u>
Excess (deficiency) of revenues over expenditures	556,139	<u>\$ 57,652</u>	(358,099)
City prior period reconciliation adjustment (Note 11)	(36,474)		-
Accumulated deficit, beginning of year	<u>(650,070)</u>		<u>(291,971)</u>
Accumulated deficit, end of year	<u>\$ (130,405)</u>		<u>\$ (650,070)</u>

See accompanying notes to financial statements.

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED JUNE 30, 2023

	2023	2022
Cash provided by (used in)		
Operating activities		
Excess (deficiency) of revenues over expenditures	\$ 556,139	\$ (358,099)
City of Toronto prior period reconciliation adjustment	(36,474)	-
Non-cash items		
Amortization of tangible capital assets	1,171,370	1,097,450
Allocation to replacement reserve fund	<u>109,583</u>	<u>105,663</u>
	1,800,618	845,014
Net changes in		
Members' receivable	13,245	(22,593)
HST rebate receivable	(85,727)	(31,920)
Government subsidy receivable	(41,342)	540
Other accounts receivable	(22,607)	(2,063)
Prepaid expenses	28,217	8,083
Accounts payable and accrued liabilities	(413,889)	354,954
Members' rent deposits	7,015	(4,791)
Deferred housing charge revenue	(37,971)	40,871
Government subsidy payable	138,881	98,578
HST payable	<u>2,433</u>	<u>(1,367)</u>
	<u>1,388,873</u>	<u>1,285,306</u>
Financing activities		
Repayment of mortgage payable	<u>(1,171,370)</u>	<u>(1,097,450)</u>
Investing activities		
Expenditures from replacement reserve fund	(110,990)	(105,663)
Change in short-term investments	(1,601)	10,047
Investment income on replacement reserve funds	<u>1,407</u>	<u>-</u>
	<u>(111,184)</u>	<u>(95,616)</u>
Increase in unrestricted cash	106,319	92,240
Unrestricted cash, beginning of year	<u>112,002</u>	<u>19,762</u>
Unrestricted cash, end of year	<u>\$ 218,321</u>	<u>\$ 112,002</u>

See accompanying notes to financial statements.

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2023

NATURE OF ORGANIZATION

Harry Sherman Crowe Housing Co-operative Inc. (the "Co-operative") was incorporated under the Co-operative Corporations Act on September 29, 1988, as a corporation without share capital to provide subsidized housing. The Co-operative became fully operational on its interest adjustment date of July 1, 1993. A board of directors is elected from the Co-operative's membership which is made up of residents.

The Co-operative is exempt from tax under section 149(1)(l) of the Income Tax Act as a corporation operating exclusively for social welfare. No portion of the Co-operative's income is available for the personal benefit of any member.

On March 14, 2023, RSM Canada Limited was appointed as receiver and manager of the Co-operative as per a court order of the Ontario Superior Court of Justice.

1. GOING CONCERN

While the financial statements have been prepared on the basis of accounting principles applicable to a going concern, several adverse conditions and events cast some doubt upon the validity of this assumption. As at June 30, 2023, the Co-operative has an accumulated deficit of \$130,405, a replacement reserve fund equity balance of \$Nil, and a working capital deficiency. If not for the recovery upon the appointment of the receiver (Note 10), the Co-operative would have incurred an operating loss for the year. The Co-operative is in need of significant capital and operating repairs, which will require external sources of financing in order to fund. There is no guarantee that the Co-operative will receive additional subsidies or other funding from the City of Toronto.

The Co-operative's continued existence is dependent upon its ability to eliminate its accumulated deficit and meet current and future obligations. In addition, refer to Note 14 regarding the Co-operative's reliance on significant government subsidies.

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2023

2. SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting

These financial statements have been prepared in accordance with the significant accounting policies set out below to comply with the financial reporting framework prescribed by the Housing Services Act (the "HSA") and guidelines provided by the City of Toronto (the "City"). This framework, used in these financial statements, is in accordance with Canadian Accounting Standards for Not-For-Profit Organizations, subject to the following material exceptions:

- (i) Amortization of tangible capital assets includes amortization of the leasehold interest in land and is equal to the principal repaid on the related mortgage, rather than over the useful lives of the related assets. In determining mortgage principal repaid, an accrual is made for the amount of mortgage principal to be repaid on the first day following the Co-operative's year end;
- (ii) Capital assets funded by grant funding are amortized over the period in which the Co-operative meets the conditions of the grant agreement or at the time of repayment of the grant funding, rather than amortized over their estimated useful lives;
- (iii) The replacement reserve is funded by annual appropriations from operations based on amounts approved by the City of Toronto;
- (iv) Capital expenditures, unless otherwise funded by debt or grant funding, are expensed in the year of acquisition to the replacement reserve fund or to the statement of revenues, expenditures and accumulated surplus rather than capitalized and amortized over their estimated useful lives; and
- (v) Investment income earned on the restricted cash and investments of the replacement reserve fund is credited directly to the reserve fund rather than operations.

Financial Instruments

The Co-operative initially measures all of its financial assets and liabilities at fair value. Subsequently, all financial assets and financial liabilities are measured at amortized cost, except for investments in equity instruments that are quoted in an active market, which are measured at fair value. Changes in fair value are recognized on the statement of revenues, expenditures and accumulated surplus in the period incurred, except for changes to replacement reserve fund investments, which are recognized directly to the reserve fund.

Replacement Reserve Fund

The Co-operative is required to maintain a replacement reserve fund for the purpose of funding major asset repairs and replacement. This replacement reserve fund is funded by an annual charge to operations.

Cash and investments of the replacement reserve fund are externally restricted and can only be used for major asset repairs and replacement.

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2023

2. SIGNIFICANT ACCOUNTING POLICIES - continued

Tangible Capital Assets

Tangible capital assets are comprised of the leasehold interest in land and building shelter costs and equipment as they existed at the interest adjustment date per the Certified Audited Statement of Final Capital Costs. Subsequent purchases of tangible capital assets, unless otherwise funded by debt or grant funding, are expensed or charged to the replacement reserve fund in the year acquired.

Revenue Recognition

Housing and utility charges are recognized at the beginning of each month, when they are due.

Government subsidies from the City of Toronto are recorded using the deferral method of accounting for contributions.

Laundry machines are provided by a third party. Laundry revenue is recognized when collected which occurs on a monthly basis.

Parking revenue is recognized on an accrual basis corresponding with the period during which the right to use the space is provided.

Sector support revenues are collected with housing charges and are recognized at the beginning of each month, when they are due.

All other income is reported on an accrual basis as it is earned.

Use of Estimates

The preparation of financial statements requires management to make assumptions about future events that effect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Key components of the financial statements requiring management to make estimates include the provision for doubtful accounts in respect of receivables. Actual results could differ from these estimates.

3. SHORT-TERM INVESTMENTS

As at June 30, 2023, short-term investments consist of \$162,404 (2022 - \$160,803) invested in the Encasa Canadian short-term bond fund distributed by Worldsource Financial Management Inc.

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2023

4. FINANCIAL INSTRUMENTS

The significant financial risks to which the Co-operative is exposed are credit risk, market risk, and liquidity risk.

Credit risk

Credit risk is the risk of financial loss should a counter-party in a transaction fail to meet its obligations. The Co-operative has exposure to credit risk to the extent that some members may fall into housing charge arrears. To manage this risk, member arrears are reviewed on a monthly basis. Further, member deposits are taken, in order to reduce credit exposure.

Market risk - consisting of price and interest rate risk

Market risk is the risk of potential financial loss caused by fluctuations in the fair value of future cash flow of financial instruments due to changes in market conditions. The Co-operative has exposure to price and interest rate risk in that investments in debt and equity instruments may fluctuate based on changes in market prices (caused by other than interest rates) and interest rate fluctuations. The Co-operative does not engage in any hedging or derivative transactions to manage market risk.

As the City subsidy funding fully contributes towards the cost of mortgage payments, the Co-operative is not exposed to interest rate risk on its mortgage.

Liquidity risk

Liquidity risk is the risk that the Co-operative encounters difficulty in meeting its financial obligations as they come due. The Co-operative's objective is to maintain a sufficient level of working capital in order to ensure it always has cash available to meet these obligations. The Co-operative's most significant short term liabilities include accounts payable and accrued liabilities, members' rent deposits, the accrued mortgage payment, and government subsidy payable.

As the City subsidy funding fully contributes towards the cost of mortgage payments, the Co-operative is not exposed to significant liquidity risk on the current portion of its mortgage.

5. TANGIBLE CAPITAL ASSETS

	2023	2022
Leasehold interest and buildings	\$ 23,572,561	\$ 23,572,561
Less: accumulated amortization	<u>16,552,047</u>	<u>15,380,677</u>
Net book value	<u>\$ 7,020,514</u>	<u>\$ 8,191,884</u>

The Co-operative housing was constructed on land leased from York University. The term of lease is 45 years, effective January 31, 1992. The entire lease payment of \$3,533,000 was paid up front and is reflected in the leasehold interest and buildings.

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2023

6. MORTGAGE

	2023	2022
First mortgage - fully insured by Canada Mortgage and Housing Corporation under section 6 of the National Housing Act, payable in blended monthly payments of \$135,089, with interest at 5.94%, maturing July 1, 2028	\$ 7,020,514	\$ 8,191,884
Less: current portion	<u>1,240,946</u>	<u>1,171,370</u>
	<u>\$ 5,779,568</u>	<u>\$ 7,020,514</u>

The principal to be paid over the next five fiscal years is as follows:

2024	\$ 1,240,946
2025	1,316,789
2026	1,396,168
2027	1,480,332
2028	1,569,458

7. PROPERTY TAXES PAYABLE

Included in accounts payable and accrued liabilities are property taxes owing to York University of \$171,875 as of June 30, 2023, which were dated prior to the receivership appointment order on March 14, 2023 (Note 10). These property taxes were paid by York University to the City of Toronto and subsequently charged back to the Co-operative by York University.

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2023

8. REPLACEMENT RESERVE FUND

	2023	2022
Balance, beginning of year	\$ -	\$ -
Allocation from operations	109,583	105,663
Expenditures	(110,990)	(105,663)
Investment income	<u>1,407</u>	<u>-</u>
Balance, end of year	<u>\$ -</u>	<u>\$ -</u>

Replacement reserve fund expenditures consist of the following:

	2023	2022
Unit repair and retrofit	\$ 246,422	\$ 105,663
Community room renovation	56,395	-
Appliances	14,866	-
Recovery upon receivership (Note 10)	<u>(206,693)</u>	<u>-</u>
	<u>\$ 110,990</u>	<u>\$ 105,663</u>

9. CITY OF TORONTO SUBSIDY

	2023	2022
Operating subsidy	\$ 586,544	\$ 496,864
RGI subsidy	667,886	762,270
Property tax subsidy	186,843	178,891
Additional subsidy to address cash flow issues	130,000	-
Additional subsidy to fund receiver fees	<u>92,536</u>	<u>-</u>
	<u>\$ 1,663,809</u>	<u>\$ 1,438,025</u>

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2023

10. RECOVERY UPON RECEIVERSHIP AND CONTINGENT LIABILITIES

Included in the receivership appointment order dated March 14, 2023, issued by the Ontario Superior Court of Justice (the "Court"), are the following court orders:

- (i) no proceeding against or in respect of the Co-operative or the Co-operative's assets and property shall be commenced or continued, except with the written consent of the Receiver or with leave of the Court, and any and all Proceedings currently under way against or in respect of the Co-operative or the Co-operative's assets and property are hereby stayed and suspended pending further order of the Court.
- (ii) all rights and remedies against the Co-operative, the Receiver, or affecting the Co-operative's assets and property, are hereby stayed and suspended, except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the Bankruptcy and Insolvency Act, and further provided that nothing in this paragraph shall: (i) empower the Receiver or the Co-operative to carry on any business which the Co-operative is not lawfully entitled to carry on; (ii) exempt the Receiver or the Co-operative from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

The Receiver is appointed by the Court via an application of the City of Toronto under the Housing Services Act and the Receiver's mandate is not to realize on the property of the Co-operative, but rather to bring the Co-operative back into compliance with the HSA.

As of March 14, 2023, the Co-operative had a significant accumulated deficit and unpaid financial liabilities and there were not sufficient funds for distribution to unsecured creditors. Accordingly, a recovery was recorded to eliminate financial liabilities, which are impacted by the above court orders and for which the Co-operative does not anticipate will be paid.

Additionally, certain legal claims were outstanding against the Co-operative from prior to March 14, 2023 and which are also included in the stay pursuant to the above court orders.

No accrual of costs has been made in these financial statements, with respect to any liabilities which may be realized should the stays be lifted, except for municipal taxes which were originally funded through City of Toronto subsidies, as the outcome is not determinable. Any outstanding liabilities from prior to March 14, 2023 requiring payout will be recorded in the period such payout is determined.

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2023

11. CITY OF TORONTO PRIOR PERIOD RECONCILIATION ADJUSTMENT

The original annual information return ("AIR") submitted with the audited financial statements for the year ended June 30, 2021 was rejected by the City due to the inclusion of RGI units which were not properly selected from the City's centralized waiting list. This original AIR calculated the year end reconciliation amount owing back to the City of \$52,983.

The AIR for the year ended June 30, 2021 was amended and resubmitted on August 14, 2023 with a revised reconciliation amount owing back to the City of \$89,457. The difference of \$36,474 between the original and amended annual information returns is recorded as a prior period adjustment pertaining to 2021.

12. MANAGEMENT CONTRACT

The Co-operative has entered into a property management contract with Community First Developments Inc. ("CFDI") for the period from April 24, 2023 to April 30, 2024. This contract may be cancelled by the Co-operative or CFDI by providing at least 60 days written notice or 30 days in the event of default. The contract fees are based on annual rates of \$429,600 plus HST for management and \$25,680 plus HST for accounting, paid monthly in arrears.

13. BUDGET FIGURES

The comparative budget figures included in the statement of revenues, expenditures and accumulated surplus are unaudited.

14. ECONOMIC DEPENDENCE

The continued, sustained operation of Harry Sherman Crowe Housing Co-operative Inc. is dependent on significant government subsidies. Without this level of support the continued existence of the Co-operative is uncertain.

15. TRANSACTIONS WITH MEMBERS

Approximately 45% (2022 - 53%) of the Co-operative's revenue has been derived from or on behalf of members of the Co-operative.

16. UNIT RENOVATION COSTS

Building and equipment repairs and maintenance expenses include \$137,980 (2022 - \$223,272) of unit renovation costs that would have been charged to the replacement reserve fund based on the requirements of City of Toronto Guideline 2018-5, had sufficient funds been available in the replacement reserve fund.

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.**NOTES TO FINANCIAL STATEMENTS****JUNE 30, 2023**

17. COMPARATIVE FIGURES

Certain of the comparative figures have been reclassified to conform with the current year's presentation.

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC.

SCHEDULES TO STATEMENT OF REVENUES, EXPENDITURES AND ACCUMULATED SURPLUS

FOR THE YEAR ENDED JUNE 30, 2023

	2023 ACTUAL	2023 BUDGET	2022 ACTUAL
(Note 13)			
SCHEDULE 1			
Administrative overhead			
Office and general	\$ 88,025	\$ 33,500	\$ 35,558
Telephone and internet	14,278	15,458	16,619
Management fees	175,644	90,000	130,041
Receiver fees (Note 9)	85,116	-	-
Professional fees	104,417	24,500	64,758
Social and recreation	<u>18,586</u>	<u>23,900</u>	<u>23,739</u>
	\$ 486,066	\$ 187,358	\$ 270,715
SCHEDULE 2			
Repairs and maintenance			
Building and equipment (Note 16)	\$ 371,779	\$ 163,298	\$ 423,490
Elevator	11,225	18,302	22,579
Grounds	64,174	62,715	68,290
Heating and plumbing	125,410	53,353	64,790
Waste removal	57,903	52,705	47,470
Security	<u>27,828</u>	<u>90,213</u>	<u>87,631</u>
	\$ 658,319	\$ 440,586	\$ 714,250
SCHEDULE 3			
Utilities			
Hydro	\$ 195,605	\$ 160,000	\$ 202,800
Gas	94,062	83,000	95,378
Water	<u>184,495</u>	<u>200,000</u>	<u>138,782</u>
	\$ 474,162	\$ 443,000	\$ 436,960
SCHEDULE 4			
Sector support			
Sector support revenue	\$ 23,430	\$ 23,568	\$ 23,580
Sector support amortization	(11,714)	-	(10,995)
Sector support interest	<u>(4,497)</u>	<u>-</u>	<u>(5,216)</u>
	\$ 7,219	\$ 23,568	\$ 7,369

APPENDIX E

**IN THE MATTER OF THE RECEIVERSHIP OF
HARRY SHERMAN CROWE HOUSING COOPERATIVE INC.
RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD MARCH 14, 2023 TO APRIL 30, 2025**

RECEIPTS		<u>Notes</u>
Opening cash on hand	\$ 49,444	
Housing charges and parking	3,694,284	
Government subsidies - operating funds and Receiver's fees	3,730,832	
Government subsidies - capital projects	442,063	1
Laundry and commercial parking	62,654	
HST refund/rebate	453,277	
Interest	37,015	
Insurance refund	855	
Total receipts	\$ 8,470,423	
DISBURSEMENTS		
Mortgage payments	\$ 3,377,227	
Property taxes	466,315	
Repairs and maintenance	907,628	1
Consultants fees - capital projects	15,811	1
Insurance	284,941	
Gas	181,970	
Telephone	31,409	
Water and electricity charges	904,312	
City of Toronto - emergency services	21,064	2
Property management and bookkeeping fees	1,015,598	
Janitorial services, waste removal, landscaping and snow clearing	112,564	
Receiver's fees	387,889	
Audit fees - year end June 30, 2022, 2023 and 2024	47,600	
Legal fees	139,601	
HST/PST paid	432,611	
HST remitted to Canada Revenue Agency	13,253	
Cooperative Housing Federation of Canada/Cooperative Housing Federation of Toronto - membership fees 2023 and 2024	47,904	
Photocopier	9,566	
Change of locks - common areas/units and security services	4,060	
Filing fees, Ascend license, bank charges, expense reimbursements, office supplies, replenishment of petty cash, other	6,819	
Total disbursements	\$ 8,408,141	
Excess of receipts over disbursements	\$ 62,282	

Notes:

1. The Receiver applied to the City of Toronto for capital repairs funding for various projects, including replacement of the roof of the Co-op, modernization of the elevators, replacement of ground lighting, booster pump replacement and replacement of hallway, common area and parking garage lighting. The City of Toronto provided an initial installment of \$431,250 in this regard, which is 30% of the total approved costs for all projects. To date the Receiver has used entire installment paid by the City of Toronto towards the capital projects. The City continues to provide additional funds as invoices for the capital projects are provided to the City and various criteria under the Canada-Ontario Community Housing Initiative Contribution Agreement are fulfilled.
2. Includes charges from the City of Toronto for attending to, among other things, residents trapped in the Co-op's elevators and false fire alarms triggered by residents. Invoices from the City of Toronto for these services were previously included on water and electricity bills invoiced by York University. Since May 2024, the Receiver has requested that invoices for these types of charges from the City of Toronto be forwarded to the Receiver separately and not be included in York University's invoices.

APPENDIX F

Arif Dhanani

From: Mark Siboni <Mark.Siboni@toronto.ca>
Sent: Friday, May 2, 2025 11:54 AM
To: 'Courtney Betty'; 'Philip Cho'
Cc: 'Kelsey Ivory'; Arif Dhanani; 'Tenechia Williams'; Bryan Tannenbaum
Subject: RE: Court File No.: CV-22-00688248-00CL City of Toronto v Harry Sherman Crowe Co-operative

External sender

Good morning Mr. Betty,

Further to our previous discussion, we understand you to be making a request that the funds of the Co-op be accessed to compensate you and your firm for the work being done in connection with this matter.

The City of Toronto, in its capacity as Service Manager, cannot make a decision in respect of this request.

This request has to be presented to the Court by way of formal motion, given that the Co-op is in Receivership. We expect the Court will consider the nature and context of any request made and the basis for it, and any submissions that the Receiver and Service Manager may make once they review the request. They will then determine whether it is appropriate to grant such relief.

Yours truly,

Mark Siboni | Lawyer, Litigation Section
 City of Toronto | Legal Services Division
 Metro Hall, 26th Floor, Stn. 1260 | [55 John Street | Toronto ON | M5V 3C6](#)
 T: [416.392.9786](tel:416.392.9786) | F: [416.397.5624](tel:416.397.5624) | E: mark.siboni@toronto.ca

From: Courtney Betty <betty@bettyslaw.com>
Sent: May 2, 2025 10:16 AM
To: Philip Cho <pcho@weirfoulds.com>
Cc: Mark Siboni <Mark.Siboni@toronto.ca>; Kelsey Ivory <kivory@weirfoulds.com>; Arif Dhanani <adhanani@tdbadvisory.ca>; Tenechia Williams <tenechia@bettyslaw.com>; Bryan Tannenbaum <btannenbaum@tdbadvisory.ca>
Subject: [External Sender] Re: Court File No.: CV-22-00688248-00CL City of Toronto v Harry Sherman Crowe Co-operative

Hi Philip,

Before reviewing I am awaiting a response from Mark in regard to compensation for the work we are doing.

Thanks

From: Philip Cho <pcho@weirfoulds.com>
Date: Thursday, May 1, 2025 at 5:46 PM
To: Courtney Betty <betty@bettyslaw.com>
Cc: Mark Siboni <mark.siboni@toronto.ca>, Kelsey Ivory <kivory@weirfoulds.com>, Arif Dhanani <adhanani@tdbadvisory.ca>, Tenechia Williams <tenechia@bettyslaw.com>, Bryan Tannenbaum

<btannenbaum@tdbadvisory.ca>

Subject: RE: Court File No.: CV-22-00688248-00CL City of Toronto v Harry Sherman Crowe Co-operative

Mr. Betty, we have 45 minutes booked before Justice Kimmel on May 13. You should be receiving the Receiver's Motion Record today by email.

We can discuss your request for an adjournment after you have had a chance to review our Motion Record and the materials.

Thank you.

PHILIP CHO | Partner | T. 416-619-6296 | C. 647-638-7828 | pcho@weirfoulds.com



66 Wellington Street West, Suite 4100, P.O. Box 35, TD Bank Tower, Toronto, Ontario, Canada. M5K 1B7 | T. 416-365-1110 | F. 416-365-1876 | www.weirfoulds.com

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From: Courtney Betty <betty@bettyslaw.com>

Sent: May 1, 2025 3:37 PM

To: Philip Cho <pcho@weirfoulds.com>; Tenechia Williams <tenechia@bettyslaw.com>

Cc: Malika Grewal <mgrewal@weirfoulds.com>; Mark Siboni <mark.siboni@toronto.ca>

Subject: Re: Court File No.: CV-22-00688248-00CL City of Toronto v Harry Sherman Crowe Co-operative

[External Message]

Hi Phillip,

Trust all is well. I am waiting confirmation from Mark regarding our fees for representing the Co-op. Also the Co-op is scheduling an Annual General meeting which will be happening shortly. Based on this I am seeking a delay of the scheduled hearing.

Thanks

From: Courtney Betty <betty@bettyslaw.com>

Date: Friday, April 26, 2024 at 11:50 AM

To: Philip Cho <pcho@weirfoulds.com>, Tenechia Williams <tenechia@bettyslaw.com>

Cc: Malika Grewal <mgrewal@weirfoulds.com>

Subject: Re: Court File No.: CV-22-00688248-00CL City of Toronto v Harry Sherman Crowe Co-operative

Phillip I only 30 minutes.

From: Philip Cho <pcho@weirfoulds.com>

Date: Friday, April 26, 2024 at 11:49 AM

To: Tenechia Williams <tenechia@bettyslaw.com>

Cc: Courtney Betty <betty@bettyslaw.com>, Malika Grewal <mgrewal@weirfoulds.com>

Subject: Re: Court File No.: CV-22-00688248-00CL City of Toronto v Harry Sherman Crowe Co-operative

It may help if we think that we will not need more than 1 hr for the motion. Motions 90minutes and under are virtual on the commercial list. I think that based on the materials now filed, we would unlikely be more than an hour. Please confirm this with Mr. Betty

PHILIP CHO (he/him/his) | Partner | T. [416-619-6296](tel:416-619-6296) | C. [647-638-7828](tel:647-638-7828) | pcho@weirfoulds.com

WeirFoulds LLP

66 Wellington Street West, Suite 4100, P.O. Box 35, TD Bank Tower, Toronto, Ontario, Canada, M5K 1B7 | T. [416-365-1110](tel:416-365-1110) | F. [416-365-1876](tel:416-365-1876) | www.weirfoulds.com

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From: Tenechia Williams <tenechia@bettyslaw.com>

Sent: Friday, April 26, 2024 11:44:17 AM

To: toronto.commerciallist@jus.gov.on.ca <toronto.commerciallist@jus.gov.on.ca>

Cc: Courtney Betty <betty@bettyslaw.com>; Philip Cho <pcho@weirfoulds.com>; Mark Siboni <mark.siboni@toronto.ca>; a33abcda24cb46679233191ff232d7de@lawmail.cosmolex.com <a33abcda24cb46679233191ff232d7de@lawmail.cosmolex.com>

Subject: RE: RE: Court File No.: CV-22-00688248-00CL City of Toronto v Harry Sherman Crowe Co-operative

[External Message]

Dear Sir/ Madam,

Our firm Betty's Law Office and Courtney Betty act for the Respondent, Harry Sherman Crowe Co-operative Inc. Mark Siboni act for the Applicant, City of Toronto. Philip Cho act for the Receiver, TDB Restructuring Ltd. This matter is listed for hearing on Monday April 29, 2024, for the Receiver's Motion, before the Honourable Justice Penny in-person. Counsel Courtney Betty is not in the jurisdiction and therefore unable to attend in-person.

Both Counsels have communicated and are agreeable for this matter to be heard virtually. As such, we are humbly requesting that the matter be heard virtually instead of in-person.

Your indulgence in this matter would be greatly appreciated.

Tenechia Williams

Operations Manager, LLB (UK), CPM
Betty's Law Office
2300 Yonge St, #1600
Toronto, ON, M4P 1E4



416-972-9472 ext. 105
<https://bettyslaw.com>

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and delete this email from your system. If you are not the intended recipient, you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

APPENDIX G

Arif Dhanani

From: Mark Siboni <Mark.Siboni@toronto.ca>
Sent: Friday, May 9, 2025 3:35 PM
To: 'Courtney Betty'; Bobbie-Jo Brinkman; Angela Jameer; Arif Dhanani; Ryan Krahn; AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca; Unit, Insolvency (MOF)
Cc: Philip Cho
Subject: RE: City of Toronto v Harry Sherman Crowe Co-operative - Court File No.: CV-22-00688248-00CL

External sender

Good afternoon Mr. Betty,

We appreciate that the below request was made to counsel for the Receiver, and we don't propose to respond on their behalf.

We did, however, feel it appropriate to communicate the Service Manager's position in respect of the statements in the below communication which suggests that the City (the "Service Manager" under the *Housing Services Act* or the "HSA") has not been acting in good faith or has, in any way, denied the Co-op access to legal representation.

The City does takes issue with both of these statements. The City has acted in good faith. What's more, there is no basis for the suggestion that the City has taken any action to deny any member of the Co-op or resident of the Housing Project legal representation. Any member of the Co-op or resident of the Housing Project is entitled and free to engage counsel and to seek legal advice. There is nothing that the Service Manager has done that would deprive any member of that right.

Though not expressly set out in the body of your below email, our understanding is that your issue is not, in fact, that there is an issue or with the Co-op engaging counsel and seeking legal advice. Rather, it is with an outstanding request that parties other than the individuals who have reached out to your offices for assistance pay for these legal services.

To the extent the "other party" might be looked to in order to cover any such legal fees is the City, we have already articulated the City's position. As previously advised, and as set out clearly in the Affidavits of Julie Western-Set that were before the Court at the time of the Receiver's initial appointment [including at paragraphs 8-23 of her November 19, 2022, Affidavit, and at paragraphs 5-13 of the her January 16, 2023, Affidavit], to the extent the Service Manager has any obligation to fund the Harry Sherman Housing Project, that obligation is prescribed by statute and regulation. The City has funded the Housing Project in keeping with the governing legislation. There is no authority for the Service Manager to provide funding outside of the formula and the framework provided for by the governing legislation.

As previously advised in the context of our good faith discussions to date, if the request is a request to cover legal fees that may be incurred by the Co-op, and if it is made on the Co-op's behalf, it is appropriate to present said request as one seeking to access the funds of the Co-op. Given that the Co-op is in receivership, that request is properly made by motion to the Court.

The Service Manager cannot comment on a motion it has not yet had the opportunity to review and reserves its right to do so. It does, however, consider it appropriate to highlight the following:

- The Receiver has formulated a view that it is appropriate to evaluate what steps ought to be taken next in order to transition the Housing Project out of Receivership.
- The Receiver has proposed a preliminary process for engaging with the membership to help it 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.

Based on its review of all the material that has been collected and reviewed in this matter, the Service Manager shares the Receiver's view and endorses its recommended approach. What is contemplated is an information collection exercise that would help formulate a set of recommendations that would be reported to the Court at a later date. The proposal involves a

direct process for engaging with the members of the Co-op and the Housing Project's residents as a whole. This approach is consistent with the approach that has been taken in this matter of working co-operatively with the Housing Project's stakeholders to decide on the proper path forward.

The proposed next steps also provide a way for engaging with the Co-op members and Housing Project residents in a way that takes into account the concerns about how the Co-op was managed when it was under the control of the former Board. These concerns can be found in the Application Record, Responding Application Record, and Supplementary Application Record that were before the Court and formed the basis of the initial Appointment Order. They are also found in the Receiver's most recent report.

In considering any matter before it, whether it be the above referenced request to access the funds of the Co-op to pay for legal counsel, or whether it as a request for an adjournment (which the City does not propose to comment on, other than to the extent in which it might be able to assist the Court), a key consideration must be whether said requests are being made on behalf of a certain few individual members of the Co-op, or whether they are made with the interests of the broader membership and Housing Project residents, as a whole.

Yours very truly,

Mark Siboni | Lawyer, Litigation Section

City of Toronto | Legal Services Division

Metro Hall, 26th Floor, Stn. 1260 | [55 John Street | Toronto ON | M5V 3C6](#)

T: [416.392.9786](tel:416.392.9786) | F: [416.397.5624](tel:416.397.5624) | E: mark.siboni@toronto.ca

From: Courtney Betty <betty@bettyslaw.com>

Sent: May 8, 2025 10:04 PM

To: Bobbie-Jo Brinkman <bbrinkman@weirfoulds.com>; Angela Jameer <ajameer@weirfoulds.com>; Arif Dhanani <adhanani@tdbadvisory.ca>; Mark Siboni <Mark.Siboni@toronto.ca>; Ryan Krahn <Ryan.Krahn@toronto.ca>; AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca; Unit, Insolvency (MOF) <insolvency.unit@ontario.ca>

Cc: Philip Cho <pcho@weirfoulds.com>

Subject: [External Sender] Re: City of Toronto v Harry Sherman Crowe Co-operative - Court File No.: CV-22-00688248-00CL

Phillip,

I had previously requested an adjournment of the matter and do so formally. My discussions with the City have been based on good faith and clearly that is not the intention on the part of the city. The Co-op is entitled to legal representation and the denial of this by the City is contrary to the principles of natural justice. This is an issue which must be addressed by the Court. I have also provided you with the fact that the Co-op has scheduled an AGM on Saturday of this week. Please inform me of your client's position.

From: Bobbie-Jo Brinkman <bbrinkman@weirfoulds.com>

Date: Thursday, May 8, 2025 at 4:56 PM

To: Angela Jameer <ajameer@weirfoulds.com>, Arif Dhanani <adhanani@tdbadvisory.ca>, mark.siboni@toronto.ca <mark.siboni@toronto.ca>, ryan.krahn@toronto.ca <ryan.krahn@toronto.ca>, Courtney Betty <betty@bettyslaw.com>, AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca <agc-pgc.toronto-tax-fiscal@justice.gc.ca>, Unit, Insolvency (MOF) <insolvency.unit@ontario.ca>

Cc: Philip Cho <pcho@weirfoulds.com>

Subject: RE: City of Toronto v Harry Sherman Crowe Co-operative - Court File No.: CV-22-00688248-00CL

Good afternoon,

With respect to the motion returnable on May 13, 2025, attached please find the Aide Memoire of the Receiver, which is hereby served upon you pursuant to the *Rules of Civil Procedure*.

Regards,
Bobbie

BOBBIE-JO BRINKMAN | Law Clerk | T. 647-715-7133 | C. 647-688-0934 | bbrinkman@weirfoulds.com



66 Wellington Street West, Suite 4100, P.O. Box 35, TD Bank Tower, Toronto, Ontario, Canada. M5K 1B7 | T. 416-365-1110 | F. 416-365-1876 | www.weirfoulds.com

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From: Angela Jameer <ajameer@weirfoulds.com>

Sent: May 8, 2025 4:30 PM

To: Arif Dhanani <adhanani@tdbadvisory.ca>; mark.siboni@toronto.ca; ryan.krahn@toronto.ca; betty@bettyslaw.com; AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca; Unit, Insolvency (MOF) <insolvency.unit@ontario.ca>

Cc: Philip Cho <pcho@weirfoulds.com>; Bobbie-Jo Brinkman <bbrinkman@weirfoulds.com>

Subject: City of Toronto v Harry Sherman Crowe Co-operative - Court File No.: CV-22-00688248-00CL

Good afternoon,

Please find attached the Supplemental Motion Record of the Receiver, which is hereby served upon you pursuant to the *Rules of Civil Procedure*.

Thank you,
Angela

ANGELA JAMEER | Legal Assistant | T. 647-715-3513 | ajameer@weirfoulds.com



66 Wellington Street West, Suite 4100, P.O. Box 35, TD Bank Tower, Toronto, Ontario, Canada. M5K 1B7 | T. 416-365-1110 | F. 416-365-1876 | www.weirfoulds.com

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TAB 2

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

**ONTARIO
SUPERIOR COURT OF JUSTICE – COMMERCIAL LIST**

BETWEEN:

CITY OF TORONTO

Applicant

and

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC

Respondent

**AFFIDAVIT of Julie Western Set
(Sworn November 10, 2022)**

I, Julie Western Set, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Manager of Housing & Tenant Supports of the City of Toronto's Housing Stability Services Unit (the "HSS"). In this role, I manage a team comprised of 6 Housing Consultants, 3 Agency Review Officers, and two 2 Support Assistants.
2. The City of Toronto's HSS is part of Housing Secretariat. The HSS was previously part of the City's Shelter, Support and Housing Administration Division (the "SSHA").
3. Housing providers are persons who operate housing projects. Under the *Housing Services Act, 2011*, municipalities such as the City of Toronto are designated as service managers responsible for administering and funding housing provider organizations and their designated

7. This affidavit is sworn in support of the City of Toronto's Application to appoint a receiver and manager, pursuant to subsection 85(7) of the *Housing Services Act*, 2011, SO 2011, c.6, Sch1, as amended (the "HSA").

(A) - THE RELEVANT LEGISLATIVE FRAMEWORK

The *Housing Services Act*, 2011, and the Municipality's Duty to Administer and Fund Social Housing Programs

(i) – Social Housing in Ontario

8. Social housing programs are government-funded initiatives designed to provide affordable rental accommodation to low income households.

9. Municipal non-profit corporations, private non-profit corporations, and co-operative non-profit corporations that own residential properties (or that manage residential buildings on lands that they lease from third parties) throughout the province act as "housing providers". These housing providers make rental units available to eligible individuals and families who are part of low-income households. They are responsible for managing these housing projects.

10. Social housing in the City of Toronto was initially developed and administered by the federal and provincial governments. The Housing Project operated by Harry Sherman was developed under a provincial government program and was originally funded and administered by the Province of Ontario ("Ontario").

(ii) – The *Social Housing Reform Act*, 2000, and the *Housing Services Act*, 2011

11. In the late 1990s, as part of Ontario's initiative to realign local services, the province began to download its social housing responsibilities, both administrative and financial, to the

local municipalities. This process culminated with the passage of the *Social Housing Reform Act, 2000*, S.O. 2000, c. 43 (the “SHRA”), which received royal assent on December 12, 2000. The responsibility to fund and administer the Housing Project was transferred to the City in 2002.

12. The SHRA created a framework for the administration and funding of social housing projects, and created a comprehensive mechanism to help municipalities manage their new social housing responsibilities. The SHRA was repealed by the *Strong Communities through Affordable Housing Act, 2011*, S.O. 2011, c. 6 and was replaced within the same act by the *Housing Services Act, 2011*, S.O. 2011, c. 6, Schedule 1 (the “HSA” or the “Act”), which came in to force on January 1, 2012. The purpose of the HSA is to:

(i) provide for community based planning and delivery of housing and homelessness services with general provincial oversight and policy direction; and

(ii) provide flexibility for service managers and housing providers while retaining requirements with respect to housing programs that predate the HSA (i.e. the SHRA and the Provincial and Federal Programs referenced above) and housing projects that are subject to those programs.

13. The framework created by the SHRA was carried through in the HSA, which is the operative legislation currently in effect.

(iii) – The Housing Services Act, 2011's Funding Framework

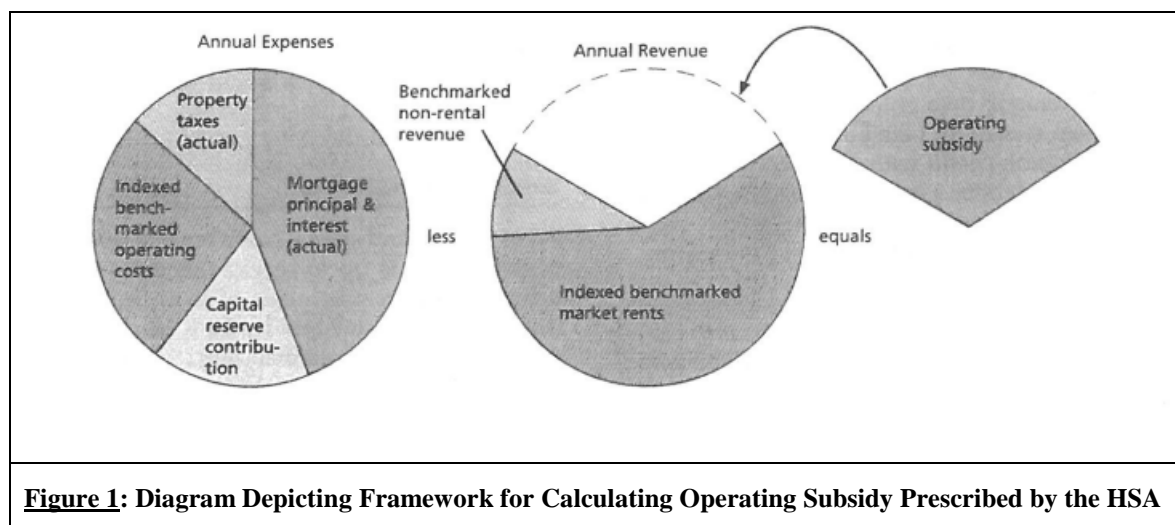
14. Housing providers that were originally developed, administered and funded by the provincial government received two forms of subsidy - an operating subsidy and a rent subsidy. They continue to receive these subsidies under the HSA regime. These subsidies are provided pursuant to, and in accordance with, formulae set out in regulations promulgated under the HSA, including *Ontario Regulation 369/11*.

15. The operating subsidy is paid to subsidize building operating costs in excess of the building market rent potential. The operating subsidy covers any number of operating costs, including, but not limited to: (i) administration and maintenance expenses; (ii) insurance premiums; (iii) bad debt expenses; (iv) utility costs (such as electricity, fuel, water, and sewer charges); and (v) contributions to the housing provider's capital reserve fund.

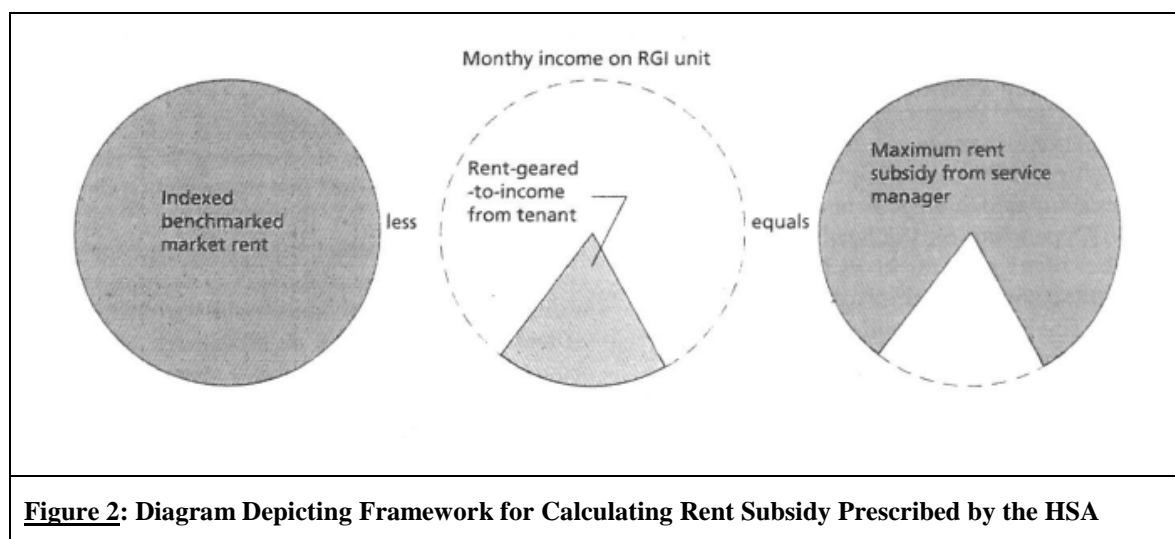
16. The operating subsidy is calculated by subtracting the total of the annualized indexed benchmarked rental and non-rental revenue (such as laundry and parking revenue) from the combined total of indexed benchmarked operating costs, estimated property taxes, and actual mortgage principal and interest payments. The indices and benchmarks used to calculate the subsidies are established by the Ministry of Municipal Affairs and Housing (the "MMAH"). Each year, the operating subsidy is adjusted by applying provincially set indices (that are based on Consumer Price Indices for various expense items) to either increase or decrease the operating subsidy.

17. In circumstances where a housing provider achieves a year end surplus in respect of its housing provider shelter operations, by either controlling expenses, or setting rents higher than the benchmarked market rents, the housing provider is required to pay 50% of any surplus amounts back to the service manager.

18. This operating subsidy would cover any shortfall that the housing provider would have to negotiate between the above described benchmarked annual expenses and housing provider's benchmarked annual revenues. The manner in which the operating subsidy is calculated is depicted visually in Figure 1, below:



19. The rent subsidy is paid to cover the difference between the amount that qualified tenants can pay, based upon their income, and the lesser of the benchmarked or actual market rent for the units they live in. This is depicted visually in Figure 2, below:



20. The rent subsidy is given to housing providers so that they can make units available to families that would not otherwise be able to afford to pay market rents. Housing providers are required to set aside a prescribed number of subsidized units in their buildings. They are expected to meet these targets as failing to do so will reduce access to affordable housing in the

City. The governing legislation also prescribes how these units are to be filled. In the City of Toronto, Access to Housing manages a centralized waiting list of households who are in need of housing. Housing providers like Harry Sherman are obligated to fill any vacancies from this centralized waiting list. There are 14,494 households on the waiting list who have indicated that they would like to be housed at Harry Sherman. Of these more than 14,000 households, 2,051 have been on the waiting list for more than 10 years, 8,226 have been on the waiting list for between 5-10 years, and 4,267 have been on the waiting list for less than 5 years.

21. Housing providers are responsible for maintaining a capital reserve under the framework established by the HSA. *Ontario Regulation 367/11* requires housing providers to make an annual contribution to the social housing project's reserve fund out of its revenues. These funds must be set aside so that the housing project can undertake large scale capital projects that it must anticipate having to take on in any given year. Housing providers are expected to establish capital plans to ensure that they are able to manage their budgets so that enough funds are available to cover the costs associated with keeping their buildings in a good state of repair.

22. Housing providers must complete annuals reports in accordance with requirements established by service managers and forward said reports along with audited financial statements no later than 5 months after the end of the fiscal year. In the City of Toronto, the requisite annual report is called Annual Information Return (an "AIR"). The information provided in the audited financial statements and in the AIR is necessary as it allows the service manager to: (i) calculate the housing providers' subsidy entitlement and reconcile their funding each fiscal year; and (ii) monitor the number of RGI households, vacancies, and other critical statistical housing information. Lastly, municipal service managers are required to provide some of this statistical

information to the Ontario. They require this information, as reported in these financial documents, to meet these reporting obligations.

23. The Respondent Co-op is a provincially reformed housing project. It is funded and administered in accordance with the above described framework. The Co-op is currently receiving a combined operating and Rent-Geared-to-Income (RGI) subsidy of \$128,640 every month. Based on information the Service Manager currently has access to, the estimated combined operating and rental annual subsidy that the housing provider will receive for the fiscal year ending June 30, 2023, is \$1,534,680.

The Powers that the HSA Grants to Municipalities to Ensure that the Interests of Households that Depend on Social Housing Programs are Protected

24. The HSA provides comprehensive administrative mechanisms to help municipalities manage their social housing responsibilities. It includes specific enforcement provisions that grant municipal service managers powers that they can exercise to ensure that these housing projects are properly managed and that the tenants and members in these housing projects have access to the protections and services that they may need.

25. In the event that a social housing provider fails to operate a housing project properly, having regard to the normal practices of similar housing providers, a service manager can take certain steps under the HSA to remedy the situation.

26. The powers that the HSA grants municipal service managers include the power to, in appropriate circumstances, appoint a receiver or receiver and manager to step in to act as a surrogate for the housing provider and as a steward for the housing project where the assistance

TAB 3

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

**ONTARIO
SUPERIOR COURT OF JUSTICE – COMMERCIAL LIST**

BETWEEN:

CITY OF TORONTO

Applicant

and

HARRY SHERMAN CROWE HOUSING CO-OPERATIVE INC

Respondent

**REPLY AFFIDAVIT of Julie Western Set
(Sworn January 16, 2023)**

I, Julie Western Set, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. As set out in my Affidavit, sworn on November 10, 2022 (the “JWS November Affidavit”), I am the Manager of Housing & Tenant Supports of the City of Toronto’s Housing Stability Services Unit (the “HSS”). My credentials remain unchanged from those set out in paragraphs 1 through 7 of the JWS November Affidavit.
2. I have reviewed the Affidavit of Ms. Rosell Kerr, sworn on December 21, 2022 (the “Kerr Affidavit”) and have prepared this Affidavit to reply to issues that the Respondent has raised.
3. This Affidavit will speak to the following issues to provide additional clarity and context:
 - a. The roles and responsibilities of the Applicant City of Toronto, as Service Manager, (the “City” or “Service Manager”) and the Respondent Harry Sherman Crowe Housing Co-operative Inc. (“Harry Sherman” or the “Housing Provider”), under the governing legislation;

- b. The nature and character of the Service Manager's engagement with the housing provider and its Board, understood in that context; and
 - c. The evidence presented in the Kerr Affidavit about the certain aspects of the Housing Provider's finances, expenses, and operations that illustrate how the appointment of a receiver and manager will be a positive step and will increase the likelihood that the Housing Provider's operations and finances will be regularized over time.
4. These three issues are related. In speaking to them, I will endeavor to respond to those aspects of the Kerr Affidavit relevant to the Court's consideration of the Application before it.

(A) HOUSING PROVIDERS AND SERVICE MANAGERS – ROLES AND RESPONSIBILITIES

5. The JWS November Affidavit describes how housing providers such as Harry Sherman – a self governing co-operative housing corporation incorporated pursuant to, and governed by, the *Co-operative Corporations Act*, RSO 1990, c. C5 (the "CCA") – are persons who operate housing projects in Ontario at paragraphs 3 and 4. Housing providers such as Harry Sherman are also governed by, and must conduct their affairs in keeping with, the provisions of the *Housing Services Act, 2011*, SO 2011, c.6, Sch 1, as amended (the "HSA"). Housing provider obligations prescribed by statute include:
- Ensuring that the housing project is both well managed and maintained in a satisfactory state fit for occupancy;
 - Collecting rent and administering leases;
 - Providing required and necessary information to their service manager; and
 - Preparing and following such plans relating to the governance and/or operation of the housing project as may be required.
6. The JWS November Affidavit, at paragraphs 3 and 4, also describes how service managers are responsible for administering/monitoring and funding housing provider organizations and their designated housing projects. The manner in which housing provider funding is

administered by Service Managers is governed by a funding formula, and within a funding framework, prescribed by the HSA. This funding framework is outlined at paragraphs 14 through 21 of the JWS November Affidavit.

7. Understanding this funding formula and framework is critical to understanding the roles and responsibilities of service managers and housing providers.
8. The operating subsidy that Service Managers distribute to housing providers is designed to cover gaps that may exist in any given fiscal year between indexed and benchmarked revenues and operating costs.
9. Housing providers must therefore discharge their duties to manage housing projects well and to maintain housing projects in a satisfactory state fit for occupancy **by using those provincially indexed and benchmarked values as targets they must strive to meet - in respect of the costs they can budget for in any given year, and the revenue they must aim to generate.**
10. The exercise of managing a housing project is one that, by its nature, requires the housing provider Board to evaluate the needs of their members and to plan and prioritize how to achieve those objectives over time and in a fiscally responsible fashion.
11. Throughout the Kerr Affidavit, reference is made to operational costs that the housing provider has incurred over the past several years to make improvements to the housing project. These projects and their associated costs include improvements the Kerr Affidavit describes making: installing additional security cameras, making improvements to the housing project's laundry room, improving the landscaping at the property, retaining a new company to maintain and clean the housing project, undertaking electrical work at the

property, retaining a “renovation company” who “comes with a certified plumber”, and making improvements to certain units within the housing project complex.

12. To the extent the Kerr Affidavit is presenting these list of operational expenses as costs that the City, in its capacity as Service Manager, should fund, and to the extent the Kerr Affidavit suggests that not funding these expenses is evidence of the City not supporting Harry Sherman, such suggestions fail to appreciate the following: to the extent service managers can provide support and guidance to their housing providers in respect of their financial position that support and guidance is constrained by the tools that they can avail themselves of under the HSA. Those tools contemplate services manager engaging with housing providers in 3 ways:

- (i) **Monitoring**: service managers monitor the financial position of housing providers. This monitoring exercise is predicated on the financial information the HSA requires housing providers to share with services managers.
- (ii) **Notification and Direction**: When circumstances arise that indicate housing providers are facing challenges managing the housing projects they are responsible for, the HSA empowers service managers to provide housing providers notice of issues and direction as to how any identified issues might be addressed – the HSA's Notice of Triggering Event process.
- (iii) **The Exercise of Statutory Remedies**: When a Triggering Event has occurred and persists, despite a housing provider receiving notice of the triggering event(s) and the steps that must be taken to address it (them), the statute authorizes service managers to take any of a number of enumerated remedial enforcement actions to ensure the identified triggering events are addressed.

13. Service managers are not required to provide any funding for specific improvement projects that housing providers and their Boards choose to undertake. Service managers are not required to provide funding outside of the funding that must be provided within the context of the HSA framework, outlined above. To illustrate that point, one need only turn

one's attention to section 84 of the HSA. Section 84 provides how, in circumstances where a service manager becomes aware of situations which might give rise to a triggering event, they can use reasonable efforts to assist the housing provider to deal with the situation. However, section 84 expressly provides how this **“does not require the service manager to do anything that would require the expenditure of funds.”**

(B) THE NATURE AND CHARACTER OF THE CITY'S INTERACTIONS WITH HARRY SHERMAN

14. A review of the interactions between the City and Harry Sherman that are set out in detail in the JWS November Affidavit reveals how the City used the monitoring and notification tools the HSA provides for to assist and support Harry Sherman as best it could.
15. In its written and oral communications with the housing provider, the City made every effort to highlight how, based on the financial information available to it, the housing provider was required to evaluate the various issues it was facing and develop a financial plan which would allow it to prioritize any operating expenses and/or capital projects that it felt had to be undertaken. Any such plan would be reviewed, and feedback would be provided to Harry Sherman, with an eye to ensuring that its year-over-year spending would be brought in line with the indexed and benchmarked operational costs and expenses the province establishes as guidelines.
16. Though we do not propose to restate all of the ways in which the Service Manager patiently engaged with Harry Sherman in its good faith efforts to help the housing provider address the operational issues that had been identified and its deteriorating financial position that are set out in the JWS November Affidavit, brief highlights include:

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

**RESPONDING MOTION RECORD OF THE
RECEIVER
(RETURNABLE ON MAY 30, 2025)**

WEIRFOULDS LLP
Barristers & Solicitors
66 Wellington Street West, Suite 4100
P.O. Box 35, Toronto-Dominion Centre
Toronto, ON M5K 1B7

Philip Cho (LSO# 45615U)
pcho@weirfoulds.com
416.619.6296

Tel: 416.365.1110

**Lawyers for the Receiver,
TDB Restructuring Limited**