

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

**IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,  
R.S.O. 1990, c. C.30, AS AMENDED**

**AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.  
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE  
*CONSTRUCTION LIEN ACT*, R.S.O. 1990, c. C.30, AS AMENDED**

**SUPPLEMENT TO THE FIRST REPORT OF THE TRUSTEE  
DATED APRIL 29, 2015**

**CHAITONS LLP**  
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**TO: THE SERVICE LIST**

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**SUPPLEMENT TO THE FIRST REPORT OF THE TRUSTEE**

**April 29, 2015**

## INTRODUCTION

1. Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) dated January 22, 2015, Collins Barrow Toronto Limited was appointed *Construction Lien Act* (Ontario) trustee with respect to lands and premises known municipally as 142, 144 and 148 Park Street and 21 Allen Street West, Waterloo, Ontario, and legally described in Schedule "A" to the Appointment Order.
2. This report (the "**Supplementary Report**") is a supplement to the First Report of the Trustee dated April 17, 2015 (the "**First Report**"), and should be read together with the First Report. Capitalized terms used and not otherwise defined herein have the meanings ascribed to such terms in the First Report.
3. The purpose of the Supplementary Report is to provide an update to the Court on the status of matters related to Turner Architects and the Parking Agreement.

## TURNER ARCHITECTS

4. As noted in the First Report, Turner Architects provided architectural services to One 55 and registered a construction lien against lands owned by One 55, and the City in the amount of \$165,886.80 (the "**Construction Lien**").
5. The City took the position that the Trustee was required to have the Construction Lien removed from the City lands before it would be prepared to fully approve and formally register the condominium plan for the 144 Park Project.
6. The Trustee, One 55, the City and Turner Architects have agreed to the following steps taking place with respect to the Construction Lien:

- (a) the Trustee will pay, on behalf of One 55, \$26,180 to Turner Architects, the payment of which shall reduce the amount of the Construction Lien. The Trustee shall pay such amount from funds that have been borrowed from MarshallZehr;
  - (b) Turner Architects will consent to an order to be obtained by the Trustee vacating the Construction Lien against the City lands and dismissing Turner Architect's action against the City without costs; and
  - (c) One 55 shall grant a charge to the Trustee over the 155 Caroline Lands as security for its obligation to repay \$26,180 to the Trustee.
7. This agreement will allow for the final steps for the registration of the condominium plan to be completed, which is to the benefit of all of 144's stakeholders.

#### **PARKING AGREEMENT AND TRUSTEE'S BORROWINGS**

8. In the First Report, the Trustee requested that the Court approve the increase of the Trustee's borrowings amount from \$500,000 to \$750,000 and authorize the Trustee to enter into the Parking Agreement. The increase in the borrowings was necessary so that the Trustee could complete the transaction for parking units set out in the Parking Agreement.
9. The relief sought by the Trustee with respect to the Parking Agreement was opposed by COB GP Inc., a mortgagee of the 155 Caroline Lands. As a result of the opposition, the Trustee agreed to an adjournment of matters related to the Parking Agreement and the Trustee's borrowings to April 30, 2015.

10. At this time, the parties continue to discuss the possibility of a resolution that would be acceptable to all parties and would result in a parking agreement being entered into that would be registered on title to the 155 Caroline Lands and result in parking units being available to residents of the 144 Park Project once the 155 Caroline Lands are eventually developed. The Trustee remains committed to finding a solution to the parking situation at the 144 Park Project.
  
11. As a result, the Trustee is not seeking approval of the existing Parking Agreement or an increase in the borrowings amount at this time.

All of which is respectfully submitted to this Court as of this 29th day of April, 2015.

**COLLINS BARROW TORONTO LIMITED,**

in its capacity as Court-appointed Trustee of  
the Property and not in its personal capacity

Per: 

Name: Bryan A. Tannenbaum, FCPA, FCA, FCIRP

Title: President

I have the authority to bind the corporation

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UNDER SECTION 68(1) OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, c. C.30, AS AMENDED

Court File No. CV15-10843-00CL

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*ONTARIO*  
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Proceedings commenced at Toronto

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**SUPPLEMENT TO THE FIRST  
REPORT OF THE TRUSTEE**

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