

**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 FOURTH REPORT OF THE TRUSTEE
(re Parking Matters)
(motion returnable October 16, 2015)**

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(as of October 13, 2015)

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D.	Oliver Romaniuk letter dated October 6, 2015 (without certain appendices)
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F.	Trustee's Chart re Answers to Further Written Interrogatories

TAB 1

Court File No. CV15-10843-00CL

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

SUPPLEMENT TO THE FOURTH REPORT OF THE TRUSTEE

October 13, 2015

INTRODUCTION AND PURPOSE OF THE SUPPLEMENTARY REPORT

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 certain lands and premises owned by 144 Park Ltd. and 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 Fourth Report of the Trustee dated September 25, 2015 (the "**Fourth Report**"), and should be read together with the Fourth Report. Capitalized terms used and not otherwise defined herein have the meanings ascribed to such terms in the Fourth Report.
3. The purpose of the Supplementary Report is to provide an update to the Court on the status of matters related to parking situation at the 144 Park Project.

WRITTEN INTERROGATORIES

4. On September 30, 2015, Duncan, Linton LLP, lawyers for certain Remaining Two Parking Unit Purchasers, sent a letter to the Service List. The letter contained a request for an adjournment of the October 5, 2015 return date for the Trustee's motion, and enclosed a list of questions for the Trustee to answer prior to the hearing of the Trustee's motion. A copy of the letter is attached hereto and marked as **Appendix "A"**.
5. On October 2, 2015, Lenczner Slaght, lawyers for a Remaining Two Parking Unit Purchaser, sent a letter to the Service List. The letter also requested an adjournment and

enclosed a list of questions for the Trustee to answer. A copy of the letter is attached hereto and marked as **Appendix "B"**.

6. Based on the multiple requests for an adjournment, the Trustee agreed to adjourn the hearing of its motion from October 5 to October 16, 2015.
7. In response to the questions posed by the parties, on October 6, 2015, the Trustee sent a chart to the Service List that set out the questions that had been posed and the Trustee answers to such questions. A copy of the Trustee's materials are attached hereto and marked as **Appendix "C"**.
8. On October 7, 2015, Mr. Romaniuk sent a letter to the Service List. Attached as Appendix "A" to his letter were further questions that were posed to the Trustee. A copy of the letter and Appendix "A" to the letter are attached hereto and marked as **Appendix "D"**.
9. On October 9, 2015, Duncan, Linton LLP sent another letter to the Service List, which contained additional questions posed to the Trustee. A copy of the letter is attached hereto and marked as **Appendix "E"**.
10. The Trustee has reviewed the additional questions received from Mr. Romaniuk and Duncan, Linton LLP. Attached hereto and marked as **Appendix "F"** is a chart that sets out the additional questions and the Trustee's responses to such questions.

AUCTION

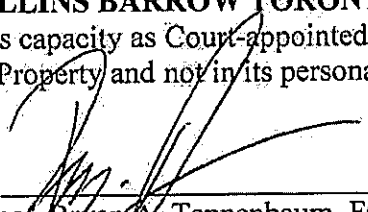
11. In paragraphs 69 and 70 of the Fourth Report, there is a reference to an auction that was being proposed by Mr. Romaniuk, and that the Trustee would provide its view on the auction in this Supplemental Report.
12. The auction proposed by Mr. Romaniuk is described in his letter dated October 6, 2015 and his factum served on October 9, 2015.
13. The Trustee does not support the auction proposed by Mr. Romaniuk, as:
 - (a) the Trustee has been advised by Mint Realty of its opinion that the market value of substantially all of the units in question is unaffected by the loss of one parking unit;
 - (b) the Trustee does not believe it is appropriate for individual purchasers to profit at the expense of the creditors of 144 Park. The Trustee believes that it is a fair and reasonable solution for purchasers to receive a reduction in the purchase price of a residential unit in the amount of what was paid by the purchasers for a single parking unit; and
 - (c) the outcome of the auction, if unsuccessful, as Mr. Romaniuk has noted, will not resolve the parking issues at the 144 Park Project. In the Trustee's view, if such a result is possible, conducting such an auction will be inefficient and a misuse of time and costs.

SHORTFALL FOR CREDITORS

14. In the Fourth Report there is a reference to a material reduction in the realizable value of the unsold units, to the detriment of the mortgagees of the 144 Park Project, if the unsold units are sold without parking units.
15. The reduction in the realizable value of the unsold units would also be to the detriment of the construction lien claimants, as it is expected that, even if the unsold units are sold with parking, the net amount recoverable for the sale of the 148 units in the 144 Park Project will be insufficient to repay the mortgagees and the construction lien claimants in full.
16. As a result, any reduction in the realizable value of the unsold units will prejudice the mortgagees and the construction lien claimants, as it will significantly increase the amount of their losses in connection with this project.

All of which is respectfully submitted to this Court as of this 13th day of October, 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

APPENDIX “A”

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September 30, 2015
File No. 0039495

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VIA FAX (1-416-218-1837) AND
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Dear Mr. Rappos:

Re: 144 Park Ltd.
October 5, 2015 Motion

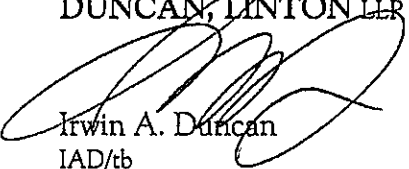
We are solicitors for a number of unit purchasers. We enclose a Notice of Appearance which is served upon you pursuant to the Rules.

We also enclose a List of Questions that we require to have answered by the Trustee so that we can properly advise our clients in addressing the Motion Record which was served on Friday September 25, 2015.

Given the short notice that you provided, it is important that we have the Trustee's answers as soon as possible. We also need a reasonable time so that we can complete responding Affidavits of our clients.

In the circumstances, we request that this matter be adjourned for two weeks in order to deliver the responding materials and prepare our Factum. If you would like to discuss a timetable, please give me a call.

Yours very truly,
DUNCAN, LINTON LLP


Irwin A. Duncan
IAD/tb
Encl.
c. SERVICE LIST

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

NOTICE OF APPEARANCE

The Unit Purchasers, Richard Magnussen, Marilyn Magnussen, Joseph Siefried, Susan Siefried, AJ Mueller, Kerry Mueller, Ryan Cyrankiewicz and Laurie Cyrankiewicz, intend to respond to this Application.

September 30, 2015

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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

Court File No. CV15-10843-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

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

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LIST OF QUESTIONS

Trustee Questions

1. What was the square foot size of the two units that you say were combined and given two parking spaces?
2. Which of the mortgagees are opposed to selling two parking units to those purchasers whose Agreements provide for two parking units.
3. How was the purchase price for the proposed "re-purchase" of the parking units (i.e. \$30,000) determined?
4. If temporary parking spaces become available as permanent parking units, who will they be sold to and what will be the sale price?
5. What is the status of the 155 Uptown Project?
6. What was the "repurchase" price actually paid to each of those unit purchasers who gave up one of their parking units?

7. What would be the rental rate for those purchasers who agree to rent a temporary parking unit?
8. Why would the Trustee complete sales for Agreements that were signed after all of the parking units had been sold pursuant to Agreements that were entered into earlier in time?
9. Please confirm that there are now no parking spaces available for visitor parking in this Project.
10. Please advise, what, if any steps, you took to explore the sale of the 20 unsold units to the party who provided a Letter of Intent that was referred to in the letter of Duncan, Linton dated March 5, 2015.
11. If you terminate the Agreements of those purchasers who refuse to give up one of their two parking spaces, do you have an opinion concerning the value of those residential units on a re-sale basis, with only one parking space? If so, what is that opinion?
12. Who do you propose will market the units of those unit purchasers who refuse to give up one of their parking spaces?
13. Is Mint Realty the broker with respect to the 155 Uptown Project?
14. Why has the Trustee waited until October 5, 2015, to obtain directions from the Court concerning the parking issues when those issues were first raised in March 2015?
15. Why have purchases for some of those persons who have agreed to give up a parking unit, not closed.

16. Did the Trustee purchase any parking units from purchasers whose purchase has closed and, if so, what was the purchase price?
17. What will be the commission payable to Mint Realty if its sells the unsold units without parking and what will be the commission if they sell those units with parking (based on their estimated sale prices)?
18. Who are the solicitors representing 55 Uptown in the transactions referred to in the Motion Record and Trustee's Fourth Report?
19. Please provide full particulars of the discussions between the Trustee and 55 Uptown concerning the possible purchase of parking spaces and completion of the 55 Uptown Project.
20. If the 55 Uptown Project is completed, how many parking spaces will it be prepared to sell to unit owners of the 144 Park Project?
21. Who has authorized the opening of a model suite at 144 to be used in the sale of unsold units?
22. Please provide particulars of the auction proposed by Mr. Romaniuk relating to the parking spaces and why the Trustee does not support that process?
23. According to your calculations, what does the Trustee propose to do with the one additional parking unit that appears to be available once each residential unit gets only one parking space?
24. Is there a parking unit associated with the hospitality unit and, if so, what are the Trustee's intentions with respect to that parking unit?

25. Why are there delays in closing transactions where the purchaser is only acquiring one parking unit?
26. What number of unit purchasers will not be compensated as you state in paragraph 81 of your Report and what is the total amount of their anticipated losses.
27. Have you inquired of unit purchaser how much they have spent on their own to their own contractors (other than Mady) to make improvements to their units?

September 30, 2015

DUNCAN, LINTON LLP
Barristers & Solicitors
P.O. Box 457
45 Erb Street East
Waterloo, Ontario
N2J 4B5

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Lawyers for Certain Unit Purchasers

TO: **CHAITONS LLP**
500 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Harvey Chaiton
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Lawyers for the Trustee

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

Court File No. CV15-10843-00CL

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

PROCEEDING COMMENCED AT TORONTO

**LIST OF QUESTIONS
TO TRUSTEE**

DUNCAN, LINTON LLP
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Lawyers for Certain Unit Purchasers

APPENDIX “B”

October 2, 2015

Brian Kolenda
Direct line: (416) 865-2897
Direct fax: (416) 865-3710
Email: bkolenda@litigate.com**VIA EMAIL**Sam Rappos
Chaitons LLP
Barristers & Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON
M2N 7E9

Dear Mr. Rappos:

**RE: 144 Park Development (the "Development")
Our Client: William Seegmiller**

We have been retained as litigation counsel to William Seegmiller, a unit purchaser in the Development. I enclose a Notice of Appearance in respect of Mr. Seegmiller. I note that David Fedy, Mr. Seegmiller's solicitor, is already on the service list and I would ask that both he and we continue to be included on that list.

Further to the Trustee's Fourth Report dated September 25, 2015 and Mr. Duncan's letter of September 30, 2015 on behalf of his unit purchaser clients, we have several additional questions for the Trustee as follows:

1. How many (and which) Units in the Development were marketed without parking spots (the "No Parking Space Units") at any time prior to or during the Trusteeship? How many (and which) of these No Parking Space Units were ever sold, and at what price? How many (and which) of the No Parking Space Units sold have now closed, and at what price?
2. Of the 20 "Unsold Units" referred to in the Fourth Report, how many (and which) of those units had previously been sold but did not close (for any reason)? Of any "Unsold Units" which had previously been sold, how many had previously been sold without parking spots?
3. With respect to the report of Mint Realty Inc. ("Mint") dated August 17, 2013 included as Appendix "R" to the Trustee's Fourth Report, please provide full particulars of Mint's calculations of the market value of the Unsold Units (both with and without a parking spot), including any assumptions made or information reviewed by the author(s) of the report.
4. Kindly disclose any agreements between Mint Realty on the one hand and 144 Park Ltd., the Trustee or any other parties on the service list on the other hand.

October 2, 2015

Page 2

We await your prompt response to these and Mr. Duncan's questions. Without answers to these questions we will not be in a position to provide meaningful responding materials. Accordingly, we support Mr. Duncan's request for a two-week adjournment of this matter to allow the parties to consider the Trustee's response and prepare motion materials, including, if necessary, obtaining independent expert evidence concerning the market value of parking at the Development and related issues.

Please confirm whether the Trustee will consent to this adjournment.

Yours very truly,



Brian Kolenda

BK/hs

c. Peter H. Griffin
David Fedy
William Seegmiller
Service List

APPENDIX “C”

Sam P. Rappos

From: Sam P. Rappos
Sent: Tuesday, October 06, 2015 4:25 PM
To: Harvey G. Chaiton; Bryan A. Tannenbaum; 'Arif N. Dhanani'; gmoftat@tgf.ca; aiqbal@tgf.ca; jrosenstein@rosensteinlaw.ca; kpeterson@agmlawyers.com; mbinetti@agmlawyers.com; 'Fisher, James R.'; a.conte@contelaw.ca; aesposito@pallettvalo.com; 'jlong@kmlaw.ca'; jarvis@petkerlaw.com; gborean@parenteborean.com; reynolds@crblaw.ca; bsgreenberg@rogers.com; jtclark@clarkslaw.com; egionet@dllaw.ca; ebisceglia@lawtoronto.com; 'schmuckd@simpsonwiggles.com'; ken@ecclestonllp.com; Maurizio@ecclestonllp.com; 'Jeremy Sacks'; rhammond@hammondfflesias.com; Di Iorio, Enzo; Del Vecchio, Riccardo; drubin@rubinchristie.ca; pathik@sdsllawfirm.com; ghemsworth@cslp.ca; al@glaholt.com; wboehler@fblaw.ca; information@wvllp.ca; bill.deley@dentons.com; jallingham@maclawyers.ca; HYule@fblaw.ca; 'Slavens, Adam'; iad@kwlaw.net; michael.tamblyn@nortonrosefulbright.com; kevin.ohara@ontario.ca; jheimpel@sorbaralaw.com; Rakhee.Bhandari@justice.gc.ca; fmccrea@regionofwaterloo.ca; Steve.Ross@waterloo.ca; edreyer@kw-law.com; clemmer@kw-law.com; 'Earnshaw, Ross'; rschwill@dwvpv.com; mgmlegalservice@gmail.com; 'Byrne, Judy'; 'Eric Kraushaar'; frv@chrsvolpinilawyers.com; ken.hanbidge@gowlings.com; asantos@vollandasantos.com; 'Tim McGowan'; rstrype@ggfilaw.com; Peter Griffin; 'Brian Kolenda'; dfedy@mgbwllaw.com; jessica@vhlaw.ca; 'Bryan Tham'; smith@wolfelawfirm.com; danieller@savaria.com; bobcoghill@yahoo.com; 'Oliver Romaniuk'; russell.mceachnie1@igprivatewealth.com; krellafireplaces@hotmail.com; neilc@maxium.net; john.nassar@81capital.com; Marko.Bobar@cra.gc.ca
Subject: 144 Park Ltd., Court File No. CV15-10843-00CL
Attachments: DOCS-#3455061-v2A-CB_144_-_Trustee_s_Answers_to_Questions.pdf; Appendix A.pdf; DOCS-#3228322-v15-CB_144_-_Service_List.DOCX
Importance: High
Categories: DM, Recipient Copy, #56868 : 3459086

Hello,

We are writing to the Service List in connection with the questions posed to the Trustee by Mr. Duncan on September 30 and Mr. Kolenda on October 2.

Attached hereto is a chart that sets out the questions and the Trustee's answers to the questions.

Also attached hereto is an updated Service List for this proceeding as of today's date.

Best regards,
Sam

Sam P. Rappos
Lawyer
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ANSWERS TO WRITTEN INTERROGATORIES

	QUESTION	ANSWER
1.	What was the square foot size of the two units that you say were combined and given Two parking spaces?	The Trustee understands that unit 1104 was originally approximately 730 sq. ft. in size, and unit 1105 was originally approximately 1060 sq. ft. in size. As a result, following the combination of the two units, unit 1104 is now approximately 1,800 sq. ft. in size. The combination of the two units into a single unit happened prior to the Trustee's appointment.
2.	Which of the mortgagees are opposed to selling two parking units to those purchasers whose Agreements provide for two parking units.	Laurentian Bank of Canada and MarshallZehr Group have confirmed that they oppose the Trustee proceeding in this fashion. Aviva Insurance Company of Canada does not oppose the Trustee proceeding in this fashion. The Trustee is waiting to hear from the last mortgagee, Allen Street Holdings, as to its position.
3.	How was the purchase price for the proposed "re-purchase" of the parking units (i.e. \$30,000) determined?	This was purchase price for a single parking unit from 144 Park Ltd. (" 144 Park ") and/or was the value attributed by 144 Park to a single parking unit.
4.	If temporary parking spaces become available as permanent parking units, who will they be sold to and what will be the sale price?	No decision has been made on this matter, as it is unclear whether this situation will ever arise. The Trustee has contacted the mortgagees with the key economic interest in the units and will be discussing this issue with them as soon as possible.
5.	What is the status of the 155 Uptown Project?	The Trustee has not been appointed with respect to the 155 Uptown Project.
6.	What was the "repurchase" price actually paid to each of those unit purchasers who gave up one of their parking units?	There was no amount paid to unit purchasers who gave up their parking units. There was a reduction in the purchase price of their units on their final closing statement of adjustments in the amount of

	QUESTION	ANSWER
		\$33,900 (inclusive of HST).
7.	What would be the rental rate for those purchasers who agree to rent a temporary parking unit?	Please see the answer to question number 4.
8.	Why would the Trustee complete sales for Agreements that were signed after all of the parking units had been sold pursuant to Agreements that were entered into earlier in time?	The Trustee's mandate was to close as many sale transactions as possible for the benefit of all stakeholders of the 144 Park Project.
9.	Please confirm that there are now no parking spaces available for visitor parking in this Project.	Confirmed. Please refer to the definition of "Visitor Parking Units" on page 3 of the registered Declaration that states that visitor parking units are to be located in the 155 Uptown Project.
10.	Please advise, what, if any steps, you took to explore the sale of the 20 unsold units to the party who provided a Letter of Intent that was referred to in the letter of Duncan, Linton dated March 5, 2015.	The Court Order dated January 22, 2015 appointing the Trustee did not authorize the Trustee to market and sell the 20 unsold units. It was not until August 5, 2015 that the Trustee was authorized by the Court to retain Mint Realty to market and sell the 20 unsold units. Additionally, the letter of intent you refer to was delivered to MarshallZehr. The Trustee has never received a letter of intent with respect to the 20 unsold units.
11.	If you terminate the Agreements of those purchasers who refuse to give up one of their two parking spaces, do you have an opinion concerning the value of those residential units on a re-sale basis, with only one parking space? If so, what is that opinion?	The Trustee has not obtained such a valuation to date, as it is not in the best interests of the stakeholders for the Trustee to expend funds on such a valuation since it may never be used by the Trustee. However, you may refer to the valuation provided by Mint Realty with respect to the unsold units as a reference point.
12.	Who do you propose will market the units of those unit purchasers who refuse to give up one of their parking spaces?	It is expected that the Trustee would bring a motion seeking Court authority to retain Mint Realty to market any such units. As you

	QUESTION	ANSWER
		<p>know, Mint Realty was retained by the Trustee to market the 20 unsold units pursuant to the Court Order dated August 5, 2015.</p>
13.	<p>Is Mint Realty the broker with respect to the 155 Uptown Project?</p>	<p>The Trustee has confirmed with Mint Realty that it is not the broker with respect to the sale of the 155 Uptown Project lands. Mint Realty has advised that it is providing buyer representation to the potential purchaser of the 155 Uptown Project lands.</p>
14.	<p>Why has the Trustee waited until October 5, 2015, to obtain directions from the Court concerning the parking issues when those issues were first raised in March 2015?</p>	<p>As set out in its Fourth Report, the Trustee has been working on finding alternate solutions for the parking situation for many months, and sought the advice and direction of the Court when it was determined that there were no solutions available that would benefit all interested parties.</p>
15.	<p>Why have purchases for some of those persons who have agreed to give up a parking unit, not closed.</p>	<p>There were twelve (12) purchasers that agreed to close their sale transactions with one parking spot instead of two parking spots. The sale transactions with each of these purchasers have closed. Please advise which sales you believe have not closed.</p>
16.	<p>Did the Trustee purchase any parking units from purchasers whose purchase has closed and, if so, what was the purchase price?</p>	<p>The Trustee has not purchased any parking spots and has not been contacted by any purchaser who has indicated his/her willingness to sell a parking spot. Please refer to paragraphs 64 and 65 of the Trustee's Fourth Report to the Court.</p>
17.	<p>What will be the commission payable to Mint Realty if it sells the unsold units without parking and what will be the commission if they sell those units with parking (based on their estimated sale prices)?</p>	<p>The commission payable to Mint Realty is a fixed percentage of the purchase price. The quantum of the commission rate was sealed pursuant to the Court Order dated August 5, 2015.</p>
18.	<p>Who are the solicitors representing 55 Uptown [sic] in the transactions referred to in the Motion Record and Trustee's Fourth</p>	<p>It is unclear how this question is relevant to the matters that will be before the Court on October 16, 2015.</p>

	QUESTION	ANSWER
	Report?	
19.	Please provide full particulars of the discussions between the Trustee and 55 Uptown [sic] concerning the possible purchase of parking spaces and completion of the 55 Uptown [sic] Project.	The Trustee has had no direct discussions with the potential purchaser of the 155 Uptown Project lands, as it has not been appointed with respect to such lands. The Trustee's information is derived from its discussions with Mint Realty, which is involved with the sale of the lands, and MarshallZehr, which is a mortgagee of the lands.
20.	If the 55 Uptown Project [sic] is completed, how many parking spaces will it be prepared to sell to unit owners of the 144 Park Project?	Mint Realty has advised that currently there is no set number of parking spaces that the potential purchaser of the 155 Uptown Project lands committed for 144 Park residents; however, the potential purchaser intends to allocate as many spaces as reasonably possible to 144 Park purchasers.
21.	Who has authorized the opening of a model suite at 144 to be used in the sale of unsold units?	The Trustee is authorized to open a model suite at the 144 Park Project in connection with the marketing of the 20 unsold units pursuant to the Appointment Order, which empowered the Trustee to act as receiver and manager of the property, to preserve and protect the property, and to take any reasonable steps incidental to such powers. Moreover, the Court Order dated August 5, 2015 authorized the Trustee to retain Mint Realty in accordance with the terms of its proposal, which included the need to have a model suite at the 144 Park Project to market and sell the unsold units.
22.	Please provide particulars of the auction proposed by Mr. Romaniuk relating to the parking spaces and why the Trustee does not support that process?	The Trustee understands that Mr. Romaniuk will be serving and filing materials that describe the auction in his own words. Once the Trustee has reviewed Mr. Romaniuk's materials, it will be in a position to provide its response.

	QUESTION	ANSWER
23.	According to your calculations, what does the Trustee propose to do with the one additional parking unit that appears to be available once each residential unit gets only one parking space?	There is no additional parking unit. There are 148 residential units (originally 149 residential units, but reduced after the combination of units 1104 and 1105 into a single unit) and 149 parking spots. Unit 1104, being the combined unit, received two parking units on closing.
24.	Is there a parking unit associated with the hospitality unit and, if so, what are the Trustee's intentions with respect to that parking unit?	No.
25.	Why are there delays in closing transactions where the purchaser is only acquiring one parking unit?	As set out in the Fourth Report, it was necessary for the Trustee to take steps to re-allocate the parking units of purchasers that were originally allocated parking units on Level 1 of the parking garage. Certain purchasers were allocated a parking spot that had previously been allocated to a two parking spot purchaser.
26.	What number of unit purchasers will not be compensated as you state in paragraph 81 of your Report and what is the total amount of their anticipated losses.	Assuming all thirteen transactions with two parking units do not close, the total amount of the upgrade monies paid to 144 Park that would be unsecured claims is \$118,101 based on the information provided to the Trustee by 144 Park.
27.	Have you inquired of unit purchaser how much they have spent on their own to their own contractors (other than Mady) to make improvements to their units?	No such inquiries have been made.
28.	How many (and which) Units in the Development were marketed without parking spots (the "No Parking Space Units") at any time prior to or during the Trusteeship? How many (and which) of these	The Trustee has not marketed any units for sale without parking spots. The Trustee understands that 144 Park did not market units for sale without parking spots. All sale transactions that have been closed by

	QUESTION	ANSWER
	No Parking Space Units were ever sold, and at what price? How many (and which) of the No Parking Space Units sold have now closed, and at what price?	the Trustee have included one parking spot (other than with respect to unit 1104).
29.	Of the 20 "Unsold Units" referred to in the Fourth Report, how many (and which) of those units had previously been sold but did not close (for any reason)? Of any "Unsold Units" which had previously been sold, how many had previously been sold without parking spots?	Only two of the Unsold Units were previously subject to an agreement of purchase and sale. Both agreements were entered into prior to the appointment of the Trustee. One agreement was terminated by the Trustee pursuant to Court order as it was entered into by 144 Park with a lien claimant for no cash consideration. 144 Park had not allocated any parking units to this sale transaction. The Trustee understands that the second agreement was never finalized and executed as between 144 Park and the potential purchaser.
30.	With respect to the report of Mint Realty Inc. ("Mint") dated August 17, 2013 included as Appendix "R" to the Trustee's Fourth Report, please provide full particulars of Mint's calculations of the market value of the Unsold Units (both with and without a parking spot), including any assumptions made or author(s) of the report.	The Trustee requested of Mint Realty that they provide the calculations of the market value of the Unsold Units (both with and without a parking spot), including any assumptions made or information reviewed by the author(s) of the report. Mint Realty's response, along with their accompanying calculations, is attached as Appendix "A" .
31.	Kindly disclose any agreements between Mint Realty on the one hand and 144 Park Ltd., the Trustee or any other parties on the service list on the other hand.	Mint Realty has been retained by the Trustee to market and sell the Unsold Units in accordance with the Court Order dated August 5, 2015. A copy of the terms of Mint Realty's proposal was attached as an appendix to the Trustee's Third Report, a copy of which can be found on the Trustee's website at http://www.collinsbarrow.com/en/cbn/restructuring-and-recovery-

	QUESTION	ANSWER
		<p>engagements/144-park-ltd.</p> <p>The Trustee has no knowledge as to any agreements that have been entered into by Mint Realty and 144 Park prior to the Trustee's appointment, or with parties on the service list.</p>

APPENDIX "A"

Attached is our work flow for the market value exercise. For the 1 bedroom and 2 bedroom units we have used a pure investor cash flow approach. At this time, we do not believe end users in Waterloo will purchase these units without parking. For the brownstones and penthouses we have used a more combined approach that being a purchaser secures a 1 bedroom at current market price (could be any unit in the building), then removes the parking spot for use with the brownstone or penthouse unit and finally disposes of the 1 bedroom using our market value for that unit type without parking. Using any other approach for these larger units results in market values almost equal to those of smaller units hence our position that we do not have any commercial evidence to support that these units will actually be saleable.

Suite	Size (Sq Ft)	Parking Units	Market Value (Standard Finished Unit) with 20 PARKING UNITS	Parking Units	Market Value (Standard Finished Unit) with 0 PARKING UNITS	Market Value (Standard Finished Unit) DIFFERENCE	Property Taxes	Insurance	Maintenance Fees	TOTAL COSTS
102	1835	1	\$629,990.00	0	\$371,090.00	\$258,900.00	\$400.87	\$25.00	\$92.45	\$1,408.32
106	1876	1	\$624,990.00	0	\$396,090.00	\$228,900.00	\$465.99	\$25.00	\$1,004.13	\$1,435.12
107	1972	1	\$644,990.00	0	\$406,090.00	\$238,900.00	\$16.24	\$25.00	\$1,054.89	\$1,496.13
502	1152	1	\$419,990.00	0	\$241,094.25	\$178,895.75	\$29.253	\$25.00	\$421.32	\$953.85
503	690	1	\$309,990.00	0	\$209,434.25	\$100,555.75	\$21.447	\$25.00	\$377.04	\$616.51
702	1152	1	\$419,990.00	0	\$241,094.25	\$178,895.75	\$29.253	\$25.00	\$421.32	\$953.85
706	712	1	\$309,990.00	0	\$209,434.25	\$100,555.75	\$21.447	\$25.00	\$388.67	\$628.15
710	1108	1	\$309,990.00	0	\$229,994.25	\$180,000.00	\$235.74	\$25.00	\$598.05	\$858.80
809	1034	1	\$480,990.00	0	\$294,944.25	\$186,045.75	\$228.85	\$25.00	\$558.93	\$813.78
810	1108	1	\$309,990.00	0	\$229,994.25	\$180,000.00	\$235.74	\$25.00	\$598.05	\$858.80
1110	1108	1	\$404,990.00	0	\$232,869.25	\$172,120.75	\$238.69	\$25.00	\$598.05	\$861.74
1203	690	1	\$314,990.00	0	\$212,618.25	\$102,371.75	\$21.793	\$25.00	\$377.04	\$616.51
1306	712	1	\$314,990.00	0	\$212,618.25	\$102,371.75	\$21.793	\$25.00	\$388.67	\$631.61
1503	1286	1	\$499,990.00	0	\$302,494.75	\$197,495.25	\$269.06	\$25.00	\$692.17	\$986.23
1906	1486	1	\$524,990.00	0	\$329,619.75	\$195,370.25	\$292.51	\$25.00	\$797.92	\$1,095.43
1607	1262	1	\$449,990.00	0	\$247,494.50	\$202,495.50	\$253.68	\$25.00	\$679.48	\$958.16
1707	1262	1	\$449,990.00	0	\$247,494.50	\$202,495.50	\$253.68	\$25.00	\$679.48	\$958.16
1807	1262	1	\$459,990.00	0	\$252,994.50	\$206,995.50	\$259.32	\$25.00	\$679.48	\$963.80
1903	1785	1	\$699,990.00	0	\$436,090.00	\$263,900.00	\$446.99	\$25.00	\$956.01	\$1,428.00
1904	1900	1	\$792,990.00	0	\$516,090.00	\$276,900.00	\$519.49	\$25.00	\$1,016.82	\$1,591.31
20		20	\$9,479,800.00	0	\$5,693,361.50	\$3,786,438.50				
Total Suitses		Total Parking Units	Total Market Value	Total Parking Units	Total Market Value					

Market Rent (Less Parking) - Total Cost (= Available Cash)	Mortgage Cost	Available Cash Less Mortgage Cost	Mortgage Amount LTV 80/20	Market Rent	Market Rent (Less Parking)	
\$941.48	\$1,488.67	(\$547.19)	\$315,872.00	\$2,900.00	\$2,350.00	Mortgage Assumptions
\$914.08	\$1,495.60	(\$581.52)	\$316,872.00	\$2,900.00	\$2,350.00	100,000 mortgage
\$903.87	\$1,537.46	(\$633.59)	\$324,872.00	\$2,958.00	\$2,408.00	\$473.25
\$906.15	\$914.30	(\$18.15)	\$193,195.40	\$2,156.00	\$1,900.00	25 year, 3% 5 Year Closed
\$783.49	\$792.19	(\$8.70)	\$167,594.60	\$1,550.00	\$1,400.00	
\$706.15	\$914.30	(\$208.15)	\$193,195.40	\$2,156.00	\$1,900.00	
\$771.85	\$792.19	(\$20.34)	\$167,594.60	\$1,550.00	\$1,400.00	
\$914.20	\$970.76	\$70.44	\$183,995.40	\$2,158.00	\$1,900.00	Market Rent Discount w/o Parking
\$866.22	\$848.29	\$17.23	\$179,395.40	\$2,046.00	\$1,700.00	150 1 bedroom
\$911.20	\$870.76	\$70.44	\$183,995.40	\$2,100.00	\$1,800.00	\$50 2 bedroom
\$938.26	\$881.64	\$56.61	\$186,295.40	\$2,150.00	\$1,800.00	\$50 brownstone & penthouse
\$780.01	\$804.97	(\$24.96)	\$170,094.60	\$1,556.00	\$1,400.00	
\$768.39	\$861.97	(\$93.58)	\$170,094.60	\$1,500.00	\$1,400.00	
\$913.77	\$993.81	(\$80.03)	\$209,995.80	\$2,550.00	\$1,900.00	
\$944.57	\$1,043.50	(\$98.93)	\$239,495.80	\$2,900.00	\$2,050.00	Purchase Price Discount Assumptions
\$891.84	\$937.01	(\$45.17)	\$197,995.60	\$2,200.00	\$1,850.00	for Brownstone & Penthouse
\$866.20	\$957.84	(\$91.64)	\$202,395.60	\$2,200.00	\$1,850.00	144 Park unit market value for parking
\$1,222.00	\$1,651.04	(\$429.04)	\$348,872.00	\$3,900.00	\$2,650.00	cost to acquire 2 1 bedroom unit and remove parking for use
\$1,258.69	\$2,029.64	(\$770.94)	\$428,872.00	\$3,400.00	\$2,850.00	approximate transaction cost w/ 200 1 bedroom unit
						profit requirement for unit, not included

APPENDIX “D”

October 6, 2015

Sam Rappos
Chaitons LLP
Barristers & Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON
M2N 7E9

Oliver Romaniuk
Self-Represented
oliver.romaniuk@gmail.com
416-909-0521
182 Westwood Ave.
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M4K 2B1

Re: Interrogatories to Trustee's October 6, 2015 Answers to Written Interrogatories

Dear Mr. Rappos,

Attached is the Notice of Appearance of Mr. Romaniuk served to the April 23, 2015 Service List and filed with the Court on August 5, 2015. It is being resent here to the revised Service List issued on October 6, 2015.

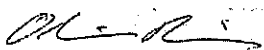
Mr. Romaniuk has worked diligently to adhere to all the Rules of Civil Procedure, Practice, Procedures and Forms of the Ontario Superior Court of Justice (Commercial List). Being self-represented, any notice of deviation to form or process is welcome. Any opportunity to rectify is appreciated and, if permitted, will be performed expeditiously.

Please find attached follow-up interrogatories to the Trustee's responses attached to its email sent October 6, 2015, answering the questions posed by Mr. Duncan on September 30 and Mr. Kolenda on October 2.

In advance of the hearing and with the appropriate timing, Mr. Romaniuk requests that the Trustee place the contents of the materials referred to in Appendix D of this letter on file with the Court as evidence. As the materials were originally distributed by the Trustee, Mr. Romaniuk is hesitant to file them on his own, in the interest of the proper filing of potentially confidential materials.

Appendix A – Follow-up Interrogatories to the Trustee's Responses dated October 6, 2015
Appendix B – Notice of Appearance of Mr. Romaniuk dated August 5, 2015
Appendix C – Copy of Service Email of Mr. Romaniuk dated August 5, 2015
Appendix D – Trustee's Email in regards to Project Documentation dated August 31, 2015
Appendix E – Turner Fleisher Architects Inc. Site Plan dated November 15, 2011
Appendix F – Paradigm Transportation Study dated December 10, 2011

Respectfully,



Oliver Romaniuk

CC: THE SERVICE LIST (October 6, 2015)

Appendix A – Follow-up Interrogatories to the Trustee’s Responses dated October 6, 2015

Generally speaking and in the interest of brevity, information sharing and the three ‘C’s of the Commercial List (Cooperation, Communication and Common sense), in the questions below *Trustee* and *Applicant* are meant to be used and interpreted interchangeably. Any reason to differentiate in the Trustee’s and/or Applicant’s responses should be indicated by the respondent for clarity, if required.

In its responses, the Trustee has made a number of statements that appear to differ in comparison to information provided by the Trustee and/or the Applicant in past filings with the Court and stakeholders to the Application. The following questions are largely, but not exclusively, meant to help all understand these differences.

- 1) Can the Trustee please provide further information on the Appraisal of Land Value & Cumulative Sell-out Value for 144 Park Street prepared for 144 Park Ltd. by MacKenzie Ray Heron & Edwardh, issued on November 23, 2011, specifically in respect of:
 - a. Did the Applicant, or any non-arm’s length affiliate or entity, provide this or any other appraisal to Laurentian Bank of Canada, MarshallZehr Group or Allen Street Holdings at any time? If so, please provide any available information, details, related documentation and/or correspondence.
 - b. Can the Applicant please explain each discrepancy between the chart on page 40 of the Appraisal, ‘144 Park Pre-Sales’, with the information provided in Appendix H of the Trustee’s Fourth Report and the Trustee’s response to question 29? This includes, but is not limited to, the units listed in *Table 1 – Sales Comparison*, included below.
 - c. Preamble – By combining data in the Appraisal and Trustee’s Appendix H, it can be calculated that at the time of the Appraisal, the Applicant had sold 136 of 149 Residential Units and 160 Parking Units. Question – Can the Applicant explain the

discrepancies between the above information and the material representations made under Section 5 (Project/Secured Property) and Section 23 (Material Representations) of the Laurentian Bank of Canada Commitment Letter executed on March 7, 2012? Specifically, an explanation of the differences in the number of required and available Parking Units, as well as the valuation of the remaining units. This includes the Applicant's primary and backup plans (if any) for parking for the sold Parking Units, as well as the plan to market and sell the remaining 12 units without parking. Note: given the arms-length nature of 155 Uptown and the state of approvals, permitting and project land control (outstanding to this day), any reasoning based on parking available within the 155 Uptown Project will be met with severe skepticism.

Table 1 - Sales Comparison

Suite	APS Date (Appraisal)	APS Date (Trustee)
101	Unsold	August 28, 2010
103	Unsold	December 19, 2012
104	Unsold	July 5, 2013
106	January 26, 2011	Unsold
107	June 6, 2009	Unsold
502	October 18, 2010	Unsold
503	October 20, 2009	Unsold
702	March 28, 2010	Unsold
706	October 31, 2009	Unsold
710	January 25, 2010	Unsold
809	August 25, 2010	Unsold
810	January 25, 2010	Unsold
1105	December 9, 2009	Unsold
1110	July 18, 2010	Unsold
1203	October 5, 2009	Unsold
1306	June 26, 2010	Unsold
1503	October 22, 2009	Unsold
1506	September 19, 2010	Unsold
1507	Unsold	July 13, 2013
1604	February 28, 2010	September 11, 2012
1701	Unsold	March 7, 2013
1702	March 1, 2010	June 17, 2010
1705	Unsold	April 24, 2013
1805	Unsold	July 5, 2013
1806	May 22, 2010	June 29, 2013

- 2) Can the Applicant please explain the variances and associated reasons for the current parking situation in comparison to the drawings issued for site plan approval by Turner Fleisher Architects Inc. on November 15, 2011, attached hereto as Appendix "E"? An adequate explanation necessarily includes a reason why a detailed IFC (issued for construction) plan differs from the As-Built by more than 20%.
- 3) Can the Applicant please explain the Traffic Demand Management (TDM) Initiative described in Section 4.10(2) of the 144 Park Tower 2 Transportation Impact Study issued by Paradigm Transportation Solutions Limited on December 10, 2011, attached hereto as Appendix "F"? Specifically, the question lies in respect of how an "Unbundled Parking" solution could have greater benefit in Tower 2 (155 Uptown), which has a surplus of parking sufficient to meet 144 Park's needs, in comparison to Tower 1 (144 Park) which has a deficit of parking. Also, can the Applicant describe in detail why an 'Unbundled Parking' solution is more or less appropriate in today's economic and housing situation than in late 2011?
- 4) Can the Trustee please provide evidence that Mint Realty has no perverse economic incentive to skew the valuations of or the opinions regarding the various units such that the APS of current Purchasers under contract with Mint (or affiliates) are terminated and that Mint will stand to realize a larger gain from re-selling the same unit at current market prices? If such a perverse incentive exists, does the Trustee have the required oversight measures in place such that it can assure the Purchasers and the Court that all deals are being completed equitably or is there any third party oversight or a fairness advisor?
- 5) Please provide any information that may be relevant to the Honorable Court, various stakeholders, creditors and Purchasers that may indicate a conflict of interest or perceived conflict of interest (until determined definitely otherwise) amongst the various parties to the proceeding.
- 6) With regards to Question 22. Mr. Romaniuk dedicated the personal time and effort to schedule an appointment, put together a detailed presentation, meet at Trustee's counsel's office, explain the auction concept in detail, follow up with a detailed email of action items which specifically included Trustee's counsel forwarding the information and presentation to the Trustee, as well as an open offer by Mr. Romaniuk to discuss the details in depth. The offer was not acknowledged and the Trustee has instead mistakenly indicated that Mr. Romaniuk will explain the concept, either written or orally, at the hearing. Mr. Romaniuk

would be pleased to further discuss the concept, but against Mr. Romaniuk's specific and repeated advice, the Trustee has released the market valuation of the parking units, thus altering the outcome of the auction. As will be described further in Mr. Romaniuk's (now necessary) filing with the Court, the auction concept is still viable, but will now come at a premium due to the Trustee's release of the Mint Realty report.

- 7) To briefly summarize a simplified variant of the Japanese auction concept that was proposed. Colloquial terminology is used for simplicity of description.
- a. The Trustee first determines a confidential 'strike price' which is the total premium it is willing to pay for all the Parking Units it requires.
 - b. The auction begins with the Purchasers each 'owning' their respective Parking Units, under the assumption that there is some price at which they will 'sell'.
 - c. The Trustee periodically 'calls out' an increasing clearing price.
 - d. With every price, each Purchaser privately notifies the Trustee if they are willing to accept the clearing price in exchange for their Parking Unit.
 - e. Once a sufficient numbers of Purchasers are willing to sell, the auction ends.
 - f. The Trustee calculates the total premium (clearing price times units).
 - g. If the premium is below the strike price, the deals are firm.
 - h. If the premium is above the strike price, the auction is void.

APPENDIX “E”

DUNCAN, LINTON LLP

LAWYERS

IRWIN A. DUNCAN+ • J. DAVID LINTON+ • DAVID M. STEELE
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October 9, 2015
File No. 0039495

Sam Rappos
CHAITONS LLP
Barristers & Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

VIA EMAIL (samr@chaitons.com)

Dear Mr. Rappos:

Re: 144 Park Ltd.

We have had an opportunity to review the October 6, 2015 Answers to Written Interrogatories provided by your office in response to our September 30, 2015 List of Questions. Many of the answers provided are not fully responsive and prompt more questions, as set out below.

SUPPLEMENTARY LIST OF QUESTIONS

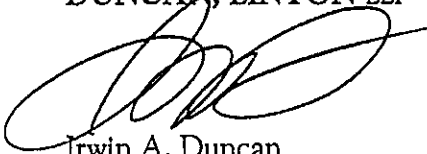
(supplementing September 30, 2015 list of questions by certain unit purchasers)

27. What information does the Trustee have concerning how 144 Park determined the purchase price for the parking units?
28. Does the Trustee have any information regarding the status of the 155 Uptown Project, despite the fact that it was not appointed with respect to that project?
29. Please confirm that the decision to defer to April 30, 2015, the question of acquiring parking at the 155 Caroline Lands as described in paragraph 9 of the April 29, 2015 Supplement to the First Report (incorporated by reference in paragraph 35 of, and attached as Appendix "K" to, the September 25, 2015 Fourth Report) represents the Trustee's most recent work to find alternate solutions for the parking situation which involved augmenting the number of spaces available at 144 Park.
30. Please confirm that the July 25, 2015 letter notifying unit holders of reallocation (Appendix "P" to the Fourth Report, paragraph 55) and the August 19, 2015 letter

Appendix "T" to the Fourth Report, paragraph 64) represents the Trustee's most recent work to find alternate solutions for the parking situation which involved reallocating the spaces available at 144 Park.

31. Does Mint Realty have any information regarding sales of condominium units without parking units in Kitchener-Waterloo?
32. If the answer to question 31 is yes, please have Mint identify the projects in which such sales took place.
33. If the answer to question 31 is yes, please ask Mint what the sale price for units without parking was, and what the sale price was for comparable units with parking units, in the same projects.
34. How many units, with two parking spaces, were ready to close immediately after registration of the condominium documents on May 25, 2015?
35. At what price will Mint Realty market units of unit purchasers who refuse to relinquish one parking unit?
36. Does the Trustee propose compensating unit purchasers who made upgrades to their units after Interim Closing if their Purchase Agreements are terminated?

Yours very truly,
DUNCAN, LINTON LLP



Irwin A. Duncan
IAD/tb
c. Service List

APPENDIX “F”

ANSWERS TO FURTHER WRITTEN INTERROGATORIES

	QUESTION	ANSWER
1.	What information does the Trustee have concerning how 144 Park determined the purchase price for the parking units?	The Trustee had been advised that 144 Park Ltd.'s former sales staff and Vice-President of Sales and Marketing determined the purchase price of the parking units based on what parking units were selling for in the area at the time. The Trustee does not have access to any data that was utilized, nor does it have contact information for any of the former employees involved.
2.	Does the Trustee have any information regarding the status of the 155 Uptown Project, despite the fact that it was not appointed with respect to that project?	The Trustee has been informed by MarshallZehr that an agreement of purchase and sale has been executed by the parties and the closing date is currently scheduled for October 23, 2015. The parties are currently negotiating final items on the transaction. The Trustee has no knowledge of what those final items are.
3.	Please confirm that the decision to defer to April 30, 2015, the question of acquiring parking at the 155 Caroline Lands as described in paragraph 9 of the April 29, 2015 Supplement to the First Report (incorporated by reference in paragraph 35 of, and attached as Appendix "K" to, the September 25, 2015 Fourth Report) represents the Trustee's most recent work to find alternate solutions for the parking situation which involved augmenting the number of spaces available at 144 Park.	Please refer to the Fourth Report, which details the steps the Trustee has taken to find alternate solutions for the parking situation.
4.	Please confirm that the July 25, 2015 letter notifying unit holders of reallocation (Appendix "P" to the Fourth Report, paragraph 55) and the August 19, 2015 letter Appendix "T" to the Fourth Report, paragraph 64) represents the Trustee's most recent work to find alternate solutions for the parking situation which involved reallocating the spaces available for 144 Park.	See above.

	QUESTION	ANSWER
5.	<p>Does Mint Realty have any information regarding sales of condominium units <u>without</u> parking units in Kitchener-Waterloo?</p> <p>Please have Mint identify the projects in which such sales took place.</p> <p>Please ask Mint what the sale price for units without parking was, and what the sale price for comparable units with parking units, in the same projects.</p>	<p>Response from Mint Realty:</p> <p>“Two local projects, One Victoria, which is located in Kitchener, as well as the Midtown Lofts, located in Kitchener, have successfully sold some studio units (~500 sq ft) and very small one bedroom units (<600 sq ft) without parking in the pre-construction sales phase however, these units have not yet been sold on the resale market thus no market data is currently available.”</p> <p>“Given these sales have taken place during pre-construction sales phases the sale prices are not available to the general public nor the real estate brokerage community. Only the developers for the respective projects as well as individual unit purchasers would have access to this information.”</p>
6.	<p>How many units, with two parking spaces, were ready to close immediately after registration of the condominium documents on May 25, 2015?</p>	<p>As has previously been reported, as at the time of registration there were 128 sale transactions that contemplated the sale of 154 parking units. There are only 149 parking units in the project. Assuming that the Trustee was in a position to transfer two parking units to each of the purchasers that had agreed to purchase two parking units, which it wasn't, it is likely that the 25 sale transactions that included two parking units would have been ready to close within a reasonable time after registration.</p>
7.	<p>At what price will Mint Realty market units of unit purchasers who refuse to relinquish one parking unit?</p>	<p>Response from Mint Realty:</p> <p>“This would be at the discretion of the Trustee and would depend on</p>

QUESTION	ANSWER
	<p>the specific unit. Some units in the building have appreciated in value while others have remained relatively flat when compared to pre-construction prices. Generally speaking larger units have appreciated less than small units. Mint Realty can provide additional detail if a specific unit is referenced.”</p>
<p>8. Does the Trustee propose compensating unit purchasers who made upgrades to their units after Interim Closing if their Purchase Agreements are terminated?</p>	<p>The only funds that will be available to purchasers who have their agreements terminated are funds still being held in trust by Harris Sheaffer and funds that were released to 144 Park and are secured by Aviva’s bond and charge. No other compensation will be available.</p>
<p>9. Can the Trustee provide further information on the Appraisal of Land Value & Cumulative Sell-out Value for 144 Park Street prepared for 144 Park Ltd. by MacKenzie Ray Heron & Edwardh, issued on November 23, 2011, specifically in respect of:</p> <p>a. Did the Applicant, or any non-arm’s length affiliate or entity, provide this or any other appraisal to Laurentian Bank of Canada, MarshallZehr Group or Allen Street Holdings at any time? If so, please provide any available information, details, related documentation and/or correspondence.</p> <p>b. Can the Applicant please explain each discrepancy between the chart on page 40 of the Appraisal, ‘144 Park Pre-Sales’, with the information provided in Appendix H of the Trustee’s Fourth Report and the Trustee’s response to question 29? This includes, but is not limited to, the units listed in <i>Table 1 – Sales Comparison</i>, included below.</p> <p>c. Preamble -- By combining data in the Appraisal and Trustee’s</p>	<p>a. The Trustee will inquire of Laurentian Bank of Canada, MarshallZehr Group and Allen Street Holdings to confirm whether they received a copy of the appraisal from 144 Park.</p> <p>b. The information contained in Appendix ‘H’ of the Trustee’s Fourth Report represents the information available to the Trustee. The Trustee is not in a position to explain any discrepancy that may exist between it and information contained in the Appraisal, and does not see how this information is relevant to the issues to be considered at the motion, as information about what was contemplated or reported by 144 Park does not impact the amount of parking units that are currently available in the project.</p> <p>c. The Trustee is not in a position to answer these questions, as the Trustee does not have the required information available to it. Additionally, the Trustee does not see how this information is relevant to the issues to be considered at the motion.</p>

QUESTION

ANSWER

Appendix H, it can be calculated that at the time of the Appraisal, the Applicant had sold 136 of 149 Residential Units and 160 Parking Units. Question – Can the Applicant explain the discrepancies between the above information and the material representations made under Section 5 (Project/Secured Property) and Section 23 (Material Representations) of the Laurentian Bank of Canada Commitment Letter executed on March 7, 2012? Specifically, an explanation of the differences in the number of required and available Parking Units, as well as the valuation of the remaining units. This includes the Applicant’s primary and backup plans (if any) for parking for the sold Parking Units, as well as the plan to market and sell the remaining 12 units without parking.

10. Can the Applicant please explain the variances and associated reasons for the current parking situation in comparison to the drawings issued for site plan approval by Turner Fleisher Architects Inc. on November 15, 2011? An adequate explanation necessarily includes a reason why a detailed IFC (issued for construction) plan differs from the As-Built by more than 20%.

11. Can the Applicant please explain the Traffic Demand Management (TDM) Initiative described in Section 4.10(2) of the 144 Park Tower 2 Transportation Impact Study issued by Paradigm Transportation Solutions Limited on December 10, 2011? Specifically, the question lies in respect of how an “Unbundled Parking” solution could have greater benefit in Tower 2 (155 Uptown), which has a surplus of parking sufficient to meet 144 Park’s needs, in comparison to Tower 1 (144 Park) which has a deficit of parking. Also, can the Applicant describe in detail why an ‘Unbundled Parking’ solution is more or less appropriate in today’s economic and housing situation than in late 2011?

The Trustee is not in a position to answer these questions, as the Trustee does not have the required information available to it. Additionally, the Trustee does not see how this information is relevant to the issues to be considered at the motion.

The Trustee is not in a position to answer these questions, as the Trustee does not have the required information available to it. Additionally, the Trustee does not see how this information is relevant to the issues to be considered at the motion.

QUESTION

ANSWER

12. Can the Trustee please provide evidence that Mint Realty has no perverse economic incentive to skew the valuations of or the opinions regarding the various units such that the APS of current Purchasers under contract with Mint (or affiliates) are terminated and that Mint will stand to realize a larger gain from re-selling the same unit at current market prices? If such a perverse incentive exists, does the Trustee have the required oversight measures in place such that it can assure the Purchasers and the Court that all deals are being completed equitably or is there any third party oversight or a fairness advisor?

Mint Realty is an independent third party broker that has provided its views as to the value of unsold units with and without parking units. As Mint Realty has already been retained by the Trustee to market and sell the unsold units, it makes sense to retain Mint Realty to market and sell any units that are to be sold as a result of terminated sale transactions. Unless there is a conflict that the Trustee is unaware of, utilizing another broker that is not as familiar with the building would be inefficient and not cost effective.

13. Please provide any information that may be relevant to the Honorable Court, various stakeholders, creditors and Purchasers that may indicate a conflict of interest or perceived conflict of interest (until determined definitely otherwise) amongst the various parties to the proceeding.

There are numerous parties on the service list. The Trustee is not in a position to comment on any relationships that may exist between the parties. If there is a concern about a specific relationship, it should be disclosed.

14. Mr. Romaniuk dedicated the personal time and effort to schedule an appointment, put together a detailed presentation, meet at Trustee's counsel's office, explain the auction concept in detail, follow up with a detailed email of action items which specifically included Trustee's counsel forwarding the information and presentation to the Trustee, as well as an open offer by Mr. Romaniuk to discuss the details in depth. The offer was not acknowledged and the Trustee has instead mistakenly indicated that Mr. Romaniuk will explain the concept, either written or orally, at the hearing. Mr. Romaniuk would be pleased to further discuss the concept, but against Mr. Romaniuk's specific and repeated advice, the Trustee has released the market valuation of the parking units, thus altering the outcome of the auction. As will be described further in Mr. Romaniuk's (now necessary) filing with the Court, the auction

As previously reported, the auction was Mr. Romaniuk's idea, and the Trustee did not want to in any way incorrectly describe the auction in its report. Mr. Romaniuk has indicated for many months that he intended to serve and file materials in connection with the Trustee's motion, so it was reasonable to assume that he would be describing his auction proposal in his materials.

The Trustee has the obligation to disclose all relevant information to the stakeholders of the 144 Park Project in connection with the upcoming motion. Such information includes the value that 144 Park attributed to parking units, and Mint Realty's valuation as to the value of the unsold units with and without parking units. It is not clear as to how the Trustee released the market value of the parking units to the public.

	QUESTION	ANSWER
	concept is still viable, but will now come at a premium due to the Trustee's release of the Mint Realty report.	

**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**

Court File No. CV15-10843-00CL

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

Proceedings commenced at Toronto

**SUPPLEMENT TO THE FOURTH
REPORT OF THE TRUSTEE**
(re Parking Matters)
(motion returnable October 16, 2015)

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