

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

HOME TRUST COMPANY

Applicant

- and -

2122775 ONTARIO INC.

Respondent

MOTION RECORD

February 7, 2014

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

HOME TRUST COMPANY

Applicant

- and -

2122775 ONTARIO INC.

Respondent

NOTICE OF MOTION

Collins Barrow Toronto Limited (the “Receiver”), in its capacity as receiver of the assets, undertakings and properties of the Respondent, 2122775 Ontario Inc. (“212”) will make a Motion to a Judge of the Commercial List on Friday, February 14, 2014, at 10:00 a.m., or as soon after that time as the Motion can be heard at 330 University Avenue, in Toronto, Ontario.

PROPOSED METHOD OF HEARING: The Motion is to be heard orally.

THE MOTION IS FOR:

- (a) an Order, if necessary, abridging the time for service and validating service of this Notice of Motion and Motion Record, and dispensing with further service hereof such that this Motion is properly returnable on February 14, 2014;

- (b) an Order approving the actions of the Receiver as set out in the Second Report of the Receiver (the “**Second Report**”) and the Supplemental Report of the Receiver (the “**Supplement**”), both dated February 5, 2014 and approving the Receiver’s Second Report and Supplement;
- (c) an Order approving a proposed sale by the Receiver of certain assets of 212 (the “**Assets**”) pursuant to an agreement of purchase and sale between the Receiver and Urbancorp (Downtown) Developments Inc. (the “**Purchaser**”) dated January 22, 2014 (the “**APS**”);
- (d) an Order vesting in the Purchaser all right, title and interest, if any, of 212 in and to the Assets free and clear of any encumbrances;
- (e) an Order sealing the Supplement, pending the completion of the sale of the Assets, as evidenced by the filing of the Receiver’s Certificate, or further Order of this Honourable Court;
- (f) an Order authorizing and directing the Receiver to distribute to Home Trust Company (“**Home Trust**”), from the net proceeds realized from the sale of the Assets to the Purchaser, sufficient funds to repay in full the secured indebtedness owing to Home Trust by 212; and
- (g) such further relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

1. Pursuant to the Order of the Honourable Madam Justice Thorburn dated

November 15, 2013 (the “Appointment Order”), the Receiver is authorized to market the Assets, solicit offers to purchase the Assets and, subject to the approval of this court in respect of any transaction in excess of \$500,000.00, sell the Assets and apply for a Vesting Order to convey the Assets to a purchaser, free and clear of any liens or encumbrances;

- 2. The Receiver conducted a commercially reasonable sale and marketing process for the Assets, in accordance with the process approved by the Honourable Mr. Justice Brown dated December 11, 2013 as more particularly described in the Second Report and the Supplement of the Receiver;
- 3. The Purchaser’s offer was the highest and best offer received for the Assets and, with the consent of Home Trust, the Receiver proceeded to negotiate and execute the APS, subject to approval of the court;
- 4. Home Trust, 212’s first ranking secured creditor is supportive of the transaction with the Purchaser;
- 5. The Receiver has obtained an independent legal opinion confirming the validity, enforceability and priority (subject to the usual qualifications) of the security held by Home Trust; and
- 6. Such further and other grounds as counsel may advise and this Honourable Court permit.

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

1. The Second Report of Collins Barrow Toronto Limited dated February 5, 2014, and the Appendices thereto; and
2. The Supplemental Report of the Receiver, and the Appendices thereto; and
3. Such further and other material as counsel may advise and this Honourable Court may permit.

February 7, 2014

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Inc.

HOME TRUST COMPANY
Applicant

-and- **2122775 ONTARIO INC.**
Respondent

Court File No. CV-13-10313-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

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TAB 2

Court File No. CV-13-10313-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

HOME TRUST COMPANY

Applicant

- and -

2122775 ONTARIO INC.

Respondents

SECOND REPORT OF THE RECEIVER

February 5, 2014

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I. INTRODUCTION

1. By Order of the Ontario Superior Court of Justice (Commercial List) ("**Court**") dated November 15, 2013 (the "**Appointment Order**"), Collins Barrow Toronto Limited ("**CBTL**") was appointed receiver and receiver and manager (the "**Receiver**") of 2122775 Ontario Inc. ("**2122775**" or the "**Debtor**"), without security, of all of the lands and premises municipally known as 2425 and 2427 Bayview Avenue, Toronto, Ontario and described in Appendix "B" to the Appointment Order (the "**Lands**") and of all the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including those acquired for, or used in relation to, the development of the Lands and construction of improvements thereon, including all proceeds thereof (collectively, the "**Property**"). A copy of the Appointment Order is attached hereto as Appendix "A".
2. The Appointment Order authorized the Receiver to, among other things, take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property. In addition, the Receiver was authorized to sell, convey, transfer, lease or assign the Property or any part thereof out of the ordinary course of business:
 - (a) without the approval of the Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (b) with the approval of the Court in respect of any transaction in which the purchase price or aggregate purchase price exceeds \$500,000.

3. On December 4, 2013, the Receiver issued its first report to the Court (the "**First Report**") for the purpose of, among other things, seeking an Order of the Court approving the marketing and sales process to be conducted by the Receiver to solicit offers for the sale of the Lands (the "**Marketing Process**"). A copy of the First Report, without appendices, is attached hereto as Appendix "**B**".
4. By Order of the Honourable Mr. Justice D.M. Brown dated December 11, 2013 (the "**Marketing Order**"), the Court approved the Marketing Process, sealed Appendix "**J**" to the First Report, being the Confidential Information Memorandum, authorized the Receiver to disclose to and review with any secured creditors of the Debtor or any of their advisers, any and all offers received by the Receiver to purchase the Lands; ordered the Receiver to retain independent legal counsel, and approved the activities of the Receiver as set out in the First Report. A copy of the Marketing Order is attached as Appendix "**C**".
5. The Appointment Order, the First Report, the Marketing Order, together with related Court documents have been posted on the Receiver's website, which can be found at <http://www.collinsbarrow.com/en/cbn/2122775-ontario>.

Purpose of Second Report

6. Upon completion of the Marketing Process, the Receiver received a number of offers to purchase the Lands, including plans, etc. relating thereto (hereinafter collectively referred to as the "**Lands**"), in accordance with the terms of the Marketing Order. The purpose of this second report of the Receiver (the "**Second Report**") is to:

-
- i) provide to the Court details of the Receiver's activities in conducting the Marketing Process since the granting of the Marketing Order on December 11, 2013;
 - ii) seek an order:
 - a. authorizing and directing the Receiver to enter into and carry out the terms of the agreement of purchase and sale between the Receiver and Urbancorp (Downtown) Developments Inc. (the "Purchaser") dated January 22, 2014 (the "Purchase Agreement") together with any further amendments thereto deemed necessary by the Receiver in its sole opinion, and vesting title to the Lands in the Purchaser, or as it may further direct in writing, upon closing of the Purchase Agreement and the delivery of the Receiver's Certificate to the Purchaser;
 - b. if the Purchase Agreement is terminated in accordance with its terms, authorizing and directing the Receiver to commence negotiations for the sale of the Lands with any other party or parties identified by the Receiver through the Marketing Process; and
 - c. sealing the Supplemental Report (defined below) until the closing of the sale;
 - iii) seek an order approving the Receiver's proposed interim distribution to the Applicant of certain of the net proceeds from the sale of the Lands, in the event that the sale transaction contemplated by the Purchase Agreement is completed;

-
- iv) report to the Court on the activities of the Receiver since the First Report;
and
 - v) provide the Court with a summary of the Receiver's cash receipts and disbursements for the period November 15, 2013 to January 31, 2014.

Terms Of Reference

7. In preparing this Second Report and making the comments herein, the Receiver has relied upon unaudited internal financial statements and other information prepared or provided by the Debtor, discussions with management, and information from other third-party sources (collectively, the "Information"). Certain of the information contained in this Second Report may refer to, or is based on, the Information. As the Information has been provided by the Debtor or other parties, or obtained from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
8. Unless otherwise stated, all dollar amounts contained in the Second Report are expressed in Canadian dollars.
9. Unless otherwise provided, all other capitalized terms not otherwise defined in this Second Report are as defined in the First Report.

II. BACKGROUND

10. 2122775 is an Ontario corporation incorporated on December 20, 2006. Its President, Secretary and sole director is Mr. Naheel Suleman ("Suleman"). Suleman is also the owner/shareholder of 2122775. The business address of the Debtor is 75 International Blvd., Suite 400, Toronto, ON.
11. 2122775 is the registered owner and developer of the Lands.
12. HUSH Homes Inc. ("HUSH") acted as the project manager for the Project. HUSH is an Ontario corporation incorporated on February 13, 2007. Suleman is the President and a director of HUSH. The business address for HUSH is 75 International Blvd., Suite 400, Toronto, ON.
13. The Lands are residential land comprising approximately 1.3 acres located on the east side of Bayview Avenue, just north of Post Road, in the City of Toronto, Ontario.
14. Descriptions of the Lands, the status of the construction thereon and the secured creditors are set out in Paragraphs 8, 10 to 12, and 20 to 22 of the First Report.

III. ACTIVITIES OF THE RECEIVER

Preservation of the Property

15. Since the date of the First Report, the Receiver has undertaken the following activities to secure and preserve the Property:
 - (a) arranged for new insurance coverage for the Lands in the Receiver's name;

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- (b) made arrangements for daily site inspections including inspection of the underground garage in accordance with the requirements of the insurance company;
- (c) made arrangements with Intelligarde Security to conduct nightly site patrols in accordance with the requirements of the insurance company;
- (d) made arrangements to ensure the continuing supply of hydro to the site including:
- contacted Toronto Hydro to set up a new account in the name of the Receiver;
 - made arrangements for the continued use by the Receiver of temporary electrical equipment; and
 - contacted the Electrical Safety Authority to arrange for payment of fees for required quarterly inspections;
- (e) made arrangements for the continued rental of the construction trailer on the construction site;
- (f) arranged for the return of third party rental equipment that was not required for ongoing site maintenance;
- (g) obtained quotes for and arranged for repairs to sections of the perimeter fencing which had fallen over;
- (h) arranged for the draining and shut-off of the water main to prevent flooding from water freezing in, and damaging, the pipes;
- (i) obtained quotes and arranged for maintenance or winterizing of the site including:

- the installation of automatic sump pumps to protect against flooding;
- the installation of temporary doors or barriers; and
- the installation of electrical heaters in the mechanical room, the electrical room, and other spaces.

Information for Prospective Purchasers

16. In response to concerns expressed by interested parties as to the condition of the foundation built on the Lands and, in order to make available information to prospective purchasers that may facilitate their review of the opportunity, the Receiver engaged CCI Group Inc. to prepare a condition survey of the underground parking garage. A draft report was provided to the Receiver on January 20, 2014 and posted to the data room that had been prepared by the Receiver for prospective purchasers to review.
17. The Receiver obtained from HUSH the Debtor's accounts payable records and Project drawings and reports. The Receiver continued to follow up with HUSH to obtain answers to questions raised by prospective purchasers and to request additional documents.

City of Toronto

18. The Receiver contacted the City of Toronto ("City") to obtain an accounting of the fees paid to date for building permits, development fees and park levies in connection with the development of the Lands. Several discussions were held with the building department of the City to clarify the procedures required to transfer the permits to a new owner.
19. The Receiver made inquiries to determine whether a security deposit of \$473,705 as recorded on the Debtor's unaudited internal balance sheet as at

September 30, 2013 had been paid to the City. Documentation was obtained from the City which indicates that a security deposit of \$359,304 was required to guarantee the provision of landscape development works, prior to the City issuing any building permits. As of the date of this report, the Receiver is awaiting a response from the City as to the amount of the security deposit and whether it was paid by a letter of credit or cheque.

Bond provided to Tarion Warranty Corporation ("Tarion")

20. The Receiver contacted Tarion Warranty Corporation ("Tarion") to inquire as to whether a security deposit of \$16,950 that was paid in respect of the town house development could be transferred to a purchaser of the Lands or refunded to the Receiver. Tarion has advised that the security deposit is refundable to HUSH, as the deposit was paid to Tarion under HUSH's registration number.
21. As noted in the First Report, Aviva Insurance provided a \$400,000 bond to Tarion in respect of the town house development. The Receiver contacted Aviva to obtain additional details of the bond. Aviva has advised that the bond is to guarantee the deposit paid by the purchaser of the one sold unit; that the 2013 annual premium for the bond in the amount of \$5,000 was not paid; and that the bond will not be released by Tarion until the purchaser's deposit is refunded to the purchaser.

Independent Counsel

22. Pursuant to Paragraph 4 of the Marketing Order, the Receiver has retained Dickinson Wright LLP to act as its independent legal counsel, other than with respect to opining on the validity of the security held by the mortgagees of the Lands.

IV. INDEPENDENT LEGAL OPINION ON VALIDITY AND ENFORCEABILITY OF SECURITY

23. As noted in the First Report, the first to fourth mortgages registered against title to the Lands, including the dates the mortgages were registered, are:

<u>Mortgagee</u>	<u>Amount</u>	<u>Date registered</u>
Home Trust Company (Home Trust)	\$6,500,000	June 1, 2011
Zaherali Visram (Visram)	\$5,100,000	January 13, 2012
VS Capital Corporation (VS Capital)	\$8,750,000	August 29, 2012
VS Capital	\$4,000,000	October 17, 2012

24. The Charge/mortgage of Land registered in favour of Home Trust was registered prior to the registrations by Visram, VS Capital and all other charges/liens registered against title to the property.
25. The Receiver requested from each of the mortgagees copies of documentation to support their mortgages registered against title. The mortgage documentation was received and forwarded to Minden Gross LLP (**MG**) for MG to review and provide to the Receiver a legal opinion as to the validity and enforceability of the registered mortgages. MG has provided its opinion, subject to the usual assumptions and limitations, that the security interests created by the mortgages constitute legal, valid and binding obligations of the Debtor in favour of each of Home Trust, Visram and VS Capital and are valid and enforceable by each of Home Trust, VS Capital and Visram. MG's opinion also sets out that the security interest of Home Trust in the Debtor's personal property pursuant to the Security Agreement dated December 10, 2010 executed and delivered by the Debtor and in favor of Home Trust was reperfected as at January 24, 2014.

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26. The Receiver has received documentation to support the advances made by Home Trust to the Debtor. The Receiver has requested proof of advances from Visram and VS Capital. As of the date of this report, that information has not yet been received by the Receiver.

V. RECEIVER'S MARKETING ACTIVITIES

27. Following issuance of the Marketing Order, the following steps were taken in accordance with the Marketing Process:
- (a) the Receiver developed an initial list of 382 potential purchasers or influencers based on expressions of interest received by the Receiver and its experience and contacts;
 - (b) on December 12, 2013, the Receiver distributed by email an information overview document (the "**Marketing Flyer**") providing a description and other basic information regarding the Lands to the 382 parties on its list, together with a confidentiality agreement to be executed by interested parties requesting further information in respect of the Lands. A copy of the Marketing Flyer is attached hereto as Appendix "D";
 - (c) on December 17, 2013, the Receiver arranged for the posting of a "For Sale" sign at the Lands. A copy of a photograph of the marketing sign is attached hereto as Appendix "E";
 - (d) on December 17 and 19, 2013 and again on January 7 and 9, 2014, the Receiver placed a classified advertisement in the Commercial Real Estate

section of The Globe and Mail, national edition. A copy of the advertisement is attached hereto as Appendix "F";

- (e) from December 13, 2013 to January 23, 2014, the Receiver distributed the Marketing Flyer to an additional 201 parties who contacted the Receiver to request information on the opportunity;
- (f) from December 12, 2013 to January 23, 2014, the Receiver distributed to 111 parties who signed back a confidentiality agreement a confidential information memorandum ("CIM") providing detailed information on the Lands;
- (g) on December 18, 2013, the Receiver made available to the prospective purchasers who had signed a confidentiality agreement an electronic data room prepared by the Receiver which posted more detailed information with respect to the Lands and proposed town house development;
- (h) from December 12, 2013 to January 23, 2014, the Receiver met with prospective purchasers and responded to numerous prospective purchasers who contacted the Receiver with questions regarding the Lands;
- (i) On January 13, 2014, the Receiver contacted nineteen prospective purchasers who had received a CIM, but who had not requested a site tour;
- (j) the Receiver conducted site tours for twenty-eight parties who requested tours of the site on one or more occasions; and

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- (k) the Receiver provided the template Agreement of Purchase and Sale which had been prepared by the Receiver to twenty-six parties who requested that document.

Binding Offers Received

28. Pursuant to the Marketing Process, prospective purchasers were required to submit bids by noon of January 23, 2014 (the "**Offer Date**").
29. As at January 23, 2014, ten offers were received. The ten offers were reviewed by the Receiver and, as authorized by the Marketing Order, discussed with Home Trust.
30. Of the ten offers received, four were selected as being the best four offers ("the **Top Four**"). Details of the offers received and the rationale for the selection of the Top Four are set out in a Supplemental Report being filed with the Court ("**Supplemental Report**"). The Receiver respectfully requests that its Supplemental Report be sealed by the Court until after a sale transaction closes.
31. The Receiver decided, with Home Trust's concurrence, to focus its efforts on pursuing a sale agreement with one of the Top Four.
32. On January 24 and 27, the Receiver contacted the Top Four to clarify certain aspects of their offers, express concerns as to conditions imposed, and/or to give them an opportunity to submit a revised offer by noon of January 30, 2014 (the "**Revised Offer Date**").
33. On January 27, 2013, the Receiver and its counsel met with representatives of one of the Top Four and its counsel to review the terms of its offer, and to discuss the concerns that offeror had with the opportunity. At the conclusion of

that meeting, the Receiver requested that the offeror consider the matters discussed and whether it wished to re-submit its offer.

34. On January 28, 2014, the Receiver received a telephone call from one of the offerors who was not in the Top Four. That offeror told the Receiver that it was aware that the Receiver had gone back to certain parties and had afforded those parties an opportunity to re-submit their offers, and expressed its concern that it was not afforded the same opportunity to re-submit its offer.
35. Following consideration of that party's concern, on January 28 and 29, 2014, the Receiver corresponded with the remaining six offerors, and informed them that if they wished to re-submit their offers, to do so before the Revised Offer Date. The Receiver notes that none of the parties expressed concern to the Receiver that they required additional time to submit an offer.
36. As of the Revised Offer Date, the Receiver had received 11 offers to consider. Of the original ten offerors, six submitted revised offers which incorporated increases or reductions to the purchase price. The eleventh offer was received from a new offeror on January 29, 2014 after the Offer Date.
37. The Receiver discussed the offers with Home Trust on January 30, 2014 and with Home Trust's concurrence, accepted the offer from Urbancorp by signing and returning the agreement of purchase and sale submitted by Urbancorp.
38. A copy of the Purchase Agreement is included in the Supplemental Report. Completion of the transaction contemplated by the Purchase Agreement will occur when the conditions set out in the Purchase Agreement, including the

granting of the Approval and Vesting Order being sought, have been satisfied and the Purchaser has satisfied the other delivery requirements therein.

39. Based on the Marketing Process conducted by the Receiver, and the information contained in the Supplemental Report, the Receiver respectfully requests that the Court approve the Receiver entering into the Purchase Agreement with Urbancorp and direct the Receiver to complete the transaction contemplated by the Purchase Agreement.

VI. INTERIM DISTRIBUTION

40. As described above, the Receiver has obtained an independent legal opinion on the validity and enforceability of the security held by Home Trust, Visram and VS Capital. In addition, the Receiver has received an opinion from MG that the Charge/Mortgage of Land registered against title to the Property in favour of Home Trust on June 1, 2011, as Instrument No. AT2708324 (the "**Home Trust Mortgage**"), is the first ranking mortgage registered against the Property. In providing its opinion in this regard, MG qualifies its opinion with the usual assumptions and limitations including (i) the assumption that there are no agreements among the various registered mortgage holders that purport to create any subordination or similar rights that would affect the relative priorities among such registered mortgage holders, and (ii) that MG has not reviewed copies of any liens or other registered encumbrances against the Property and provides no opinion on what affect, if any, such liens or registered encumbrances would have on the priority of the Home Trust Mortgage.

-
41. The mortgage statement obtained from Home Trust and attached as Appendix "G" indicates that the total indebtedness as at February 5, 2014 of the Debtor for principal and interest secured by the mortgage amounts to \$6,670,036.40, plus per diem interest of \$1,276.38 to an effective date of February 28, 2014. After February 28, 2014, the accrued interest for February will be added to the principal and outstanding interest, and the per diem interest for the month of March 2014 will be calculated based on this new and higher balance. In addition, Home Trust has to date incurred costs of enforcement in the amount of \$53,587.69.
 42. Upon the closing of the Purchase Agreement, the Receiver will be in possession of sufficient funds to make a payment to Home Trust to fully satisfy its mortgage/charge against the Lands. The Receiver requests that the Court direct the Receiver, upon receipt of the funds from the sale of the Lands, to make a distribution to Home Trust to fully satisfy the Debtor's obligations to Home Trust.
 43. The Receiver is of the view that, upon completion of the Purchase Agreement and the proposed distribution to Home Trust as set out above, it will have surplus funds with which to make payments to the mortgagee(s) ranking behind Home Trust.
 44. As set out earlier in this report, at this time, the Receiver has not yet received proof of advances made by Visram and VS Capital to the Debtor. Upon receipt of that information, the Receiver will assess that information and will, if the Receiver considers it appropriate, make an application for a second interim distribution.

VII. RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

45. Attached hereto as Appendix "H" is the Receiver's Interim Statement of Receipts and Disbursements for the period November 15, 2013 to January 31, 2014 which indicates a balance on hand of \$251,683, excluding the deposit received in respect of the Purchase Agreement. Total cash receipts were \$300,000 and total cash disbursements were \$48,317.
46. As provided for in paragraphs 20 to 23 of the Appointment Order, the Receiver is empowered to borrow such monies as it may consider necessary or desirable to a maximum of \$500,000 and to borrow on the security of Receiver's Certificates. In order to meet cash requirements to date, the Receiver has obtained funding of \$300,000 from Home Trust, by way of Receiver's Certificate #1 dated December 10, 2013 in the amount of \$100,000 and Receiver's Certificate #2 dated January 30, 2014 in the amount of \$200,000. The Receiver will repay these advances, plus accrued interest, from funds received upon the closing of the sale of the Lands.

VIII. CONCLUSION

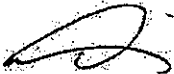
47. The Receiver respectfully requests that the Court grant an Order which provides for the following:
- (a) approval of the Second Report and the Supplemental Report and the Receiver's conduct and activities to date as described therein;
 - (b) authorizing and directing the Receiver to enter into and carry out the terms of the Purchase Agreement together with any further amendments thereto

deemed necessary by the Receiver in its sole opinion, and vesting title to the Lands in Urbancorp, or as it may further direct in writing, upon closing of the Purchase Agreement and the delivery of the Receiver's Certificate to the Purchaser;

- (c) if the Purchase Agreement is terminated in accordance with its terms, authorizing and directing the Receiver to commence negotiations for the sale of the Lands with any other party or parties identified by the Receiver through the Marketing Process;
- (d) approval of an interim distribution to Home Trust of certain of the net proceeds of sale from the Lands, as more fully described herein, in the event that the sale transaction contemplated by the Purchase Agreement is completed;
- (e) sealing of the Supplemental Report until closing of the sale; and
- (f) approval of the Receiver's Statement of Receipts and Disbursements attached hereto.

All of which is respectfully submitted to this Court as of this 5th day of February, 2014.

COLLINS BARROW TORONTO LIMITED
In its capacity as Court Appointed Receiver
and Manager of 2122775 Ontario Inc. and
not in its personal capacity



Per: Bryan A. Tannenbaum, FCPA, FCA, FCIRP
President

APPENDIX A

Court File No.: CV-13-10313-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	FRIDAY, THE 15 TH DAY
)	
JUSTICE THOMAS)	OF NOVEMBER, 2013

BETWEEN:

HOME TRUST COMPANY

Applicant

- and -

2122775 ONTARIO INC.

Respondent

APPLICATION UNDER s. 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985 c. B-3,
s. 101 of the Courts of Justice Act, R.S.O. 1990, c. C-43 and
Rules 14.05(2) and (3) (d), (g) and (h) of the Rules of Civil Procedure

ORDER

THIS APPLICATION made by Home Trust Company ("Home Trust") for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43 as amended (the "CJA") appointing Collins Barrow Toronto Limited ("Collins Barrow") as receiver and receiver and manager (jointly, the "Receiver") without security, of all of the assets,

- 2 -

undertakings and properties of 2122775 Ontario Inc. (the "**Debtor**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of John Harry, sworn October 29, 2013 and the Exhibits thereto and on hearing the submissions of counsel for Home Trust, and on reading the consent of Collins Barrow to act as the Receiver:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, Collins Barrow is hereby appointed Receiver, without security, of all of the lands and premises legally described in Schedule "**B**" hereto (the "**Lands**") and of all the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including those acquired for, or used in relation to, the development of the Lands and construction of improvements thereon, including all proceeds thereof (the "**Property**").

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- 3 -

- (a) to take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate and carry on all or any part of the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons, from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

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- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* and subsection 31(1) of the Ontario *Mortgages Act* shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

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- (t) to register a copy of this Order and any other orders in respect of the Property against title to any of the Property.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that: (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.
5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor 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.

NO INTERFERENCE WITH THE RECEIVER

10. **THIS COURT ORDERS AND DECLARES** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such

other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, wages, severance pay, termination pay, vacation pay, and pension or benefit amounts, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.
14. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of current employees only to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate

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and attempt to complete one or more sales of the Property (each, a "Sale") and for the sole purpose of assisting or facilitating the prospective purchaser's or bidder's negotiations or discussions with said employees in respect of future employment with the prospective purchaser or bidder. Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
18. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel in this proceeding are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.
19. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its legal counsel, and such amounts shall

constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge.
21. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
22. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.
23. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

24. **THIS COURT ORDERS** that notwithstanding paragraphs 20 to 23 inclusive above, and as an alternate thereto, the Receiver is hereby authorized to borrow money to fund the exercise of its duties hereunder by way of advances from the Applicant, which advances shall be secured by the Applicant's security on the Property (including, without limitation, the Mortgage as defined in and as attached as an exhibit to the Affidavit of John Harry sworn October 29, 2013) with the same priority that may attach to such security.

GENERAL

25. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
26. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
27. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
28. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order. Accordingly, this Court further orders that the Receiver is hereby expressly appointed as a foreign representative of the Debtor for purposes of seeking the recognition and enforcement of this Order in a foreign proceeding, and taking any actions necessary to discharge its duties under the Order and applicable law.

29. **THIS COURT ORDERS** that the applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

30. **THIS COURT ORDERS** that the Applicant and the Receiver and any party who has served a Notice of Appearance, may serve any materials in this proceeding by e-mailing a pdf or other electronic copy of such material to counsels' email address as recorded on the Service List from time to time, in accordance with the e-filing protocol of the Commercial List to the extent practicable, and the Receiver may post a copy of any or all such material on its website at www.collinsbarrow.com (the "Website").

31. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order, provided that nothing in this section operates to extend any applicable appeal period.

32. *I will remain seized of this matter for the purpose of approval of the receiver's fees on the consent of all parties. Counsel for the Receiver submitted that this is a straightforward matter involving the sale of property.*

NOV 15 2013
 NB

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Schedule "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. ●

AMOUNT \$ ●

1. THIS IS TO CERTIFY that Collins Barrow Toronto Limited, the receiver and the receiver and manager (the "Receiver") of the assets, undertakings and properties of 2122775 Ontario Inc. (the "Debtor") appointed by Order of the Ontario Superior Court of Justice (the "Court") dated the ● day of November, 2013 (the "Order") made in an action having Court file number ●, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ ●, being part of the total principal sum of \$ ● which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

(a)

DATED the ____ day of _____, 2013.

Collins Barrow Toronto Limited

solely in its capacity as Receiver of the Property (as defined in the Order), and not in its personal capacity

Per: _____

Name:

Title:

SCHEDULE "B"**LEGAL DESCRIPTION**

PIN	10126 - 1010 LT
	Part of Lot 8 Concession 2 EYS (N York), designated as Parts 1 & 2 on Plan 66R24078; City of Toronto
ADDRESS	2425 and 2427 Bayview Avenue Toronto

<p>HOME TRUST COMPANY Applicant</p>	<p>Court File No. CV-13-10313-00CL</p> <p>2122775 ONTARIO INC. Respondent</p>
<p>v.</p>	
<p><i>ONTARIO</i> SUPERIOR COURT OF JUSTICE (Commercial List) (PROCEEDING COMMENCED AT TORONTO)</p>	
<p>ORDER</p>	
<p>GOWLING LAFLEUR HENDERSON LLP Barristers and Solicitors 1 First Canadian Place 100 King Street West, Suite 1600 Toronto ON M5X 1G5</p> <p>Calvin J. Ho (LSUC No. 40875B) Tel: (416) 862-5788 Fax: (416) 862-7661</p> <p>Solicitors for the Applicant Home Trust Company</p>	

APPENDIX B

Court File No. CV-13-10313-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

HOME TRUST COMPANY

Applicant

- and -

2122775 ONTARIO INC.

Respondents

FIRST REPORT OF THE RECEIVER

December 4, 2013

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I. INTRODUCTION

1. By Order of the Ontario Superior Court of Justice (Commercial List) ("Court") dated November 15, 2013 (the "Appointment Order"), Collins Barrow Toronto Limited ("CBTL") was appointed receiver and receiver and manager (the "Receiver") of 2122775 Ontario Inc. ("2122775" or the "Debtor"), without security, of all of the lands and premises municipally known as 2425 and 2427 Bayview Avenue, Toronto, Ontario and described in Appendix "B" to the Appointment Order (the "Lands") and of all the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including those acquired for, or used in relation to, the development of the Lands and construction of improvements thereon, including all proceeds thereof (collectively, the "Property"). A copy of the Appointment Order is attached hereto as Appendix "A".
2. The Appointment Order authorized the Receiver to, among other things, take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property. In addition, the Receiver was authorized to sell, convey, transfer, lease or assign the Property or any part thereof out of the ordinary course of business:
 - (a) without the approval of the Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (b) with the approval of the Court in respect of any transaction in which the purchase price or aggregate purchase price exceeds \$500,000.

Purpose of First Report

3. The purpose of this first report of the Receiver (the "First Report") is to:
- i) inform the Court as to the status of matters since the Receiver's appointment;
 - ii) provide a summary of the Company's secured creditors;
 - iii) request that this Court issue an Order approving the First Report and the Receiver's conduct and activities described therein for the period November 15, 2013 to December 3, 2013;
 - iv) request that this Court issue an Order authorizing the Receiver to retain independent legal counsel, as required;
 - v) request approval from the Court of the proposed marketing and sales process to be conducted by the Receiver to solicit offers for the sale of the Lands and to discuss any or all offers received with any of the secured creditors or any of their advisers;
 - vi) request that the Court issue an Order sealing the confidential information memorandum until after a sale transaction closes; and
 - vii) request authorization from the Court for the Receiver to enter into an agreement of purchase and sale (conditional on Court approval) pursuant to the Marketing Process.
4. A copy of the Appointment Order, together with related Court documents, has been posted on the Receiver's website at <http://www.collinsbarrow.com/en/cbn/2122775-ontario>.

Terms of Reference

5. In preparing this First Report and making the comments herein, the Receiver has relied upon unaudited internal financial statements and other information prepared or provided by the Debtor, discussions with management, and information from other third-party sources (collectively, the "Information"). As the Information included in this First Report has been provided by the Debtor or other parties, or obtained from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.

II. BACKGROUND

6. 2122775 is an Ontario corporation incorporated on December 20, 2006. Its President, Secretary and sole director is Mr. Naheel Suleman ("**Suleman**"). Suleman is also the owner/shareholder of 2122775. The business address of the Debtor is 75 International Blvd., Suite 400, Toronto, ON.
7. 2122775 is the registered owner and developer of the Lands legally described in Appendix "B" to this First Report and known municipally as 2425 and 2427 Bayview Avenue, Toronto, Ontario.

8. The Lands are residential land comprising approximately 1.3 acres located on the east side of Bayview Avenue, just north of Post Road, in the City of Toronto, Ontario. The Debtor acquired the Lands in 2010 for the purpose of building a twenty-unit townhouse development thereon (the "Project"). Construction started in Spring 2012 but was halted by the Debtor in Summer 2013 due to insufficient funds. Construction to date includes a poured underground garage and one model home which is incomplete as the interior has only been framed and roughed-in for electrical, heating and plumbing for the unit.
9. HUSH Homes Inc. ("HUSH") acts as the project manager for the Project. HUSH is an Ontario corporation incorporated on February 13, 2007. Suleman is the President and a director of HUSH. The business address for HUSH is 75 International Blvd., Suite 400, Toronto, ON.

III. SECURED CREDITORS

10. Attached hereto at Appendix "C" is a copy of the Parcel Register (Abbreviated) for Property Identifier report from the Ontario Land Registry Office ("Title Search") dated October 25, 2013. Set out below is a summary of the various charges registered against the Lands:

Creditor	Amount of Charge against the Lands	Nature of Obligation
Home Trust Company	\$6,500,000	Mortgage
Visram Zaherali	\$5,100,000	Mortgage
VS Capital Corporation	\$8,750,000	Mortgage
VS Capital Corporation	\$4,000,000	Mortgage
Cameo Fine Cabinetry (Mississauga) Inc.	\$30,000	Mortgage
King Masonry Yard Ltd.	\$8,782	Construction Lien
UCIT Online Security Inc.	\$29,595	Construction Lien
Silverado Custom Home Corporation	\$37,500	Construction Lien

-
11. In addition to the above charges against the Lands, the Receiver notes that there were two constructions liens that were registered against the Lands that have since been vacated. The first lien in the amount of \$211,875 was registered by Cameo Fine Cabinetry (Mississauga) Inc. and was vacated on January 18, 2013. The second lien in the amount of \$28,476 was registered by Marino Contractors and was vacated on April 19, 2013.
12. Attached hereto as Appendix "D" is a copy of a Personal Property Security Act ("PPSA") Enquiry Response Certificate ("PPSA Report") from the Ontario Ministry of Government Services with respect to the Debtor certified as at October 24, 2013. The PPSA Report identifies two other secured creditors being: Aviva Insurance Company of Canada ("Aviva") with a charge registered against Accounts and Other, and HUSH with a charge registered against Inventory, Equipment, Accounts and Other. The nature of these charges is discussed later in the First Report.
13. In order to minimize costs to the estate, the Receiver has retained the Applicant's solicitors, Gowlings LLP, as its legal counsel. Save and except for a review of the security granted by the Debtor to its creditors, the Receiver does not intend to retain independent legal counsel unless the Receiver identifies a conflict of interest or this Court directs otherwise.

IV. APPOINTMENT OF THE RECEIVER

14. Home Trust Company ("**Home Trust**") is a mortgage lender which advanced a mortgage loan in the amount of \$6,500,000 (the "**Mortgage**") to the Debtor. The Mortgage matured in December, 2012 and has not been repaid.
15. Due to the Debtor's continuing default on its obligations to Home Trust and to other creditors, on October 30, 2013, Home Trust made an application for the appointment of CBTL as receiver and receiver and manager of the Debtor. The application was returnable on November 8, 2013.
16. On November 8, 2013, the application was adjourned to November 15, 2013 to allow the Debtor additional time to secure financing to, among other things, repay Home Trust's indebtedness. Prior to the return date of November 15, 2013, the Debtor did not file any material to demonstrate to the Court that the Debtor had secured financing. On November 15, 2013, the Court appointed CBTL as Receiver.

V. RECEIVER'S ACTIVITIES TO DATE

17. The Receiver has undertaken the following activities in accordance with the terms of the Appointment Order:
 - (a) advised the Debtor of the Receiver's appointment;
 - (b) attended at the Lands to confirm that the site was properly secured;

-
- (c) taken control of the Lands and arranged for site inspections and maintenance;
 - (d) attended at the Debtor's offices at 75 International Blvd., Toronto, to meet with Suleman to discuss the receivership proceedings and the status of the Project. CBTL also provided Suleman with a list of documents and accounting records that the Receiver required Suleman to provide to the Receiver in order for the Receiver to administer the receivership;
 - (e) made interim arrangements for continuing site inspection and maintenance services pending the Court's approval of a marketing process to be conducted by the Receiver. Site inspections are conducted daily and other maintenance action is taken as needed;
 - (f) arranged for the Receiver's insurance coverage;
 - (g) obtained copies of certain of the Debtor's books and records from HUSH, namely financial information, information on the assets and liabilities and Project documents;
 - (h) notified the Debtor's bank of the receivership and advised the bank that no further disbursements are to be made from the account without the Receiver's authorization;
 - (i) prepared a marketing plan for the sale of the Lands, which is described in more detail below; and

-
- (j) Issued the Notice and Statement of the Receiver ("**Receivership Notice**") in accordance with sections 245(1) and 246(1) of the BIA. A copy of the Receivership Notice is attached hereto as Appendix "E".
18. A review of the Debtor's books and records indicates the following:
- (a) according to the Debtor's unaudited internal balance sheet as at September 30, 2013, the Debtor's assets included \$473,705 in security deposits, most of which were paid to the City of Toronto to secure works on the site; and
 - (b) the balance sheet shows Owner's equity of \$1,674,544 which, according to HUSH's VP of Finance, represents the debt owed by 2122775 to HUSH for advances made to the Debtor by HUSH.
19. In addition to the above, Aviva provided a \$400,000 bond to Tarion to assist with the registration of Suleman and the Project with Tarion. HUSH is the entity bonded and the bond was secured by an Indemnity Agreement signed by HUSH, Suleman and Musa Suleman. Aviva has registered a \$400,000 charge under the PPSA against 2122775 in respect of the Tarion bond, with the collateral stated as being the indemnity agreement, assignment of purchaser deposits and guarantee and postponement of claim in respect of debts of HUSH in respect of the Project.

Project Status

20. The Receiver subsequently attended at the Lands on November 29, 2013 to tour the site, review the status of completion of the construction and ascertain if there

were any maintenance issues or action that was required to winterize the site. The Receiver will be obtaining quotes for the work that is required which includes installing electric heaters and sump pumps and repairs to fencing.

21. To date, construction of the underground parking garage has been substantially completed and one model home has been partially completed such that the exterior is finished and the interior has only been framed and roughed in.
22. One townhouse unit has been sold and the purchaser's deposit is held in trust with Goldman Sloan Nash & Haber LLP ("GSNH"). The Agreement of Purchase and Sale for the sold unit identifies the vendor as HUSH. The Receiver has notified GSNH of the Debtor's receivership and to not deal with the Deposit without first obtaining the Receiver's prior written authorization.

Priority Creditors

23. The Receiver is not aware of any priority claims that would have priority to the claims of the secured creditors referred to earlier in the Report. As of October 31, 2013, the Debtor was in a HST refund position in the amount of \$312.98.
24. The Debtor did not have any employees. Its administrative and accounting functions were performed by HUSH or employees of another related company.

VI. THE RECEIVER'S PROPOSED MARKETING AND SALES PROCESS

25. Rather than retain an independent listing agent for the Lands, the Receiver proposes to directly market the Lands through a focused target marketing

process. The Receiver has determined that it will be able to fully expose the Lands to the market through its list of potential purchasers. This will also result in a cost savings to the estate since fees for marketing the Lands will be billed on an hourly basis as opposed to a traditional commission if the Lands were listed with an agent.

26. The Receiver believes that a documentation preparation and marketing period of approximately 6 to 7 weeks will be sufficient to expose the Lands and permit qualified parties to conduct due diligence and to determine if they will make an offer, while at the same time minimizing the uncertainty and costs of a prolonged receivership period.
27. The Receiver proposes to sell the Lands utilizing the following marketing and sales process (the "**Marketing Process**"):
 - (a) Distribution on December 12, 2013 of an information overview document ("**Flyer**") to potential purchasers. The list of potential purchasers will be developed from expressions of interest received by the Receiver from interested parties, as well as parties identified based on the Receiver's experience and contacts. A copy of the Flyer is attached at Appendix "**F**";
 - (b) Posting of "For Sale" signage at the Bayview Avenue entrance to the site by December 20, 2013;
 - (c) Distribution to prospective purchasers who sign back a confidentiality agreement of a confidential information memorandum ("**CIM**") providing

detailed information in respect of the Lands. The CIM will also include the terms and conditions of sale by the Receiver and a form of offer. Attached as a separate document is Appendix "J" comprised of a copy of the CIM which the Receiver requests be sealed by the Court until after a sale transaction closes. The CIM contains confidential information which is not publicly available and its disclosure would be detrimental to the sales process. Attached at Appendix "G" is a copy of the confidentiality agreement. Two of the appendices to the CIM, the Form of Offer and Terms and Conditions of Sale, and the Agreement of Purchase and Sale are attached at Appendices "H" and "I", respectively;

- (d) Advertising the Lands for sale in the Commercial Real Estate section of the National edition of the Globe & Mail on December 17 and 19, 2013 and January 7 and 9, 2014;
- (e) Following up with prospective purchasers interested in the opportunity and provide access to the Lands and additional information as required;
- (f) Setting 12 o'clock noon on January 23, 2014 as the deadline for the submission of binding offers (the "Offer Date");
- (g) Following the Receiver's review of all submitted offers, the Receiver may, at its option, seek clarification from any of the offerors regarding the terms of a submitted offer, reject any of the offers submitted or request any of the offerors to submit revised and/or improved offers to purchase the Lands or to otherwise address any issues or concerns raised by the

Receiver. There will be no obligation on the part of the Receiver to provide any offeror with the opportunity to amend or otherwise improve the terms of its offer following the Offer Date;

- (h) The Receiver not necessarily accepting the highest or any offer;
- (i) The Receiver having the right to extend the deadline for submitting offers without further Order of the Court;
- (j) Requiring each offeror, with its offer, to deliver to the Receiver the following:
 - i. An amount equal to 10% of the purchase price specified in the offer. If the offer is accepted, said cheque or bank draft will be deemed to be a cash deposit (the "**Deposit**") against the aggregate offer purchase price (the "**Purchase Price**") and the successful offeror (hereinafter called the "**Purchaser**") will pay the balance of the Purchase Price to the Receiver, by certified cheque or bank draft on the closing date of the subject transaction without interest;
 - ii. An executed copy of the template agreement of purchase and sale ("**Template Agreement**"), amended to reflect the particulars of the offer (the "**Offeror Sale Agreement**") and any other matters specific to the Offer, which shall be binding and irrevocable until February 11, 2014;

-
- iii. A comparison of the Template Agreement to the executed Offeror Sale Agreement;
 - iv. A representation by the Purchaser that the Purchaser has written evidence of available cash and/or a commitment for financing to evidence the Purchaser's ability to close the proposed transaction as the Receiver may reasonably request;
 - v. A copy of a resolution of the Purchaser's board of directors or similar document demonstrating the Purchaser's authority to make an irrevocable offer and to execute the transaction contemplated by the Offeror Sale Agreement; and
 - vi. Disclosure of the identity of each entity (including its ultimate shareholders) that has submitted the offer.
28. Any transaction resulting from the Marketing Process will be subject to the approval of the Court. The Receiver will not be bound to sell any of the Lands until it has entered into a binding agreement of purchase and sale and received approval to complete such transaction from the Court. The Receiver will also reserve the right to enter into one or more agreements to sell any or all of the Lands at any time and to withdraw any or all of the Lands from the sale.
29. All sales will be on an "as is, where is" basis. Each Purchaser will be solely responsible for inspecting the Lands and satisfying itself as to title to the Lands it is offering to purchase. The Receiver will not provide any representations or

warranties with regard to title, merchantability, condition, description, fitness for purpose, quality, quantity or any other matter or thing regarding the Lands.

30. The Receiver's solicitors will prepare any required closing documentation.

VII. RECEIVER'S REQUEST TO THE COURT

31. The Receiver respectfully requests that this Court issue an Order:

(a) approving the First Report and the Receiver's conduct and activities for the period November 15, 2013 to December 3, 2013 as described therein;

(b) authorizing the Receiver to retain independent legal counsel, as required;

(c) approving the Marketing Process;


(d) sealing the CIM until after a sale transaction closes;

(e) authorizing the Receiver to enter into an agreement of purchase and sale (conditional on Court approval) pursuant to the Marketing Process; and

(f) authorizing the Receiver, if considered by the Receiver to be necessary or appropriate, to disclose to and review with any secured creditors of the Debtor or any of their advisers, any and all offers received by the Receiver to purchase the Lands.

All of which is respectfully submitted to this Court as of this 4th day of December, 2013.

COLLINS BARROW TORONTO LIMITED
In its capacity as Court Appointed Receiver
and Manager of 2122775 Ontario Inc. and
not in its personal capacity



Per: Bryan A. Tannenbaum, FCPA, FCA, FCIRP
President

APPENDIX C

Court File No. CV-13-10313-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	WEDNESDAY, THE 11 TH
)	
MR. JUSTICE D.M. BROWN)	DAY OF DECEMBER, 2013

BETWEEN:

HOME TRUST COMPANY

Applicant

-and-

2122775 ONTARIO INC.

Respondent

APPLICATION UNDER s. 243(1) of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985 c. B-3, s. 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C-43, as amended

ORDER

THIS MOTION, made by Collins Barrow/Toronto Limited, in its capacity as Court appointed receiver and receiver and manager (the "Receiver") of 2122775 Ontario Inc. (the "Debtor"), without security, of all the lands and premises municipally known as 2425 and 2427 Bayview Avenue, Toronto, Ontario, and all of the Debtor's current and future assets, undertakings and properties, for an Order approving the marketing and sales process proposed in the First Report to Court of the Receiver (the "First Report"), as well as the activities of the Receiver as set out in the First Report, was heard this day at 330 University Avenue, Toronto, Ontario.

- 2 -

ON READING the First Report and on hearing the submissions of counsel for the Receiver, no other person appearing though served,

1. **THIS COURT ORDERS** that the First Report and the activities of the Receiver as described in the First Report for the period November 15, 2013 to December 3, 2013, are hereby approved.
2. **THIS COURT FURTHER ORDERS** that the Receiver's marketing and sales plan for the Lands as described in the First Report (the "Marketing Process") is hereby approved, and the Receiver is hereby authorized and directed to proceed with carrying out the Marketing Process.
3. **THIS COURT FURTHER ORDERS** that Appendix "J" to the First Report, being the Confidential Information Memorandum, shall be sealed, kept confidential, and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope and shall only be opened upon further order of the Court.
4. **THIS COURT FURTHER ORDERS** that the Receiver shall retain independent legal counsel at such time and capacity as may be deemed necessary by the Receiver.
5. **THIS COURT FURTHER ORDERS** that if considered by the Receiver to be necessary or appropriate, to disclose to and review with any secured creditors of the Debtor or any of their advisors, any and all offers received by the Receiver to purchase the Lands.
6. **THIS COURT FURTHER ORDERS** that the Receiver shall have its costs of this Motion from the estate herein in accordance with the initial Appointment Order.

DEC 11 2013


A. Anissimova
Registrar

Court File No. CV-13-10313-00CL

HOME TRUST COMPANY
Applicant v. 2122775 ONTARIO INC.
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

ORDER

GOWLING LAFLEUR HENDERSON LLP
Barristers and Solicitors
Suite 1600 – 1 First Canadian Place
100 King Street West
Toronto, Ontario
M5X 1G5

Attn: Calvin J. Ho (LSUC #40875B)
TEL: (416) 862 5788
FAX: (416) 862-7661

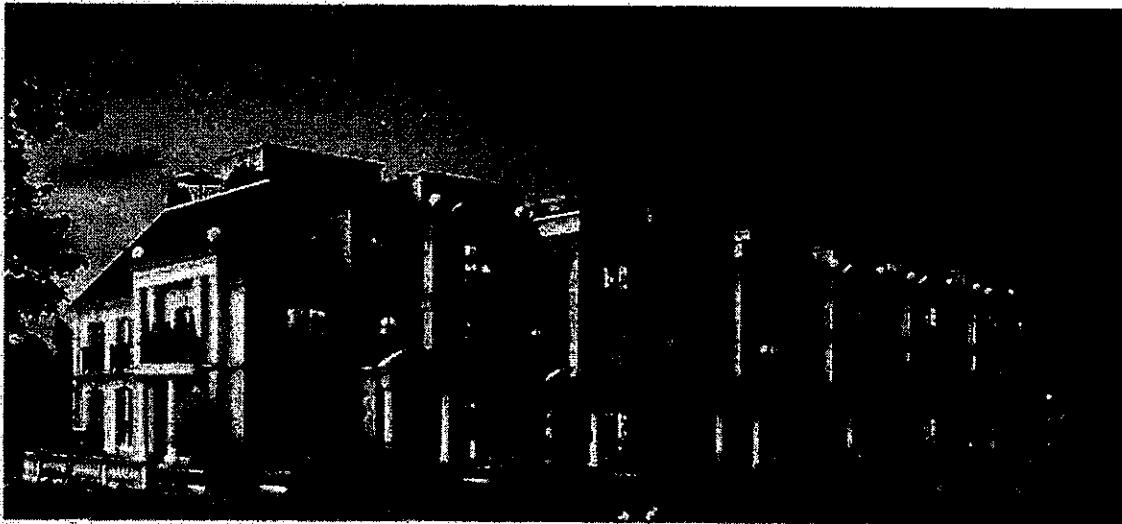
Lawyers for the Applicant

APPENDIX D



Prime residential development opportunity

For Sale – Alexandria Towns at The Bridle Path
2425 and 2427 Bayview Avenue, Toronto, ON



Highlights

- **Prime residential location in The Bridle Path**
- **Approximately 1.3 acres**
- **Zoned for multi-family dwellings**

THE OPPORTUNITY

Collins Barrow Toronto Limited, in its capacity as Court-Appointed Receiver and Manager (the "Receiver") of 2122775 Ontario Inc. o/a Alexandria Town Homes (the "Company"), is soliciting offers for the purchase of the lands and premises including the building project which has been partially constructed thereon at 2425 and 2427 Bayview Avenue, Toronto, Ontario.

The Receiver will receive offers to purchase up to and including January 23, 2014.

OVERVIEW OF THE PROPERTY

The Company is the owner and developer of the property known municipally as 2425 and 2427 Bayview Avenue. The property was acquired for the purpose of constructing a twenty unit townhouse development (the "Project") thereon.

Construction commenced on the Project in Spring 2012 and was halted in Summer 2013 due to insufficient funds. As of this time, the Company has substantially completed the underground parking garage and has partially completed one model home such that the exterior is finished and the interior has been framed and roughed in.

LOCATION

The subject property is located in the former city of North York in the upscale residential neighbourhood known as *The Bridle Path*, home to some of the largest and most expensive homes in Toronto.

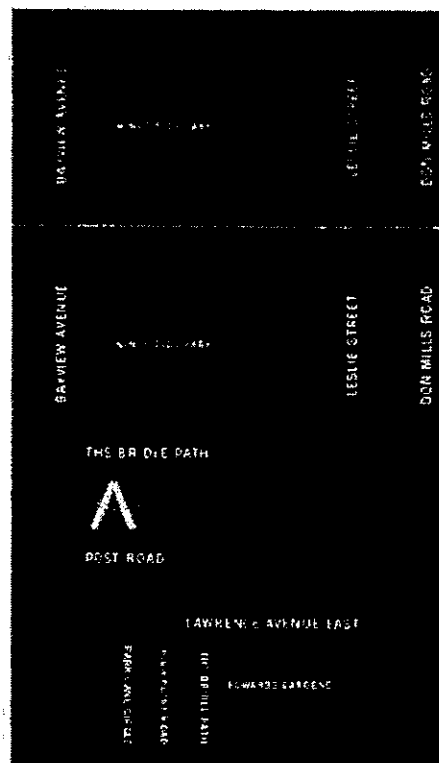
SITE DESCRIPTION

The property is rectangular in shape measuring approximately 1.3 acres.

The site fronts on east side of Bayview Avenue and is surrounded by residential properties to the north, east and south. The two closest streets to the north and south are The Bridle Path and Post Road, respectively.

THE COMPANY'S PROJECT DESCRIPTION

- Twenty luxury town homes facing a central paved and landscaped courtyard with a fountain
- Neo-Georgian architecture with stone cast facades, French balconies and wrought iron railings
- Private elevators
- Underground double-car garage
- Fourth floor roof top garden



ZONING

According to City of Toronto By-Law No. 619-2009(OMB), the subject property is zoned for Multiple-Family Dwellings First Density Zone (RMI), and the only permitted use shall be multiple attached dwellings.

LEGAL DESCRIPTION

The real property is described as PIN No. 10126-1010 (LT) Part of Lot 8 Concession 2 EYS (N York), designated as Parts 1 & 2 on Plan 66R24078; City of Toronto.

TRANSACTION AND COMPETITIVE BIDS PROCESS

The Receiver is conducting a Request for Offers, with the deadline for submission of offers set for January 23, 2014, at 12:00 noon, Eastern Standard Time. Offers must be submitted using the pre-approved form of offer available with the Confidential Information Memorandum ("CIM"). The Receiver reserves the right to extend the above deadline at its sole discretion.

To receive additional information including the CIM, interested parties must execute the enclosed Confidentiality Agreement and return a copy via e-mail to bywong@collinsbarrow.com or by facsimile (Facsimile #: (416) 480-2646) to the Receiver, attention Ms. Brenda Wong.

The information contained in this document is based on information made available to the Receiver by the Company. The information is intended for informational purposes only. The Receiver has not verified the information and does not represent, warrant or guarantee the accuracy, correctness and completeness of the information. The Receiver does not accept or assume any responsibility or liability of any kind in connection with the information and the recipient's reliance upon the information. The recipient should take such steps as they may deem necessary to verify the information prior to placing any reliance upon it. The information may change and any property described in the information may be withdrawn from the market at any time without notice or obligation to the recipient from the Receiver.

APPENDIX E

MARKETING SIGN



APPENDIX F

ADVERTISEMENT IN THE GLOBE AND MAIL

BUSINESS CLASSIFIED

TO PLACE AN AD CALL: 1-800-560-0521 ☎ EMAIL: ADVERTISING@GLOBEANDMAIL.COM

COMMERCIAL REAL ESTATE**Prime Residential Development Opportunity
Invitations for Offers to Purchase
ALEXANDRIA TOWNS at THE BRIDLE PATH**

Collins Barrow Toronto Limited in its capacity as Court Appointed Receiver and Manager (the Receiver) of 2122775 Ontario Inc. invites offers for the purchase of the Receiver's right title and interest therein in the land and premises located on the property municipally known as 2425 and 2427 Bayview Avenue, Toronto, ON. The property is comprised of approximately 0.3 acres zoned for 20 townhomes.

All offers must be received by the Receiver at the address set out below on or before 12:00 p.m. (EST - Toronto) **January 23, 2014.**

For further information please contact:

Collins Barrow Toronto Limited
11 King Street West, Suite 700, PO Box 27
Toronto, ON M5H 4C7

Attn: Mr. Bryan A. Tannenbaum
Telephone: (416) 238-5055
Facsimile: (416) 480-2646

E-mail: btannenbaum@collinsbarrow.com



APPENDIX G

HARBOUR MORTGAGE CORP.

05-Feb-14

Torkin Manes LLP
151 Yonge Street, Suite 1500
Toronto ON M5C 2W7

Attention: Mr. Seth Zuk

MORTGAGE STATEMENT

Re: HMC Loan #1045 - Bayview - 2427 Bayview Avenue, Toronto, ON

Principal Balance	01-Jun-13	6,360,333.02
Interest Rate	6.99%	

Interest Calculation:

\$	6,360,333.02	01-Jun-13	30-Jun-13			\$	36,520.66	
\$	6,396,863.68	01-Jul-13	31-Jul-13	31	Days	\$	37,976.28	
\$	6,434,829.96	01-Aug-13	31-Aug-13	31	Days	\$	38,201.73	
\$	6,473,031.69	01-Sep-13	30-Sep-13	30	Days	\$	37,188.90	
\$	6,510,220.59	01-Oct-13	31-Oct-13	31	Days	\$	38,649.31	
\$	6,548,869.90	01-Nov-13	30-Nov-13	30	Days	\$	37,624.60	
\$	6,586,494.50	01-Dec-13	31-Dec-13	31	Days	\$	39,102.12	
\$	6,625,596.62	01-Jan-14	31-Jan-14	31	Days	\$	39,334.26	
\$	6,664,930.89	01-Feb-14	04-Feb-14	4	Days	\$	5,105.52	
Outstanding Legal Fees - Torkin Manes							\$	24,979.35
Outstanding Legal Fees - Gowling LLP							\$	19,440.19
Outstanding Fees - Home Trust							\$	5,668.15
Late Fee (2 X \$500)							\$	1,000.00
Administration Fees (Tax Search)							\$	250.00
Default Administration Fee:							\$	2,000.00
Statement Fee (1 X \$250.00):							\$	250.00
Total Amount Due:							\$	6,723,624.10

Discharge Date:	5-Feb-14
Date Effective until:	28-Feb-14
Per Diem:	\$ 1,276.38

- Per Diem interest must be added on funds received after 12:00 pm E.S.T of the Discharge Date.

- The above does not include our lawyers any additional billed/unbilled legal fees.

- Should you have any questions, please contact Waqar Khan at 416-361-3315 ex. 236
wkhan@harbourmortgage.ca

Sincerely,



Bruce Shepherd
Vice-President
Servicing Agent for The Home Trust Company

E&OE

36 Toronto Street, Suite 500 Toronto, ON M5C 2C5

T: 416 361-3315 F: 416 361-7115

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APPENDIX H

COLLINS BARROW TORONTO LIMITED
COURT-APPOINTED RECEIVER AND RECEIVER AND MANAGER OF
2122775 ONTARIO INC.
INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD NOVEMBER 15, 2013 TO JANUARY 31, 2014

Receipts

Receiver's Certificate December 10, 2013	\$ 100,000
Receiver's Certificate January 30, 2014	<u>200,000</u>

Total receipts \$ 300,000

Disbursements

Insurance	\$ 4,816
Marketing costs (1)	2,478
Occupation costs (2)	1,703
Other miscellaneous	367
Repairs and maintenance (3)	22,992
Security (4)	10,333
Utilities	1,144
HST and PST paid	<u>4,484</u>

Total disbursements \$ 48,317

Excess of Cash Receipts over Disbursements **\$ 251,683**

Notes:

(1) Signage for 2425 Bayview Avenue and Globe and Mail advertising for Dec. 2013.

(2) Rental of sump pumps and trailer.

(3) Includes the following:

Fence repairs	\$ 3,700
Installation of sump pumps	12,500
Installation of heaters	4,900
Installation of temporary doors/doorway covering	<u>1,400</u>
	<u>\$ 22,500</u>

(4) Includes daily site inspections, nightly security patrols, and security/supervision during site tours by prospective purchasers or repairs/installation work.

(5) The Statement of Receipts and Disbursements does not include the deposit received in connection with the sale of the Lands.

This Appendix forms part of the Receiver's report to the Court dated February 5, 2014 and should only be read in conjunction therewith.

TAB 3

Court File No. CV-10313-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE _____)	FRIDAY, THE 14 TH DAY
)	
JUSTICE _____)	OF FEBRUARY, 2014

BETWEEN:

HOME TRUST COMPANY

Applicant

- and -

2122775 ONTARIO INC.

Respondent

APPLICATION UNDER section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended
and section 101 of the *Court of Justice Act*, R.S.O. 1990, c. C-43, as amended

ORDER

THIS MOTION, made by Collins Barrow Toronto Limited in its capacity as the Court-appointed receiver and manager (the "Receiver") of the undertaking, property and assets of 2122775 Ontario Inc. (the "Debtor") for an order, *inter alia*, approving the activities of the Receiver as set out in the Second Report of the Receiver (the "Second Report") and the Supplemental Report of the Receiver (the "Supplement"), both dated February 5, 2014, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Receiver and on hearing submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of Luisa Salerno sworn February 6, 2014 filed:

1. **THIS COURT ORDERS** that the time for service is hereby abridged and validated such that this motion is properly returnable today and hereby dispenses with further service thereof.
 2. **THIS COURT ORDERS** that the Second Report and the Supplement, and the actions of the Receiver as set out in the Second Report and in the Supplement are hereby approved.
 3. **THIS COURT ORDERS** that the Receiver be and is hereby authorized to distribute to Home Trust Company ("**Home Trust**"), from the net proceeds realized from the proposed sale by the Receiver of certain assets of the Debtor (the "**Assets**"), sufficient funds to repay in full the secured indebtedness owing to Home Trust by the Debtor.
 4. **THIS COURT ORDERS** that the Supplement be and is hereby sealed, pending completion of the sale of the Assets by the Receiver, or further order of this court.
-

HOME TRUST COMPANY
Applicant

-and- **2122775 ONTARIO INC.**
Respondent

Court File No. CV-13-10313-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

ORDER

DICKINSON WRIGHT LLP

Commerce Court West
Suite 2200, P.O. Box 447
199 Bay Street
Toronto Ontario, M5L 1G4
Fax: (416) 865-1398

LISA S.CORNE

LSUC Registration No. 27974M
Email: lcorne@dickinsonwright.com
Tel: (416) 646-4608

Lawyers for Collins Barrow Toronto Limited in its capacity
as receiver of 2122775 Ontario Inc.

TAB 4

Court File No. CV-10313-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE _____)	FRIDAY, THE 14 th DAY
)	
JUSTICE _____)	OF FEBRUARY, 2014

BETWEEN:

HOME TRUST COMPANY

Applicant

- and -

2122775 ONTARIO INC.

Respondent

APPLICATION UNDER section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended
and section 101 of the *Court of Justice Act*, R.S.O. 1990, c. C-43, as amended

APPROVAL AND VESTING ORDER

THIS MOTION, made by Collins Barrow Toronto Limited in its capacity as the Court-appointed receiver and manager (the "Receiver") of the undertaking, property and assets of 2122775 Ontario Inc. (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and Urbancorp (Downtown) Developments Inc. (the "Purchaser") made as of January 22, 2014 and appended to the Supplemental Report of the Receiver dated February 5, 2014 (the "Supplement"), and vesting in the Purchaser the Debtor's right, title and interest in and

to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Supplement and the Second Report of the Receiver (the "Report") both dated February 5, 2014 and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of Luisa Salerno sworn February 6, 2014 filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and that the Sale Agreement is commercially reasonable and in the best interests of the Debtor and its stakeholders. The execution of the Sale Agreement by the Receiver is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Thorburn dated November 15, 2013; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater

certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of Toronto of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.
4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.
6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.
7. THIS COURT ORDERS that, notwithstanding:
 - (a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-10313-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

HOME TRUST COMPANY

Applicant

- and -

2122775 ONTARIO INC.

Respondent

APPLICATION UNDER section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Court of Justice Act*, R.S.O. 1990, c. C-43, as amended

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Thorburn of the Ontario Superior Court of Justice (the "Court") dated November 15, 2013, Collins Barrow Toronto Limited was appointed as the receiver and manager (the "Receiver") of the undertaking, property and assets of 2122775 Ontario Inc. (the "Debtor").

B. Pursuant to an Order of the Court dated February 14, 2014, the Court approved the agreement of purchase and sale made as of January 22, 2014 (the "Sale Agreement") between the Receiver and Urbancorp (Downtown) Developments Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the

- 2 -

Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 4 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 4 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ 2014.

**COLLINS BARROW TORONTO LIMITED,
in its capacity as Receiver of the undertaking,
property and assets of 2122775 Ontario Inc.,
and not in its personal capacity**

Per: _____

Name:

Title:

Schedule B – Purchased Assets

The right, title and interest of the Debtor, if any, in the real property described as PIN No. 10126-1010 (LT) Part of Lot 8 Concession 2 EYS (N York), designated as Parts 1 & 2 on Plan 66R24078; City of Toronto, including the existing underground parking garage, and one townhome situated thereon, and all plans in the possession or control of the Receiver relevant to the development thereof, and the construction of any buildings thereon.

The right, title and interest of the Debtor, if any, in all prepaid Development Charges, payment in lieu of Park, Hydro connection fees, security for Hydro usage and similar payments previously made with respect to the Lands and the benefit of any Letters of Credit posted with respect to compliance with any Site Plan Agreement or similar Agreements with the City of Toronto or any utility provider.

Schedule C – Claims to be deleted and expunged from title to Real Property

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
AT2708324	2011/06/01	Charge	\$6,500,000.00	2122775 Ontario Inc.	Home Trust Company
AT2708325	2011/06/01	No Assgn Rent Gen		2122775 Ontario Inc.	Home Trust Company
AT2918710	2012/01/13	Charge	5,100,000.00	2122775 Ontario Inc.	Visram, Zaherali
AT2918711	2012/01/13	No Assgn Rent Gen		2122775 Ontario Inc.	Visram, Zaherali
AT3114322	2012/08/29	Charge	8,750,000.00	2122775 Ontario Inc.	VS Capital Corporation
AT3153542	2012/10/17	Charge	4,000,000.00	2122775 Ontario Inc.	VS Capital Corporation
AT3224700	2013/01/25	Postponement		Visram, Zaherali	VS Capital Corporation
AT3269812	2013/04/04	Construction Lien	8,782.00	King Masonry Yard Ltd.	
AT3270855	2013/04/05	Construction Lien	29,595.00	UCIT Online Security Inc.	
AT3298579	2013/05/13	Certificate		UCIT Online Security Inc.	
AT3302736	2013/05/16	Certificate		King Masonry Yard Ltd.	2122775 Ontario Inc. Hush Homes Inc. c.o.b. as Hush Fine Home
AT3312698	2013/05/31	Charge	30,000.00	2122775 Ontario Inc.	Cameo Fine Cabinetry (Mississauga) Inc.

AT3224858	2013/06/14	Construction Lien	37,500.00	Silverado Custom Home Corporation	
AT3361475	2013/07/26	Certificate		Silverado Custom Home Corporation	
AT3470427	2013/12/04	Court Order appointing receiver		Collins Barrow Toronto Limited	

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

“Assumed Encumbrances” means the following:

1. The exceptions and qualifications contained in Section 44(1) of the *Land Titles Act*, R.S.O. 1990, and any amendments thereto or any successor legislation, except paragraph 11;
2. The reservations, limitations, provisos and conditions expressed in the original grant from the Crown;
3. Any registered or unregistered easements or rights of way in favour of any governmental authority or public utility provided that none of the foregoing interfere in any material adverse respect with the current use of the Property;
4. Inchoate liens for taxes, assessments, public utility charges, governmental charges or levies not at the time due;
5. All agreements and easements, registered or otherwise, for utilities and services for hydro, water, heat, power, sewer, drainage, cable and telephone serving the Property, adjacent or neighbouring properties, provided none of the foregoing interfere in any material adverse respect with the current use of the Property;
6. Any encroachments, minor defects or irregularities indicated on any survey of the Property or which may be disclosed on an up-to-date survey of the Property provided that in either case same do not materially adversely impair the use, operation, or marketability of the Property;
7. Zoning (including, without limitation, airport zoning regulations), use and building by-laws and ordinances, federal, provincial or municipal by-laws and regulations, work orders, deficiency notices and any other noncompliance;
8. Any breaches of any Applicable Laws, including outstanding building permits, work orders and deficiency notices;
9. Any subdivision agreements, site plan agreements, developments and any other agreements with the Municipality, Region, publicly regulated utilities or other governmental authorities having jurisdiction;
10. Minor title defects, if any, that do not in the aggregate materially affect the use of the Property for the purposes for which it is used on the date of acceptance of this Agreement.

HOME TRUST COMPANY
Applicant

-and- **2122775 ONTARIO INC.**
Respondent

Court File No. CV-13-10313-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

APPROVAL AND VESTING ORDER

DICKINSON WRIGHT LLP

Commerce Court West
Suite 2200, P.O. Box 447
199 Bay Street
Toronto Ontario, M5L 1G4
Fax: (416) 865-1398

LISA S. CORNE

LSUC Registration No. 27974M

Email: lcorne@dickinsonwright.com

Tel: (416) 646-4608

Lawyers for Collins Barrow Toronto Limited in its capacity
as receiver of 2122775 Ontario Inc.

TAB 5

Court File No. CV-10313-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE _____)

JUSTICE _____)

DAYERIDAY, THE 14th
DAY

OF 2007 FEBRUARY,
2014

BETWEEN:

PLAINTIFF HOME TRUST COMPANY

Plaintiff

Applicant

- and -

DEFENDANT

Defendant

2122775 ONTARIO INC.

Respondent

APPLICATION UNDER section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Court of Justice Act*, R.S.O. 1990, c. C-43, as amended

APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~ Collins Barrow Toronto Limited in its capacity as the Court-appointed ~~interim~~-receiver and ~~receiver~~manager (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR]~~ 2122775 Ontario Inc. (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and ~~[NAME OF PURCHASER]~~ Urbancorp (Downtown) Developments Inc. (the "Purchaser") made as of ~~[DATE]~~ January 22, 2014 and appended to the Supplemental Report of the Receiver dated ~~[DATE]~~ February 5, 2014 (the "~~Report~~Supplement"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the ~~Report~~Supplement and the Second Report of the Receiver (the "Report") both dated February 5, 2014 and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ Luisa Salerno sworn ~~[DATE]~~ February 6, 2014 filed¹:

1. ~~1.~~ THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and that the Sale Agreement is commercially reasonable and in the best interests of the Debtor and its stakeholders. The execution of the Sale Agreement by the Receiver² is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps

¹ ~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach.~~

² ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. ~~2.~~ THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~and listed on Schedule B hereto~~³ shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"⁴) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~ Thorburn dated ~~[DATE]~~ November 15, 2013; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. ~~3.~~ THIS COURT ORDERS that upon the registration in the Land Registry Office for the ~~[Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver~~ [Land Titles Division of ~~{LOCATION}~~ Toronto of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*]⁵, the Land Registrar is hereby directed to

³ ~~To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

⁴ ~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

⁵ ~~Elect the language appropriate to the land registry system (Registry vs. Land Titles).~~

enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

4. ~~4.~~ THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds⁶ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁷, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. ~~5.~~ THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. ~~6.~~ THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, ~~including personal information of those employees listed on Schedule "A" to the Sale Agreement.~~ The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

7. ~~7.~~ THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;

⁶~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

⁷~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.⁸

8. ~~8.~~ THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

9. ~~9.~~ THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

⁸ ~~Please note that an appeal is pending before the Ontario Court of Appeal (Impact Tool & Mould Inc. (Re), Court of Appeal file no. C47464), in which the appellant has challenged whether the Court can make the type of declaratory relief set out in this paragraph.~~

Schedule A – Form of Receiver’s Certificate

Court File No. CV-10313-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

BETWEEN:

PLAINTIFF HOME TRUST COMPANY**Plaintiff****Applicant**

- and -

DEFENDANT**Defendant**2122775 ONTARIO INC.**Respondent**

- 2 -

APPLICATION UNDER section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Court of Justice Act*, R.S.O. 1990, c. C-43, as amended

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Thorburn of the Ontario Superior Court of Justice (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ November 15, 2013, Collins Barrow Toronto Limited was appointed as the ~~interim~~-receiver and ~~receiver~~manager (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR]~~ 2122775 Ontario Inc. (the "Debtor").

B. Pursuant to an Order of the Court dated ~~[DATE]~~ February 14, 2014, the Court approved the agreement of purchase and sale made as of ~~[DATE OF AGREEMENT]~~ January 22, 2014 (the "Sale Agreement") between the Receiver ~~[Debtor]~~ and ~~[NAME OF PURCHASER]~~ and Urbancorp (Downtown) Developments Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section ~~4~~ of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section ~~4~~ of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and

- 3. The Transaction has been completed to the satisfaction of the Receiver.
- 4. This Certificate was delivered by the Receiver at _____ [TIME] on _____
~~[DATE]~~ 2014.

~~[NAME OF RECEIVER]~~ COLLINS
BARROW TORONTO LIMITED, in its
 capacity as Receiver of the undertaking,
 property and assets of ~~[DEBTOR]~~ 2122775
Ontario Inc., and not in its personal capacity

Per: _____
 Name:
 Title:

Schedule B – Purchased Assets

The right, title and interest of the Debtor, if any, in the real property described as PIN No. 10126-1010 (LT) Part of Lot 8 Concession 2 EYS (N York), designated as Parts 1 & 2 on Plan 66R24078; City of Toronto, including the existing underground parking garage, and one townhome situated thereon, and all plans in the possession or control of the Receiver relevant to the development thereof, and the construction of any buildings thereon.

The right, title and interest of the Debtor, if any, in all prepaid Development Charges, payment in lieu of Park, Hydro connection fees, security for Hydro usage and similar payments previously made with respect to the Lands and the benefit of any Letters of Credit posted with respect to compliance with any Site Plan Agreement or similar Agreements with the City of Toronto or any utility provider.

Schedule C – Claims to be deleted and expunged from title to Real Property

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
AT9708324	2011/06/01	Charge	86,500,000.00	21997775, Ontario Inc.	Home Trust Company
AT9708325	2011/06/01	No Assgn Rent Gen		21997775, Ontario Inc.	Home Trust Company
AT9918710	2012/01/13	Charge	5,100,000.00	21997775, Ontario Inc.	Visram Zaherani
AT9918711	2012/01/13	No Assgn Rent Gen		21997775, Ontario Inc.	Visram Zaherani
AT3114322	2012/03/29	Charge	8,750,000.00	21997775, Ontario Inc.	VS Capital Corporation
AT3153542	2012/10/17	Charge	4,000,000.00	21997775, Ontario Inc.	VS Capital Corporation
AT3224700	2013/01/25	Postponement		Visram Zaherani	VS Capital Corporation
AT3262812	2013/02/04	Construction Lien	8,782.00	King Masonry Yard Ltd.	
AT3270855	2013/02/05	Construction Lien	22,595.00	UCIL Online Security Inc.	
AT3298579	2013/05/13	Certificate		UCIL Online Security Inc.	
AT3307526	2013/05/16	Certificate		King Masonry Yard Ltd.	21997775, Ontario Inc., Hush Homes Inc. c.o.b. Hush Home
AT3312698	2013/05/31	Charge	30,000.00	21997775, Ontario Inc.	Cameo Fine Cabinetry (Mississauga)

					Ine.
AT3224858	2013/06/14	Constraction Lien	37,500.00	Silverado Custom Home Corporation	
AT3361475	2013/07/26	Certificate		Silverado Custom Home Corporation	
AT3470427	2013/12/14	Court Order appointing receiver		Collins Barrow Toronto Limited	

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

“Assumed Encumbrances” means the following:

1. The exceptions and qualifications contained in Section 44(1) of the *Land Titles Act*, R.S.O. 1990, and any amendments thereto or any successor legislation, except paragraph 11;
2. The reservations, limitations, provisos and conditions expressed in the original grant from the Crown;
3. Any registered or unregistered easements or rights of way in favour of any governmental authority or public utility provided that none of the foregoing interfere in any material adverse respect with the current use of the Property;
4. Inchoate liens for taxes, assessments, public utility charges, governmental charges or levies not at the time due;
5. All agreements and easements, registered or otherwise, for utilities and services for hydro, water, heat, power, sewer, drainage, cable and telephone serving the Property, adjacent or neighbouring properties, provided none of the foregoing interfere in any material adverse respect with the current use of the Property;
6. Any encroachments, minor defects or irregularities indicated on any survey of the Property or which may be disclosed on an up-to-date survey of the Property provided that in either case same do not materially adversely impair the use, operation, or marketability of the Property;
7. Zoning (including, without limitation, airport zoning regulations), use and building by-laws and ordinances, federal, provincial or municipal by-laws and regulations, work orders, deficiency notices and any other noncompliance;
8. Any breaches of any Applicable Laws, including outstanding building permits, work orders and deficiency notices;
9. Any subdivision agreements, site plan agreements, developments and any other agreements with the Municipality, Region, publicly regulated utilities or other governmental authorities having jurisdiction;
10. Minor title defects, if any, that do not in the aggregate materially affect the use of the Property for the purposes for which it is used on the date of acceptance of this Agreement.

HOME TRUST COMPANY
Applicant

-and- **2122775 ONTARIO INC.**
Respondent

Court File No. CV-13-10313-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

DICKINSON WRIGHT LLP

Commerce Court West
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199 Bay Street
Toronto Ontario, M5L 1G4
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LISA S. CORNE

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Lawyers for Collins Barrow Toronto Limited in its capacity
as receiver of 2122775 Ontario Inc.