

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

BETWEEN:

**FIERA CANADIAN REAL ESTATE DEBT FUND GP INC. and FIERA FP REAL ESTATE  
FINANCING FUND, L.P.**

Applicants

-and-

**OXFORD ROAD DEVELOPMENTS 4 INC., ZHONG CHEN a.k.a. LAWRENCE CHEN,  
2250310 ONTARIO INC., and P&H DEVELOPMENT HOLDINGS INC.**

Respondents

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**AIDE MEMOIRE OF THE RECEIVER**

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1. This aide-memoire is filed in connection with the Receivership currently in place over the Respondent, Oxford Road Developments 4 Inc. (the “**Debtor**”). The Receiver, TDB Restructuring Limited (“**TDB**” or the “**Receiver**”) is seeking a hearing date for a motion to approve a construction plan for the Unfinished Homes (as defined herein) and to obtain directions from the Court regarding the Existing APSes (as also defined herein).
2. There is a concurrent, related receivership in place over the Respondents, 2250310 Ontario Inc. and P&H Development Holdings Inc., in respect of a separate secured loan advanced to them by the Lender.

## **Procedural History**

3. On June 6, 2025, TDB Restructuring Limited (“**TDB**” or the “**Receiver**”), was appointed Receiver over the Debtor pursuant to the Order of Justice Kimmel (the “**Appointment Order**”), which was granted on consent, and a copy of which is attached as **Tab 1**.

4. Prior to this, the Debtor had indicated its intention to bring an application under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”, and the “**CCAA Application**”) to restructure, and to terminate the Receivership, but was unprepared to proceed at the time when the Appointment Order was granted. Accordingly, the Appointment Order granted the Debtor until July 15, 2025 to file its CCAA Application.

5. Although the hearing of the CCAA Application was scheduled for July 18, 2025, based on Court and counsel availability, the Debtor was unprepared to proceed, having failed to finalize its proposed DIP financing. As such, the Debtor scheduled an urgent case conference before Justice Black on July 17, 2025.

6. On July 17, 2025, Justice Black provided yet another opportunity to the Debtor, extending the deadline for complete materials to August 1, 2025, and setting a case conference for August 14, 2025, to determine whether the hearing of the CCAA Application would proceed. Attached as **Tab 2** is a copy of Justice Black’s endorsement dated July 17, 2025.

7. On August 14, 2025, the parties attended before Justice Black and made submissions, after which Justice Black determined, *inter alia*, that the present Receivership had advanced considerably and declined to schedule the hearing of the CCAA Application on the basis that doing so would prejudice the Lender. A copy of Justice Black’s endorsement dated August 14, 2025 (the “**CCAA Endorsement**”) is attached as **Tab 3**.

8. On August 25, 2025, the Respondents delivered a Notice of Appeal and an Application for Leave to Appeal in respect of the CCAA Endorsement, attached hereto as **Tab 4** (the “**Appeal**”). However, no motion, including a motion for leave, seeking a stay of the Appointment Order has been brought.

### **The Woodstock Property and Current Status of the Development Projects**

9. The present receivership stems from repeated defaults under a \$17.55 million loan (the “**Woodstock Loan**”) used to finance a real estate development project on lands located in Woodstock, Ontario (the “**Woodstock Property**”). The Debtor, a single-purpose entity, remains indebted to the Lender in the amount of approximately \$11.48 million. The Woodstock Loan is secured by a first-ranking charge on the Woodstock Property, in favour of the Lender.

10. To date, six out of nineteen planned homes in a “Phase II” (out of three phases) of the development project remain unfinished (the “**Unfinished Homes**”). Each of the Unfinished Homes is subject to an agreement of purchase and sale which had been previously entered into by the Debtor (the “**Existing APSEs**”).

11. A large part of the Receiver’s mandate since its appointment has involved the Unfinished Homes. Specifically, the Receiver has been working with various third parties to develop a construction plan to complete their construction.

12. Given the quickly-approaching winter months, time is of the essence for the completion of the Unfinished Homes. Delays in approving the construction plan could result in further deterioration of the properties and increased costs, which will impact the interests of all stakeholders, including the Lender and potential homebuyers. For this reason, the Receiver is seeking the Court’s urgent approval of the proposed construction plan.

13. In addition, the Receiver requires directions from the Court regarding the Existing APSEs, as clarity on these matters is critical to ensure that the Receiver can act in accordance with its mandate and in the best interests of all parties.

14. Accordingly, the Receiver respectfully requests that the Court schedule a two-hour hearing at the end of October or in early November, subject to the Court's availability, to address both the approval of the construction plan and the necessary directions regarding the Existing APSEs.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED, September 12, 2025**



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Dominique Michaud  
Lawyers for the Applicants and the Receiver, TDB Restructuring Limited



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Anisha Samat  
Lawyers for the Applicants and the Receiver, TDB Restructuring Limited

September 12, 2025

**ROBINS APPLEBY LLP**  
Barristers + Solicitors  
2600 - 120 Adelaide Street West  
Toronto, ON M5H 1T1

**Dominique Michaud LSO #56871V**  
Email: [dmichaud@robapp.com](mailto:dmichaud@robapp.com)  
Tel: (416) 360-3795

**Anisha Samat LSO #82342Q**  
Email: [asamat@robapp.com](mailto:asamat@robapp.com)  
Tel: (416) 860-1901

Lawyers for the Applicants, Fiera Canadian Real Estate Debt Fund GP Inc. and Fiera FP Real Estate Financing Fund, L.P., and Lawyers for the Receiver, TDB Restructuring Limited.

**TAB 1**



Court File No.: CV-25-00742866-00CL

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

**THE HONOURABLE**

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**FRIDAY, THE 6th**

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**JUSTICE KIMMEL**

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**DAY OF JUNE, 2025**

**BETWEEN:**

**FIERA CANADIAN REAL ESTATE DEBT FUND GP INC. and FIERA FP REAL  
ESTATE FINANCING FUND, L.P.**

Applicants

-and-

**OXFORD ROAD DEVELOPMENTS 4 INC., ZHONG CHEN a.k.a. LAWRENCE CHEN,  
2250310 ONTARIO INC., and P&H DEVELOPMENT HOLDINGS INC.**

Respondents

**ORDER  
(Appointing Receiver)**

**THIS APPLICATION** made by the Applicants, Fiera Canadian Real Estate Debt Fund GP Inc. and Fiera FP Real Estate Financing Fund LP (collectively, the “**Applicants**”) 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 TDB Restructuring Limited (“**TDB**”), as receiver and manager (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and property of the Respondent, Oxford Road Developments 4 Inc. (the “**Debtor**”), including the real property legally described in Schedule “A” hereto (collectively, the “**Real Property**”), and all other property, assets and undertakings relating thereto, acquired for, or used in relation to a business carried on by the Debtor, and for other relief, was heard this day by way of video-conference.

**ON READING** the affidavit of Henryk Gelbert, sworn May 16, 2025 and the Exhibits thereto, and on hearing the submissions of counsel acting for the Applicants, the Respondents and such other parties as were present, and on reading the consent of TDB 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 and validated 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, TDB is hereby appointed Receiver, without security, of all the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including, without limitation, the Real Property, and all proceeds thereof (collectively, 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:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect 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 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 assessments of the Property;
- (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;
- (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, provided that the Receiver shall not enter into any agreement to sell, market for sale, convey, transfer, lease, assign or otherwise take any steps to sell or dispose of the Real Property, or any part thereof, prior to July 15, 2025, without further Order of this Court;

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- (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 \$50,000.00, provided that the aggregate consideration for all such transactions does not exceed \$250,000.00; 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*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (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 Real 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;
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

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 their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, limited partners 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 in respect of the Property, 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.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

**NO PROCEEDINGS AGAINST THE RECEIVER**

8. **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**

9. **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**

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Debtor, or the Property, including without limitation, licences and permits, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor are 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**

11. **THIS COURT ORDERS** 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**

12. **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**

13. **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**

14. **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, 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*.

## **PIPEDA**

15. **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 identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). 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 of the 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**

16. **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 Real 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**

17. **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**

18. **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 unless otherwise ordered by the Court on the passing of accounts, 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.

19. **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 are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **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 standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

## **FUNDING OF THE RECEIVERSHIP**

21. **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 \$1,000,000.00 (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 and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **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.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

24. **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.

## **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://tdbadvisory.ca/insolvency-case/oxford-road-developments-4-inc/>

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor’s creditors or other interested parties at their respective addresses as last shown on the records of the Debtor, and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## **RETENTION OF LAWYERS**

27. **THIS COURT ORDERS** that the Receiver may retain lawyers, including the Applicants’

lawyers, to represent and advise the Receiver in connection with the exercise of the Receiver's powers and duties, including without limitation, those conferred by this Order. Such lawyers may be the lawyers for the Applicants herein, in respect of any aspect, where the Receiver is satisfied that there is no actual or potential conflict of interest. The Receiver shall, however, retain independent lawyers in respect of any legal advice or services where a conflict exists, or may exist.

### **CCAA PROCEEDINGS**

28. **THIS COURT ORDERS** that this Order, and the relief granted herein, is made without prejudice to the right of the Debtor to bring an application for relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**"), on or before July 15, 2025.

### **GENERAL**

29. **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.

30. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

31. **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.

32. **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, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. **THIS COURT ORDERS** that the Applicants shall have their costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicants' security or, if not so provided by the Applicants' 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.

34. **THIS COURT ORDERS** that the relief sought in paragraph 1(c) of the Applicants' Notice of Application, issued May 13, 2025, is hereby adjourned *sine die*, without prejudice to the Applicants' right to seek such relief in the future upon providing proper notice.

35. **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.

\_\_\_\_\_  
Jessica  
Kimmel

Digitally signed by  
Jessica Kimmel  
Date: 2025.06.12  
13:51:10 -04'00'

**SCHEDULE "A" – THE REAL PROPERTY**

**745086 Oxford Road 17**

**PIN:** 00134 - 0581 (LT)

**DESCRIPTION:** PT LT 5 CON 12 EAST ZORRA AS IN 227955; WOODSTOCK

**Address:** 745086 Oxford Road 17, Woodstock, Ontario

**745096 Oxford Road 17**

**PIN:** 00134 - 3154 (LT)

**DESCRIPTION:** PART LOT 5 CONCESSION 12 EAST ZORRA DESIGNATED  
AS PART 1, PLAN 41R-8938, SAVE AND EXCEPT 41M-312;  
CITY OF WOODSTOCK

**Address:** 745096 Oxford Road 17, Woodstock, Ontario

**369 Somme Street**

**PIN:** 00134 - 3109 (LT)

**DESCRIPTION:** LOT 14, PLAN 41M312; CITY OF WOODSTOCK

**Address:** 369 Somme Street, Woodstock, Ontario

**357 Somme Street**

**PIN:** 00134 - 3112 (LT)

**DESCRIPTION:** LOT 17, PLAN 41M312; CITY OF WOODSTOCK

**Address:** 357 Somme Street, Woodstock, Ontario

**321 Somme Street**

**PIN:** 00134 - 3121 (LT)

**DESCRIPTION:** LOT 26, PLAN 41M312; CITY OF WOODSTOCK

**Address:** 321 Somme Street, Woodstock, Ontario

**372 Somme Street**

**PIN:** 00134 - 3136 (LT)

**DESCRIPTION:** LOT 41, PLAN 41M312; CITY OF WOODSTOCK

**Address:** 372 Somme Street, Woodstock, Ontario

**376 Somme Street**

**PIN:** 00134 - 3137 (LT)

**DESCRIPTION:** LOT 42, PLAN 41M312; CITY OF WOODSTOCK

**Address:** 376 Somme Street, Woodstock, Ontario

**392 Somme Street**

**PIN:** 00134 - 3141 (LT)

**DESCRIPTION:** LOT 46, PLAN 41M312; CITY OF WOODSTOCK

**Address:** 392 Somme Street, Woodstock, Ontario

**745096 Oxford Road 17**

**PIN:** 00134 - 3142 (LT)

**DESCRIPTION:** BLOCK 47, PLAN 41M312; SUBJECT TO AN EASEMENT IN GROSS OVER PT 6 41R9311 AS IN CO145840; CITY OF WOODSTOCK

**Address:** 745096 Oxford Road 17, Woodstock, Ontario

**SCHEDULE "B"**

**RECEIVER'S CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that TDB Restructuring Limited, the receiver (the "**Receiver**") over Oxford Road Developments 4 Inc. (the "**Debtor**"), including all other property, assets and undertakings relating thereto, and all proceeds thereof (collectively, the "**Property**"), and specifically including the properties further described in Appendix "A" hereto, appointed by Order of the Ontario Superior Court of Justice (the "**Court**") dated the 6<sup>th</sup> of June, 2025 (the "**Order**") made in an application having Court file number CV-25-00742866-00CL, 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, 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.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property 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.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_.

TDB Restructuring Limited, solely in its  
capacity as Receiver of the Debtor, and not in its  
personal capacity

Per:

---

Name: Bryan A. Tannenbaum

Title: Managing Director

**FIERA CANADIAN REAL ESTATE DEBT FUND GP INC. and FIERA FP REAL ESTATE FINANCING FUND, L.P.** - and - **OXFORD ROAD DEVELOPMENTS 4 INC. ET AL**

*Applicants*

*Respondents*

Court File No.: CV-25-00742866-00CL

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

**PROCEEDING COMMENCED AT TORONTO**

**ORDER**

**ROBINS APPLEBY LLP**

Barristers + Solicitors  
2600 - 120 Adelaide Street West  
Toronto, ON M5H 1T1

**Dominique Michaud LSO #56871V**

Email: [dmichaud@robapp.com](mailto:dmichaud@robapp.com)  
Tel: (416) 360-3795

**Anisha Samat LSO #82342Q**

Email: [asamat@robapp.com](mailto:asamat@robapp.com)  
Tel: (416) 860-1901

Lawyers for the Applicants, Fiera Canadian Real Estate Debt Fund GP Inc. and Fiera FP Real Estate Financing Fund, L.P.

**TAB 2**



SUPERIOR COURT OF JUSTICE

**COUNSEL SLIP/ ENDORSEMENT FORM**

COURT FILE NO.: CV-25-00742866-00CL      DATE: JULY 17, 2025  
CV-25-00743191-00CL  
CV-25-00746507-00CL  
CV-25-00746514-00CL

NO. ON LIST: 1,2,3,4

TITLE OF PROCEEDING: FIERA CANADIAN REAL ESTATE DEBT FUND GP INC. et al v. OXFORD ROAD DEVELOPMENTS 4 INC. et al

BEFORE: JUSTICE W.D. BLACK

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party, Crown:**

Name of Person Appearing	Name of Party	Contact Info
Dom Michaud Anisha Samat	Counsel for the Applicant, Fiera Canadian Real Estate Debt Fund GP Inc., and Fiera FP Real Estate Financing Fund, LP.	dmichaud@robapp.com asamat@robapp.com

**For Defendant, Respondent, Responding Party, Defence:**

Name of Person Appearing	Name of Party	Contact Info
Ran He	Counsel for the Respondents, Oxford Road Developments 4 Inc., P & H Development Holdings Inc., and Zhong Chen	rhe@thclawyers.ca

**For Other, Self-Represented:**

Name of Person Appearing	Name of Party	Contact Info
Arif Dhanani Tanveel Irshad	Receiver, TDB Restructuring Limited	adhanani@tdbadvisory.ca tirshad@tdbadvisory.ca

**ENDORSEMENT OF JUSTICE W.D. BLACK:**

- [1] This was an urgent case conference, convened at the request of the respondents in the receivership proceedings, who are the applicants (or at this stage, would-be applicants) in proposed CCAA proceedings (I will refer to these parties in this endorsement as the “CCAA Proponents”, and will refer to the applicants in the receivership proceedings as “Fiera”).
- [2] A two-hour appointment was scheduled for tomorrow for a determination as to whether the ongoing receiverships, or an all-encompassing CCAA proceeding is the appropriate vehicle to address the circumstances at hand.
- [3] Unfortunately, despite the fact that tomorrow’s hearing date was very much established to accommodate the CCAA Proponents, Dr. He of counsel for the CCAA Proponents advised that the materials, in particular with respect to the DIP facility that would have to feature at the heart of CCAA proceedings, is not yet ready. Dr. He advised that he believes the DIP facility, and related steps that would have to be addressed, including the preparation of an amended pre-filing report, should be ready relatively soon, but that they simply cannot be in place for tomorrow.
- [4] Dr. He acknowledged that in the circumstances if we were to proceed tomorrow the outcome would be a forgone conclusion, and the CCAA application would not succeed.
- [5] I nonetheless considered that option, which was the preferred option (or one of two preferred options) suggested by Mr. Michaud on behalf of Fiera.
- [6] On balance, however, I have decided instead to note that the CCAA Proponents were not ready on the date that had been set to accommodate them.
- [7] They will have until August 1, 2025 to deliver a complete set of materials, failing which the CCAA application will be treated as abandoned.
- [8] Assuming materials are delivered, the parties are to attend before me at a case conference on August 14, 2025 at 11:00 a.m. for one hour, at which point counsel can make submissions about whether or not the hearing to determine the choice of proceeding should proceed, and when.
- [9] I note, and I advised counsel, that in the meantime it is my expectation that the receivers for the two developments at issue will continue without limitation their activities, including sales processes, and, as I also advised counsel, the continuing progress of the receiverships will factor, I expect, into the court’s determination of the preferred proceeding.
- [10] I have advised the commercial list office to vacate the hearing that had been scheduled for tomorrow.



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**W.D. BLACK J.****DATE: JULY 17, 2025**

**TAB 3**



SUPERIOR COURT OF JUSTICE

**COUNSEL SLIP/ ENDORSEMENT FORM**

COURT FILE NO.: CV-25-00742866-00CL      DATE: AUGUST 14, 2025  
CV-25-00743191-00CL  
CV-25-00746507-00CL  
CV-25-00746514-00CL

NO. ON LIST: 4, 5, 6, 7

TITLE OF PROCEEDING: FIERA CANADIAN REAL ESTATE DEBT FUND GP INC. et al v. OXFORD ROAD DEVELOPMENTS 4 INC. et al

BEFORE: JUSTICE W.D. BLACK

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party, Crown:**

Name of Person Appearing	Name of Party	Contact Info
Dom Michaud Anisha Samat	Counsel for the Applicant, Fiera Canadian Real Estate Debt Fund GP Inc., and Fiera FP Real Estate Financing Fund, LP.	dmichaud@robapp.com asamat@robapp.com

**For Defendant, Respondent, Responding Party, Defence:**

Name of Person Appearing	Name of Party	Contact Info
Ran He	Counsel for the Respondents, Oxford Road Developments 4 Inc., P &H Development Holdings Inc., and Zhong Chen	rhe@thclawyers.ca

**For Other, Self-Represented:**

Name of Person Appearing	Name of Party	Contact Info
Arif Dhanani Tanveel Irshad Bryan Tannenbaum	Receiver, TDB Restructuring Limited	adhanani@tdbadvisory.ca tirshad@tdbadvisory.ca btannenbaum@tdadvisory.ca

**ENDORSEMENT:**

- [1] Today's case conference in this matter follows from my endorsement relative to a case conference on July 17, 2025, which was convened urgently at the request of the CCAA Proponents (as defined in that endorsement, and I will continue to use that and other definitions from my July 17 endorsement herein).
- [2] As of July 17, there was a hearing pending on July 18, which had been scheduled, specifically, for a determination as to whether the receiverships – then ongoing – or an all-encompassing CCAA proceeding would be the preferred vehicle for addressing the circumstances at issue here.
- [3] Although the July 18 date had been scheduled to accommodate the CCAA Proponents, counsel for the CCAA Proponents advised at the urgent July 17 conference that the CCAA Proponents were not ready to proceed on July 18, and that in particular the critical DIP facility that would have to be in place for a CCAA proceeding to be viable, was not yet ready. Counsel for the CCAA Proponents acknowledged on July 17 that if forced on the next day (as scheduled), the outcome would be a foregone conclusion and the CCAA Proponents would not succeed.
- [4] I nonetheless considered the option of having the hearing proceed on July 18, which was Fiera's primary position as to what should happen.
- [5] Given the CCAA Proponents' concession that they could not succeed on July 18, I did not feel it would be a productive use of time to proceed on that day.
- [6] Instead I wrote that I would note that the CCAA Proponents had not been ready on a date set to accommodate them, but that I would allow them, as they requested and if they wished, to file materials by August 1. I noted that the case conference scheduled for today (August 14) would be used to hear submissions about "whether or not the hearing to determine the choice of proceeding should proceed."
- [7] I also specifically observed that it was my expectation that the receivers for the two developments at issue would continue their activities, including sale processes "without limitation" and advised counsel, as recorded in my endorsement, that the "continuing progress of the receiverships will factor, I expect, into the court's determination of the preferred proceeding."
- [8] In other words, I expected that the delay of the hearing to determine whether the two receivership proceedings should be converted into a single all-encompassing CCAA proceeding, which delay was entirely attributable to the CCAA Proponents, would likely work to their detriment in my consideration of their proposed CCAA proceeding. That is, I expected that the receivers, who had already been working on the receiverships, and to whom I had given a green light to commence marketing and any and all other activities, would be working away, incurring significant time and expense, and advancing the receiverships. I warned the CCAA Proponents that I expected this outcome, if it held true, would necessarily factor into my analysis.
- [9] As discussed below, that has proven to be the case. Both receiverships have advanced considerably since mid-July.
- [10] It is important, in determining whether or not to allow a hearing to determine the choice of proceeding, also to consider the slightly longer-term backdrop here, and the nature of the developments at issue.

- [11] There is no dispute that the borrowers – now the CCAA Proponents – have been in default of their obligations to their lender Fiera since the fall of 2024. It is also undisputed that in January 2025 the borrowers entered into Forbearance Agreements with Fiera with respect to both the Woodstock and Sheppard Loans (i.e. loans with respect to each of the two developments at issue). The borrowers then defaulted on their obligations under the Forbearance Agreements. Again these facts are uncontested.
- [12] Within the underlying loan documents, and again in the Forbearance Agreements, the borrowers expressly agreed to the appointment of a receiver – in each project – in the event of default.
- [13] These events, and the borrowers’ repeated defaults, including under the Forbearance Agreements, led Fiera to bring its two receivership applications – one for the Woodstock property and one for the Sheppard property – which, after initial adjournments, were scheduled to proceed before Kimmel J. on June 2, 2025.
- [14] On May 30, 2025, with the receivership applications pending in a couple of days, the parties appeared before Her Honour “to address a request by the respondent debtors for time to prepare and file an application under the [CCAA].”
- [15] Justice Kimmel wrote at that time:
- “The CCAA application is not ready to proceed. Counsel for the debtors advised that he expects to be ready to proceed in three weeks. A proposed monitor has been identified but DIP financing has not been secured. The applicants opposed the adjournment request. Since the request for the adjournment was rolled up in the proposed CCAA application which also was to be the basis for the debtors’ opposition to the Applications for the appointment of a receiver, the court was not inclined to adjourn the applications today but reserve to the respondents the right to renew that request on a proper record.”
- [16] I pause here to note that, as is evident, as of May 30 the CCAA Proponents advised the court that they expected to have the CCAA application ready by about June 20.
- [17] Her Honour granted a short adjournment to allow the parties to finalize their materials relative to the receivership applications, adjourning the receivership applications to June 9.
- [18] However, the parties made an agreement arising from their discussions on May 30 that the June 9 hearings would not be required, and that the appointment of the two receivers, one for each project, would be on consent. It was agreed that the Receivership Orders would carve out a restriction that the properties in question would not be “publicly marketed” before July 15, 2025, which restriction would “only apply to going to market and not to any other part of the receivership, including the steps to be taken by the Receiver to be in a position to market and sell the properties after July 15, 2025.” Finally, it was agreed that the receivership orders would be “without prejudice to the Respondents right to commence a CCAA Application to bring the companies/respective projects into CCAA protection and to bring a motion to terminate the respective receiverships on or before July 15, 2025.”
- [19] The parties came back before Kimmel J. on June 6, at which point Her Honour signed the Receivership Orders. Her Honour noted “the possibility that the Debtors might bring an application under the CCAA” and reminded the CCAA Proponents that if they did so, they would still be obliged to follow the required

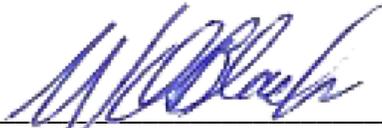
steps for scheduling a CCAA initial application and comeback hearing dates through the Commercial List Office.

- [20] It was from these circumstances that the July 18 appointment was booked for the initial CCAA application. I note that this date was already beyond the date (July 15) by which Kimmel J. had indicated the application would have to be brought, but it nonetheless appeared to be the case the matter would proceed on that date. In my view it is also clear, given the understanding that public marketing of the properties could begin on and after July 15, that July 15 was intended as a meaningful deadline by which the CCAA alternative had to be fully formulated and presented.
- [21] My purpose in reviewing this background is to note that, by July 18, the borrowers had already received considerable dispensations from the consequences, to which they had agreed, in the circumstances of their defaults on the loans.
- [22] They had been allowed to enter into Forbearance Agreements, which they proceeded to breach.
- [23] As a consequence of those breaches, and the borrowers' specific agreements as to the receiverships that would ensue, the receivership applications were brought.
- [24] The borrowers, contrary to their agreements, initially sought to oppose the applications and ultimately advised, in response to and on the eve of the receivership applications, of their plans to seek CCAA protection in lieu of receiverships.
- [25] That the borrowers agreed, at the last minute, to consent to the receivership orders was frankly not much of a concession on their parts, given their specific and repeated contractual agreements that they would consent to that relief in the event of their default.
- [26] Even so, the borrowers announced their intention to seek to supplant the receiverships to which they consented, by way of their competing CCAA application.
- [27] Within the putative CCAA proceeding, the CCAA Proponents have enjoyed still more concessions. Although they advised Kimmel J. that they expected to have their CCAA application in final form by June 20, they were ultimately given until July 15 to do so.
- [28] For reasons that are not clear to me, even that deadline slipped a little (which may have related to court availability, so I base no conclusions on this additional three-day delay other than to note that it gave the CCAA Proponents three more days than the deadline to which they had agreed and which Kimmel J. ordered), such that the CCAA Proponents in fact ended up having until July 18 to complete their materials.
- [29] In my view, when the CCAA Proponents failed to be ready by July 18 they had to expect, as cautioned in my July 17 endorsement, that their chances of persuading the court thereafter that a CCAA proceeding remained the preferable route would diminish as time passed. By August 1, and certainly by today, the receiverships have advanced considerably, and, again, Fiera and its receivers have invested considerable time, money and resources in those efforts.
- [30] As counsel for Fiera put it, the "prejudice to the Lender, if these applications are to be heard, will be substantial. The Receivers have already engaged in construction and sales processes that cannot simply be paused and restarted without additional cost." In the record before me for today's case conference

were the Second Reports of BDO and TDB, respectively, concerning their work to date and the progress to date in the two receiverships.

- [31] In addition to potentially wasting much of the work and resources that have gone into the two receiverships to date, Fiera points out, fairly in my view, that to pull the rug out from under the ongoing receiverships at this stage would also create uncertainty in the market, and “undermine the credibility of the sale process and risk diminishing the Property’s market value and result in lower recovery.”
- [32] Moreover, as Fiera also points out, again fairly, the CCAA proposal that the CCAA Proponents have now provided remains in part speculative. The DIP funding within the proposal remains subject to certain conditions, and the CCAA Proponents have not provided evidence that all such conditions have been met.
- [33] Fiera submits that, in the case of the Woodstock development, there is not yet a restructuring plan that contemplates repayment of the debts owed to it, and that other assumptions evident in the plan presented to date are flawed and/or speculative, including the assumption that Tarion will permit the release and reallocation of security deposits in the amount of about \$1.2 million to the Woodstock Debtor, and the assumption that the Woodstock Debtor can resume construction by September 1, 2025.
- [34] Fiera also points out that the revised cash flow analysis now provided by the CCAA Proponents also excludes major creditors such as the CRA (ignoring the statutory super-priority attached to those obligations) and does not account for an additional \$600,000 owing to Tarion in additional deposits.
- [35] With respect to the Sheppard property, Fiera points out that the revised cash flow analysis presented again ignores amounts owing to the CRA – in this case over \$1.3 million (which is again subject to the statutory super-priority), amounts owed to the City of Toronto for unpaid taxes, and wage arrears in the amount of approximately \$170,000.
- [36] In the case of the Sheppard development, required zoning applications have yet to be submitted, such that zoning approval is likely many months away.
- [37] Finally, Fiera points out that, even if the CCAA Proponents were in a position to advance the CCAA application, various factors confirmed in the relevant case law, and in particular in this court’s decision in Clover, would tend to support receivership as the vehicle of choice for these single-purpose real estate developments.
- [38] I believe there is merit in that last submission, though I note that recent case law is clear that, while in most single-purpose real estate developments a receivership offers certain advantages over a CCAA proceeding, that proposition is by no means absolute.
- [39] However, in my view, I need not get to the stage of considering the competing attributes of a receivership on one hand versus a fully-formed CCAA application on the other.
- [40] Despite the many dispensations and chances they have had to assemble a CCAA application in a timely fashion, the CCAA Proponents have not done so. They missed the July 15 court-ordered deadline for which they had pushed, and have essentially run roughshod over Fiera’s contractual rights.

- [41] In my view, given the work that has been done of the receiverships, and given that even now the proposed CCAA application has deficits, it would not be fair to Fiera to put it to the time and expense of answering a proposed competing application now.
- [42] In the circumstances, I decline to allow the proposed motion, to choose a preferable proceeding, to proceed.



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W.D. BLACK J.

**DATE: AUGUST 14, 2025**

**TAB 4**

Court of Appeal File Number:  
Superior Court File Number: CV-25-00742866-00CL

**COURT OF APPEAL FOR ONTARIO  
IN BANKRUPTCY AND INSOLVENCY**

BETWEEN:

**FIERA CANADIAN REAL ESTATE DEBT FUND GP INC. and  
FIERA FP REAL ESTATE FINANCING FUND, L.P.**

Applicants / Respondents on Appeal

-and-

**OXFORD ROAD DEVELOPMENTS 4 INC., ZHONG CHEN a.k.a. LAWRENCE CHEN,  
2250310 ONTARIO INC., and P&H DEVELOPMENT HOLDINGS INC.**

Respondents / Oxford Road Developments 4 Inc.  
as Appellant on Appeal

**IN THE MATTER OF AN APPLICATION  
Under Section 243(1) of the Bankruptcy and Insolvency Act (R.S.C., 1985, c. B-3), and  
Section 101 of the *Courts of Justice Act*, R.S.O. 1990, C. C.43**

**NOTICE OF APPEAL  
(including application for leave to appeal under s. 193(e) of the *Bankruptcy and Insolvency Act*, Rule 31(2) of the *Bankruptcy and Insolvency General Rules* and Rule 61.03.1 of the *Rules of Civil Procedure*)**

**OXFORD ROAD DEVELOPMENTS 4 INC. APPEALS** to the Court of Appeal from the  
Order of Mister Justice W.D. Black dated 14<sup>th</sup> August 2025 at Toronto.

**THE APPELLANT ASKS** that the Order of Mister Justice W.D. Black dated 14<sup>th</sup> August 2025  
be set aside and orders be granted as follows:

1. an order that the Appellant's application under the *Companies' Creditors Arrangement Act* ("CCAA") be scheduled for a hearing;
2. an interlocutory order that the Respondents' receivership is stayed pending results of the Appellant's CCAA application;
3. if necessary, an extension for the time for filing and service of the Notice of Appeal; and
4. costs of this appeal payable to the Appellant on the substantial indemnity basis.

**THE GROUNDS FOR THIS APPEAL** are as follows:

1. The learned case conference judge erred in law and in fact by declining to:
  - a. "allow the proposed application"
  - b. "choose a preferable proceeding"
  - c. "proceed".
2. The learned case conference judge erred in law and in fact by failing to allow for and/or failing to schedule a hearing of the application instead making a final decision at a case conference without the benefit of a full record and evidentiary basis.
3. The learned case conference judge erred in law by misapplying the principles of *Miller v. Ledra et al.*, 2023 ONSC 4656.
4. The learned case conference judge erred in law by misapplying *BCIMC Construction Fund Corporation et al. v. The Clover on Yonge Inc.*, 2020 ONSC 3659.
5. The learned case conference judge erred in law by failing to apply the principle of *audi alteram partem*.

6. The learned case conference judge made palpable and overriding errors in findings of fact and findings of mixed fact and law by drawing an inference from the incomplete record before His Honour that:
  - a. the receiverships had advanced considerably at the time of making the decision;
  - b. the receivers had invested considerable time, money and resources in its efforts;
  - c. the receivers had already engaged in construction and sale process that could not simply be paused and restarted and that any such costs could not be remedied with a cost order;
  - d. the applicant's consent to the receivership orders were not "much of a concession";
7. The learned case conference judge erred by giving consideration to the respondents' submissions while denying the applicants sufficient opportunity to provide their evidence and submissions with respect to:
  - a. the CCAA proposal being "in part speculative";
  - b. the terms of the DIP Funding;
  - c. the revised cash flow analysis by the CCAA Proponents; and
  - d. the zoning application.
8. The learned case conference judge erred in law and in fact by not taking giving due consideration to the rights and interests of other stakeholders.

**THE BASIS OF THE APPELLATE COURT'S JURISDICTION IS:** the *Bankruptcy and Insolvency Act* (the "BIA") s. 193 (e) which states that an appeal lies to the Court of Appeal by leave of a judge of the Court of Appeal.

## APPLICATION FOR LEAVE TO APPEAL

**TAKE NOTICE THAT** the Appellant **OXFORD ROAD DEVELOPMENTS 4 INC.** will make application to a judge of the Court of Appeal on a date to be fixed by the Registrar pursuant to *BIA* s. 193(e), *Bankruptcy and Insolvency General Rules* (“**BIA Rules**”) Rule 31 and *Rules of Civil Procedure* (“**Rules**”) Rule 61.03.1.

### THE APPLICATION IS FOR:

- (a) an order granting the Appellant leave to appeal to this Court from the decision of Mr. Justice W.D. Black dated 14<sup>th</sup> August 2025 at Toronto;
- (b) an interlocutory order that the Respondents’ receivership is stayed pending results of the Appellant’s CCAA application;
- (c) leave to adduce fresh evidence, if necessary, and
- (d) such further or other order as this Honourable Court deems fit.

### THE GROUNDS FOR THIS APPLICATION ARE:

#### *Background*

1. The Appellant defaulted on its debt owing to the Respondent in 2025.
2. The Respondent sought to bring an application to have the receivership heard on June 2, 2025.
3. On May 30, 2025, the parties agreed to appear before Justice Kimmel to address the Appellant’s request to prepare and file an application under the CCAA.
4. A proposed monitor had been identified but DIP financing was not secured at that time.

5. The Appellant was expected to have the CCAA application ready by about June 20, 2025, but the receivership application was adjourned to June 9, 2025.
6. The parties on consent agreed that the receivership application may be granted, but the receiver would not market and sell the properties before July 15, 2025 and the receivership order would be without prejudice to the Respondent's right to commence a CCAA application to bring the companies/respective project into CCAA protection and to bring a motion to terminate the respective receiverships on or before July 15, 2025.
7. Despite the foregoing, the initial CCAA application was scheduled for July 18, 2025.
8. The parties attended a case conference on July 17, 2025, where the Appellant requested from the same learned case conference Justice W.D. Black additional time, as they required additional time for the DIP financing to be arranged.
9. The matter came back before the learned Justice W.D. Black on August 14, 2025, at a case conference, to schedule the initial CCAA hearing.
10. On August 14, 2025, His Honour declined to allow the proposed hearing, "to choose a preferable hearing", and "to proceed", citing *inter alia* delays and expenditures by the receivers.
11. The delays were insignificant and justified, and the expenditures and progress by the receivers were insignificant.
12. His Honour made the errors set out in the Notice of Application above.

*Test for Leave to Appeal*

13. Per *Power Consolidated (China) Pulp Inc. v. British Columbia Resources Investment Corp.* (1988), 19 C.P.C. (3d) 396 (B.C. C.A.); *Med Finance Co. S.A. v. Bank of Montreal* (1993), 22 C.B.R. (3d) 279, 24 B.C.A.C. 318, the factors to be consider on an application for leave to appeal are:

- a. Whether the point of appeal is of significance to the practice;
- b. Whether the point raised is of significance to the action itself;
- c. Whether the appeal is *prima facie* meritorious or, on the other hand, whether it is frivolous; and
- d. Whether the appeal will unduly hinder the progress of the action

14. In *Business Development Bank of Canada v. Pine Tree Resorts Inc.*, 2013 ONCA 282 (Ont. C.A.) Blair J.A. noted that there had been some confusion as to the test for leave to appeal in the context of *BIA* 's. 193(e). He reviewed an alternative test for leave to appeal in *R.J. Nicol Homes Ltd. (Trustee of) v. Nicol* [1995] O.J. No. 48 (Ont. C.A.) and stated that although judges of the Ontario Court of Appeal had tended to favour the *R.J. Nicol* test in the past, there has been a movement towards a more expansive and flexible approach. Blair J.A. stated that the test is whether the proposed appeal:

- a. Raises an issue that is of general importance to the practice in bankruptcy/insolvency matters or to the administration of justice as a whole, and is one that the court should therefore consider and address;
- b. Is *prima facie* meritorious; and
- c. Would unduly hinder the progress of the bankruptcy/insolvency proceedings

*Significance to Practice or to the Administration of Justice as a whole*

15. The question of the misapplication of the law to the facts at a case conference raise questions of serious significance to the practice.
16. The dismissal of the Appellant's request for a hearing date and timetable, denied the Appellant the procedural fairness that comes with a proper hearing, which affords parties the opportunity to produce further evidence and engage in examination. In urgent cases, parties accord to tight time schedules, but are afforded a fair hearing with a complete and fulsome record before the court.
17. The summary approach adopted by His Honour dismissing the Appellant's application outright when the intention of the case conference was to set the matter down for hearing, did not afford the Appellant procedural fairness and procedural safeguards.
18. This was not in accordance with the principles from the leading case *Miller v. Ledra et al.*, 2023 ONSC 4656.
19. Furthermore, this case affords the insolvency bar the opportunity to revisit and refine the principles of *BCIMC Construction Fund Corporation et al. v. The Clover on Yonge Inc.*, 2020 ONSC 3659.

*Point Raised is of Significance to Action*

20. The points raised in this appeal are of utmost significance of appeal to this action.

21. If it is ultimately found that a CCAA proceeding ought to be preferred, as opposed to the continuation of the receivership, the various stakeholders will be in a significantly different position.
22. The receivership will be very costly. On the other hand, the Appellant in the CCAA matter will be in a position to do his utmost to attend to and repay the interests of various stakeholders and to maximize the value of the properties.
23. Moreover, the Appellant is incentivized to attend to the Respondents needs as well.

*Appeal is Prima Facie Meritorious*

24. It is not a high bar to establish that the case is *prima facie* meritorious. The Appellant has worked on the properties for years and it is of utmost importance for the Appellant to be able to save these properties.

*The Appeal Will Not Unduly Hinder Progress of Action*

25. The Appellant has moved forthwith. The only slow down it experienced was owing to the delay in obtaining DIP financing (a commitment for which has now been received).
26. There is no reason for the Appellant to not proceed with haste.
27. The questions on the appeal are of utmost importance to the Appellant
28. The Appellant will move to produce his materials.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used in support of the motion:

1. The Mr. Justice W.D. Black dated 14<sup>th</sup> August 2025, and the corresponding Order;
2. The Materials before Mr. Justice W.D. Black at the case conference
3. Further affidavit of Lawrence Chen if deemed necessary; and
4. Such further and other material as counsel may advise and this Honourable Court may permit.

**DATE:** August 25, 2025

**PAPAZIAN | HEISEY | MYERS**  
121 King St. W., Suite 510, P.O. Box 105  
Toronto, ON M5H 3T9

**Michael Myers (LSO No. 19640W)**

**Arash Jazayeri (LSO No. 65168T)**

Tel: 416 601 2701

416 601 2707

Email: [myers@phmlaw.com](mailto:myers@phmlaw.com)

[jazayeri@phmlaw.com](mailto:jazayeri@phmlaw.com)

Lawyers for the Appellant Oxford Road  
Developments 4 Inc.

TO **THE SERVICE LIST**

**FIERA CANADIAN REAL ESTATE  
DEBT FUND GP INC. et al.**

Applicants / Respondents on Appeal

- and -

**OXFORD ROAD DEVELOPMENTS 4 INC. et al.**

Appellants / Oxford Road Developments 4 Inc.  
as Appellant on Appeal

Court of Appeal File Number:

Superior Court File Number: CV-25-00742866-00CL

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**COURT OF APPEAL FOR ONTARIO  
IN BANKRUPTCY AND INSOLVENCY**

Proceeding Commenced at Toronto

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**NOTICE OF APPEAL WITH APPLICATION FOR LEAVE  
TO APPEAL**

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**PAPAZIAN | HEISEY | MYERS**

121 King Street West, Suite 510  
Toronto, Ontario M5H 3T9

**Michael S. Myers (LSO#19640W)**

Tel: 416.601.2701

Email: [myers@phmlaw.com](mailto:myers@phmlaw.com)

**Arash Jazayeri (LSO# 65168T)**

Tel: 416-601-2707

Email: [jazayeri@phmlaw.com](mailto:jazayeri@phmlaw.com)

Lawyers for the Appellant Oxford Road Developments 4  
Inc.



**FIERA CANADIAN REAL ESTATE DEBT FUND GP INC. - and- OXFORD ROAD DEVELOPMENTS 4 INC. ET AL**  
**and FIERA FP REAL ESTATE FINANCING FUND, L.P.**

*Applicants*

*Respondents*

Court File No.: CV-25-00742866-00CL

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

**PROCEEDING COMMENCED AT TORONTO**

**AIDE MEMOIRE OF THE RECEIVER**

**ROBINS APPLEBY LLP**

Barristers + Solicitors  
2600 - 120 Adelaide Street West  
Toronto, ON M5H 1T1

**Dominique Michaud LSO #56871V**

Email: [dmichaud@robapp.com](mailto:dmichaud@robapp.com)  
Tel: (416) 360-3795

**Anisha Samat LSO #82342Q**

Email: [asamat@robapp.com](mailto:asamat@robapp.com)  
Tel: (416) 860-1901

Lawyers for the Applicants, Fiera Canadian Real Estate Debt Fund GP Inc. and Fiera FP Real Estate Financing Fund, L.P., and the Receiver, TDB Restructuring Limited.