

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

**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

AND

Court File No.: CV-25-00743191-00CL

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SUPERIOR COURT OF JUSTICE
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BETWEEN:

**FIERA CANADIAN REAL ESTATE DEBT FUND GP INC. and FIERA FP REAL
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**2250310 ONTARIO INC., P&H DEVELOPMENT HOLDINGS INC., ZHONG CHEN a.k.a.
LAWRENCE CHEN, and OXFORD ROAD DEVELOPMENTS 4 INC.**

Respondents

AIDE MEMOIRE OF THE APPLICANTS

1. This aide-memoire is filed by the Applicants (or the “**Lender**”) in connection with the Receivership Applications bearing Court File No. CV-25-00742866-00CL (the “**Woodstock Application**”) and Court File No: CV-25-00743191-00CL (the “**Toronto Application**”, and together, the “**Receivership Applications**”).
2. The Receivership Applications stem from defaults by the same group of interconnected Respondents on distinct secured loans provided by the Lender. Upon the Respondents’ default, the parties also entered into separate Forbearance Agreements, which the Respondents have likewise defaulted on. The Forbearance Agreements include provisions under which the Respondents consent to the appointment of Receivers over the corporate Respondents upon default, which provisions have now been triggered.
3. The Respondents now seek to derail the Receivership Applications with a last-minute adjournment request, despite having already consented to the appointment of a Receiver and after months of deliberate inaction. They defaulted on the secured loans by the fall of 2024, entered into Forbearance Agreements with the Lender in January 2025 solely to buy time for refinancing, and were again in default (and had notice of this default) by March 31, 2025. Since then, they have produced no materials, provided no evidence of refinancing, and no tangible restructuring plan. Their request at the eleventh hour for an adjournment demonstrates a pattern of delay and evasion, and not a good faith effort to restructure.

Background of the Loans and Current Status of the Development Projects

4. The Woodstock Application relates to Oxford Road Developments 4 Inc.’s (“**Oxford**”)

repeated defaults under a \$17.55 million loan (the “**Woodstock Loan**”) used to finance a real estate development project in Woodstock, Ontario. Oxford, 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.

5. Following default on the Woodstock Loan, the Lender, Oxford, Lawrence Chen (as Guarantor) and 2250310 Ontario Inc. (“**225**”) and P&H Development Holdings Inc. (“**P&H**”) (as Additional Guarantors)—executed a forbearance agreement on January 13, 2025 (the “**Woodstock Forbearance Agreement**”), giving the Respondents until May 9, 2025, to cure the default and obtain refinancing. As a condition, the Respondents agreed to make ongoing interest payments, pay the outstanding interest arrears from at least October 2024, register a collateral charge on the Toronto Property and to consent to a Receiver’s appointment in case of default. Interest payments have not been made since at least October 2024, the collateral charge was never registered, and the Respondents thus defaulted again.

6. These defaults are not isolated incidents. The Respondents’ defaults form part of a larger pattern of financial distress affecting the corporate Respondents, which are interconnected entities controlled by Chen. 225 and P&H have also defaulted across another secured loan facility provided by the Lender in the principal amount of \$23 million in connection with the development of a real estate project in Toronto, Ontario (the “**Toronto Loan**” and the “**Toronto Property**”). They now owe approximately \$30.12 million to the Lender under that loan, which is also secured by a first-ranking charge in favour of the Lender registered against the Toronto Property.

7. A nearly identical forbearance agreement for the Toronto Loan was also executed between the Lender and 225 and P&H as Borrowers, with Chen acting as Guarantor and Oxford as Additional Guarantor on January 13, 2025 (the “**Toronto Forbearance Agreement**”).

8. Under the cross-default provisions of the Forbearance Agreements, the Respondents' default under one also constituted a default under the other, triggering their consent to the appointment of a Receiver for both. As both Forbearance Agreements were in default at this point (due to the Respondents' failure to pay interest arrears and register the collateral charge, among other things), the Applicants commenced a concurrent receivership application in that matter, which is the Toronto Application.

9. To date:

- (a) there are two portions of construction that remain outstanding on the Woodstock Property – six out of nineteen planned homes in a “Phase II” of the development project remain unfinished, while the planned construction of homes pursuant to a “Phase III” of the development plan has not even commenced; and
- (b) the Toronto Property remains vacant land.

The Respondents Do Not Have a Viable Plan

10. Since the initial default in or about the fall of 2024, and through the Forbearance Period from approximately January-May 2025, the Respondents have failed to engage with the Lender or provide any credible plan for refinancing or project completion, despite the express purpose of the Forbearance Agreements being to allow for such a plan. Only after defaulting on both Forbearance Agreements and in response to these Receivership Applications, have the Respondents now raised a proposed restructuring under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (the “CCAA” and the “**Proposed CCAA Application**”).

11. At the last minute, the Respondents have delivered superficial aide memoires setting out a loose intention to bring the Proposed CCAA Application. The aide memoires only state that the Respondents are “actively preparing” the Proposed CCAA Application, which is something that should have been done months ago if there were any real prospect of success. They set out the

following “plans”:

- (a) Woodstock Property: the Respondents state that they are seeking \$2.5 million in DIP financing, which has yet to be obtained, and seeking to subordinate the Woodstock Loan to the DIP loan. They say this will be used to complete Phase II construction, after which the sale of those homes will generate an estimated \$6 million from which the DIP facility will be paid out with the balance being used towards repaying the indebtedness outstanding on the Woodstock Loan. They then propose launching pre-sales of Phase III, securing further construction financing, and commencing a second round of development (the “**Woodstock Plan**”).
- (b) Toronto Property: the Respondents have not disclosed how much DIP financing they need, have no commitment from any lender, and are pushing a vague, highly aspirational plan for a redesign of the project that has not yet been approved. The Respondents claim that they will launch sales in July 2025, hit 30% pre-sales by October 2025, and then somehow secure construction financing based on these pre-sales. These are nothing more than empty hypotheticals. In today’s real estate market, the idea that any of this will materialize by these dates is entirely unrealistic. (the “**Toronto Plan**”).

12. It is clear that the Respondents do not have a viable or coherent plan, as demonstrated by the following:

- (a) they cannot even articulate the amount of DIP financing they intend to seek with respect to at least the Toronto Property, underscoring the uncertainty of their financial position;
- (b) no lender has been identified, no commitment has been secured, and no terms have been disclosed;
- (c) the Woodstock Plan contemplates subordinating the Lender’s secured position to new DIP financing (which has not even been obtained), without prior notice, consent, or any regard for the express terms of the Woodstock Forbearance Agreement, which prohibits such action;
- (d) the Toronto Plan fails entirely to address how the existing Toronto Loan would be treated relative to any DIP financing, if such financing were ever obtained;
- (e) no clear development timeline is provided for either project, both of which still do not have construction financing and remain at a preliminary stage. In the current real estate climate, it could take years for such construction to even begin. These are not plans rooted in reality, they are far-fetched fantasies with no foundation; and

- (f) out of the nine to ten pages in each aide memoire, the majority is spent reciting generic case law on CCAA principles, rather than presenting a concrete, actionable restructuring plan.

13. Importantly, the Respondents also explicitly agreed under sections 2.1(p) and 2.1(q) of the Forbearance Agreements:

- (a) to provide at least 10 days' notice before commencing any insolvency proceeding;
- (b) not to seek to stay or affect the Lender's rights;
- (c) not to oppose any effort by the Lender to lift a stay; and
- (d) not to prime the Lender's security through DIP financing.

14. This is not a genuine plan for restructuring. If a real plan existed, the Respondents should have undertaken steps to deliver credible evidence of refinancing. Instead, they produced only a hollow aide-memoire devoid of any substance, on the eve of the hearing of the Receivership Applications, seeking an adjournment.

The Court Should Not Allow the Receivership Hearing To Be Delayed

15. Courts regularly prefer Receiverships over CCAA proceedings in cases of real estate defaults, especially where no viable restructuring plan exists.¹

16. The Court should not allow the Respondents further time to bring the Proposed CCAA Application for the following reasons:

- (a) **they do not have a “germ of a plan”:** In *Collard Properties Inc.*, the court emphasized that absent even "the germ of a plan," relief under the CCAA should be denied.² Here, there is no germ of a plan – the so-called plans put forward in the Respondents aide memoires are aspirational, at best. Further, the financial irregularities and instability across the interconnected Respondents have eroded the

¹ [*AFC Mortgage Administrative Inc v Sunrise Acquisitions \(Stayner\) Inc*, CV-23-00710361-00CL, CV-24-00713287-00CL, CV-24-00715345-00CL \(ON SCJ\), Endorsement of Justice Black dated 29 February 2024 at paras 64-65](#)

² [*Collard Properties Inc et al v Plan of Compromise or Arrangement of Collard Properties Inc and 2759953 Ontario Inc et al*, CV-24-00726581-00CL \(ON SCJ\), Counsel Slip dated 29 August 2024 \(Justice Cavanagh\) at para 36](#)

Lender's confidence in management;

- (b) **they have not communicated with the Lender or obtained their support:** A recent review of real estate-related CCAA filings (2018–2023) found that successful CCAA applicants engaged with their secured lenders in advance—developing plans collaboratively.³ The Respondents have done none of this. They have made no effort to engage or collaborate with the Lender in the lead-up to their proposed restructuring;
- (c) **the Respondents have consented to the appointment of a Receiver:** the Respondents expressly consented to the appointment of a Receiver upon default, in the Forbearance Agreements. That consent was a key term, which was negotiated and relied upon by the Lender in agreeing to forbear from enforcement. The Respondents are now estopped from retracting on that position. In any event, the Lender has a clear contractual right under the Loan Documents and Forbearance Agreements to seek a Receiver upon default. That right has crystallized. Multiple defaults have occurred, and the Lender is entitled to enforce its security. The proposed Receivers have confirmed their consent to act.
- (d) **the Lender stands to be seriously prejudiced by further delay:** the Lender is the first mortgagee on both the Toronto Property and the Woodstock Property (and the sole mortgagee on the Woodstock Property). It is thus the largest stakeholder and the one most likely to be prejudiced by any further delays. The continued inaction of the Respondents threatens the Lender's security. There is a real risk that unpaid contractors will register construction liens, which will delay any future construction, disrupt cash flow, and further impair property value.

17. In the case here, the corporate Respondents are single-purpose entities with no active business or employees, just stalled real estate developments. The balance of convenience strongly favours the Lender, the primary creditor and party most interested in preserving and realizing value.

18. Critically, the Court should consider the timing and motive behind the Respondents' Proposed CCAA Application. This is a transparent, last-minute tactic to delay the Receivership Applications. The Respondents have had well over six months to seek refinancing, engage with the Lender, and put forward a viable plan. They have done none of that. To now seek more time would

³ [Peter Chisholm, *Do Not Disturb the First Mortgagee: A Framework for CCAA Filings of Canadian Real Estate—Focused Corporations*, 2023 CanLIIDocs 3070](#)

only further erode value and prejudice the Lender, and the Respondents should not be rewarded for months of passivity, at the Lender's expense.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, May 29, 2025



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May 29, 2025

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