

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

B E T W E E N:

**RPN FINANCE CORP., PETER JEEWAN, 2742695 ONTARIO INC., ROBERT PAULS
and JOSEPH BERLJAWSKY**

Appellants

and

**NORMANDY 293 MAPLEHURST INC., NORMANDY 295 MAPLEHURST INC., 288
SHEPPARD INC., 2646214 ONTARIO LTD. and NAWAR MAHFOOTH**

Respondents

FACTUM OF THE RESPONDENTS

**NORMANDY 293 MAPLEHURST INC., NORMANDY 295 MAPLEHURST INC., 288
SHEPPARD INC., 2646214 ONTARIO LTD. and NAWAR MAHFOOTH**

December 29, 2025

BE LAW LLP

Suite 700 - 30 St. Patrick Street
Toronto, ON M5T 3A3

Sara J. Erskine (LSO #: 46856G)

Email: sara@be-law.ca

Tel: 416-597-5408

Jared S. Rosenbaum (LSO #: 74769U)

Email: jared.rosenbaum@be-law.ca

Tel: 647-556-7992

Lawyers for the Respondents,
Normandy 293 Maplehurst Inc., Normandy
295 Maplehurst Inc., 288 Sheppard Inc.,
2646214 Ontario Ltd. and Nawar Mahfooth

SERVICE LIST
(As of November 11, 2025)

Applicant	
<p>RSG Law Professional Corporation 400-6605 Hurontario Street Mississauga, ON L5T 0A3</p> <p>Counsel to the Applicants</p>	<p>Raj Grewal (LSO#: 65524T) Tel: 905-799-0925 Email: raj@rsglaw.ca</p> <p>Raghav Vig (LSO#: 90983F) Tel: 905-799-0925 Email: raghav@rsglaw.ca</p>
Proposed Receiver	
<p>TDB Restructuring Limited 11 King Street West, Suite 700 Toronto, ON M5H 4C7</p> <p>Proposed Receiver</p>	<p>Bryan Tannenbaum Tel: 416-238-5055 Email: btannenbaum@tdbadvisory.ca</p> <p>Jeffrey Berger Tel: 647-726-0496 Email: jberger@tdbadvisory.ca</p>
<p>Chaitons LLP 5000 Yonge Street, 10th Floor Toronto, ON M2N 7E9</p> <p>Counsel to the Proposed Receiver</p>	<p>Maya Poliak (LSO#: 54100A) Tel: 416-218-1161 Email: maya@chaitons.com</p>
Respondents	
<p>Normandy 293 Maplehurst Inc. 60 Lacoste Boulevard, Suite 201, Brampton, ON L6P 2K2</p>	
<p>Normandy 295 Maplehurst Inc. 60 Lacoste Boulevard, Suite 201, Brampton, ON L6P 2K2</p>	
<p>288 Sheppard Inc. 3173 Trailside Drive Oakville, ON L6M 0P3</p>	

<p>2646214 Ontario Ltd. 3173 Trailside Drive Oakville, ON L6M 0P3</p>	
<p>Nawar Mahfooth 60 Lacoste Boulevard, Suite 201 Brampton, ON L6P 2K2</p>	
<p>Minister of National Revenue</p>	
<p>Attorney General of Canada Department of Justice Canada Ontario Regional Office 120 Adelaide Street West, Suite 400 Toronto, ON M5H 1T1 Fax: 416-973-0942</p> <p>Counsel to His Majesty the King in Right of Canada as represented by the Minister of National Revenue</p>	<p>Fozia Chaudary Tel: 647-256-7347 Email: Fozia.Chaudary@justice.gc.ca</p> <p>Edward Park Tel: 647-292-9368 Email: Edward.Park@justice.gc.ca</p> <p>Vaughan Thatcher Tel: 647-518-0089 Email: Vaughan.thatcher@justice.gc.ca</p> <p>General Intake for Department of Justice AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca</p> <p>Kelly Smith Wayland Email: Kelly.smithwayland@justice.gc.ca</p> <p>Kevin Dias Email: kevin.dias@justice.gc.ca</p>
<p>Ministry of Finance</p>	
<p>Ministry of Finance 6th Floor 33 King St. W. Oshawa, ON L1H 8H5</p>	<p>Steven Groeneveld Counsel, Legal Services Branch, Ministry of Finance, Civil Law Division, Ministry of the Attorney General Ontario Public Service</p> <p>Tel: 905-431-8380 Email: steven.groeneveld@ontario.ca</p>

Insolvency Unit Ministry of Finance 6 th Floor 33 King St. W. Oshawa, ON L1H 8H5	Email: insolvency.unit@ontario.ca
Other Creditors	
Aarti Real Estate Enterprises Inc., 22 Kelways Cir. Brampton, ON L6T 0G6	
Mayuri Ventures Inc., 3525 Palgrave Road Mississauga, ON L5B 1W1	
Sarmad Ganni 60 Lacosta Boulevard, Suite 201, Brampton, ON L6P 2K2	
1842716 Ontario Inc., 2939 Portland Drive, Unit 200 Oakville, ON L6H 5S4	
Addison Wealth Management Inc., 33 Balfour Drive Hamilton, ON L9C 7A5	
The Bank of Nova Scotia 10 Wright Boulevard Stratford, ON N5A 7X9	

TABLE OF CONTENTS

PART I – OVERVIEW 4

PART II – THE FACTS 5

PART III – THE ISSUES..... 8

PART IV – THE LAW AND ARGUMENT..... 8

PART V – RELIEF SOUGHT/ORDER REQUESTED..... 11

SCHEDULE “A” AUTHORITIES CITED..... 13

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

B E T W E E N:

**RPN FINANCE CORP., PETER JEEWAN, 2742695 ONTARIO INC., ROBERT PAULS
and JOSEPH BERLJAWSKY**

Appellants

and

**NORMANDY 293 MAPLEHURST INC., NORMANDY 295 MAPLEHURST INC., 288
SHEPPARD INC., 2646214 ONTARIO LTD. and NAWAR MAHFOOTH**

Respondents

**FACTUM OF THE RESPONDENTS
NORMANDY 293 MAPLEHURST INC., NORMANDY 295 MAPLEHURST INC., 288
SHEPPARD INC., 2646214 ONTARIO LTD. and NAWAR MAHFOOTH**

PART I – OVERVIEW

1. The Applicants seek an Order, among other things:
 - (a) appointing TDB Restructuring Limited as receiver and manager (in such capacity, the “**Receiver**”) over all of the undertaking, properties, and assets of Normandy 293 Maplehurst Inc., Normandy 295 Maplehurst Inc., 288 Sheppard Inc., and 2646214 Ontario Ltd.; and
 - (b) appointing TDB as Receiver over lands and premises municipally known as 287 Maplehurst Avenue, Toronto.

2. The Respondents submit that, in all of the circumstances of this case, it is not just and convenient to appoint a court-appointed Receiver over the Property.

PART II – THE FACTS

A. Background

3. The respondents are in the business of real estate development and are developing the properties municipally known as: 293 Maplehurst Avenue; 295 Maplehurst Avenue; 280 Sheppard Avenue East; 288 Sheppard Avenue East; 294 Sheppard Avenue East; and 287 Maplehurst Avenue, all in Toronto, Ontario (the “**Real Properties**”).¹

4. The Real Properties represent a fully assembled and Ontario Land Tribunal-approved 10-parcel mid-rise redevelopment site with 511 units across 416,830 square feet. The approval unlocks a major intensification block between two MTSA nodes, delivering strong mixed-use density with retail at grade and step-down residential transitions for neighbourhood compatibility.²

5. RM zoning, Mixed-Use designation and Special Policy Area status collectively allow a 13-11-8 storey massing with ~29,207 square feet of commercial and 2-storey underground parking. The land is appraised at \$48.3M As-Is (2025).³

¹ Affidavit of Sarmad Ganni sworn December 12, 2025 [“Ganni Affidavit”] at para 8.

² Ganni Affidavit at para 9.

³ Ganni Affidavit at para 10.

B. The Mortgages

6. As set out more fully in the Affidavits of Sarmad Ganni and Nawar Mahfooth, there are four mortgages at issue in this case in respect of the Real Properties: the 293 Mortgage, the 280 Mortgage, the 295 Mortgage and the 287 Mortgage (collectively, the “**Mortgages**”).⁴

7. Notably, the Respondent Nawar Mahfooth did not receive any funds from the 287 Mortgage and there was no money exchanged.⁵ Rather, on August 10, 2022, Nawar Mahfooth granted a transfer of a mortgage to the Applicant Joseph Berljawsky in the principal amount of \$300,000, which was registered on title to 287 Maplehurst Avenue Toronto.⁶ The 287 Mortgage was granted as a collateral mortgage.⁷

8. The Mortgages incorporated standard charge terms 200433 (the “**SCT**”). Under the terms of the SCT, the Respondents agreed to maintain the property in good condition and to carry out any necessary repairs, in accordance with the nature and description of the property.⁸

9. Pursuant to the terms of the Mortgages and the SCT, failure to pay taxes of any nature or kind, constitutes an event of default, thereby entitling the Applicants to exercise rights available under the terms of the Mortgages.⁹

⁴ Ganni Affidavit at para 15.

⁵ Ganni Affidavit at para 14.

⁶ Ganni Affidavit at para 14.

⁷ Ganni Affidavit at para 14.

⁸ Ganni Affidavit at para 16.

⁹ Ganni Affidavit at para 17.

10. The Mortgages have matured.¹⁰ On or about June 27, 2025, and October 30, 2025, the applicants by their lawyers issued notices of intention to enforce security pursuant to Section 244 of the BIA.¹¹

C. The Respondents are Applying Rents, Have Maintained the Properties

11. The affidavit of Mayer Michalowicz, sworn November 11, 2025 (the “**Michalowicz Affidavit**”), states that “the Respondents are continuing to collect rent and revenues from their tenants. Notwithstanding the foregoing, the Respondents have made no payments to the Applicants on account of the amounts owing.”¹² This statement is incorrect.¹³

12. Rents are being collected and applied as follows:

- (a) 280 Sheppard: the Respondents are collecting rent which is being used to pay the first mortgagee;
- (b) 288 Sheppard: rent is being collected by the first mortgagee on 288 Sheppard, which is the same as the second mortgagee on both 280 and 288 Sheppard;
- (c) 287 Maplehurst: rent is being collected by the owner;
- (d) 293 Maplehurst: not rented at this time;

¹⁰ Affidavit of Mayer Michalowicz sworn November 11, 2025 [“Michalowicz Affidavit”] at para 28; Ganni Affidavit at para 18.

¹¹ Ganni Affidavit at para 18.

¹² Ganni Affidavit at para 19.

¹³ Ganni Affidavit at para 19.

(e) 295 Maplehurst: rent is being applied to toward the Company that owns the house.¹⁴

13. The Michalowicz Affidavit further states that “I am advised by RSG Law that the Real Properties are in a substantial state of disrepair”.¹⁵ This is incorrect and is moreover hearsay evidence.¹⁶

14. The Real Properties are not in a substantial state of disrepair. However, they are development properties and the houses are not being maintained as residences.¹⁷ The commercial properties are being maintained because they are tenanted.¹⁸

15. Mr. Ganni has deposed that, to the best of his knowledge, there are no major unrecorded work orders for any of the Real Properties.¹⁹

PART III – THE ISSUES

16. There is one issue on this motion: whether it is “just and convenient” for this court to appoint a court-appointed receiver over the Respondents’ Property.

PART IV – LAW AND ARGUMENT

17. Under section 243 of the BIA and section 101 of the *Courts of Justice Act*, the court may appoint a receiver if it is “just and convenient” to do so.²⁰

¹⁴ Ganni Affidavit at para 20.

¹⁵ Michalowicz Affidavit at para 30; Ganni Affidavit at para 21.

¹⁶ Ganni Affidavit at para 21.

¹⁷ Ganni Affidavit at para 22.

¹⁸ Ganni Affidavit at para 22.

¹⁹ Ganni Affidavit at para 23.

²⁰ [Bank of Nova Scotia v. Freure Village of Clair Creek, 1996 CanLII 8258 \(ONSC\)](#), para. 10 and [Bank of Montreal v. Carnival National Leasing Limited, 2011 ONSC 1007](#), para. 23-24.

18. In determining whether the appointment of a receiver is just and convenient, the court must examine all of the circumstances such as the nature of the property, the rights and interests of all parties in relation thereto, the potential costs, the relationship between the debtor and the creditor, the likelihood of maximizing the return on and preserving the subject property, and the best way of facilitating the work and duties of the receiver.²¹

19. In the recent case of *Canadian Equipment Finance and Leasing Inc. v The Hypoint Company Limited, 2618905 Ontario Limited, 2618909 Ontario Limited, Beverly Rockcliffe, and Chantal Bock*, Osborne J set out factors which have been taken into account in the determination of whether it is appropriate to appoint a receiver:

- (a) Whether irreparable harm might be caused if no order is made, although as stated above, it is not essential for a creditor to establish irreparable harm if a receiver is not appointed where the appointment is authorized by the security documentation;
- (b) The risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of asserts while litigation takes place;
- (c) The nature of the property;
- (d) The apprehended or actual waste of the debtor's assets;
- (e) The preservation and protection of the property pending judicial resolution;
- (f) The balance of convenience to the parties;
- (g) The fact that the creditor has a right to appointment under the loan documentation;
- (h) The enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulties with the debtor;
- (i) The principle that the appointment of receiver should be granted cautiously;

²¹ [Bank of Nova Scotia v. Freure Village of Clair Creek, 1996 CanLII 8258 \(ONSC\)](#), para. 10 and 12, and [Anderson v. Hunking, 2010 ONSC 4008](#), at para. 15.

- (j) The consideration of whether a court appointment is necessary to enable the receiver to carry out its duties efficiently;
- (k) The effect of the order upon the parties;
- (l) The conduct of the parties;
- (m) The length of time that a receiver may be in place;
- (n) The cost to the parties;
- (o) The likelihood of maximizing return to the parties; and
- (p) The goal of facilitating the duties of the receiver.²²

20. The fact that a credit agreement permits a creditor to seek the appointment of a receiver “to the extent permitted by law” is just one, albeit an “important factor” to consider in the just and convenient analysis.²³

21. These factors militate in favour of not appointing a receiver in these circumstances. The statutory requirement that it be just and convenient that the receivership order be made requires a balancing of interests in every case.

22. Here, the significant detriment to the Respondent arising from the appointment of a receiver should lead the court to decline the relief sought by the Applicant. No irreparable harm will result to the Applicants if a receiver is not appointed.

23. In terms of potential costs, the appointment of a receiver will not maximize value, and it is not the best way to protect the interests of all stakeholders.²⁴ In particular, the appointment of a

²² [*Canadian Equipment Finance and Leasing Inc. v The Hypoint Company Limited, 2618905 Ontario Limited, 2618909 Ontario Limited, Beverly Rockcliffe, and Chantal Bock, 2022 ONSC 6186*](#) at para 25.

²³ [*Farm Credit Canada v. Kapital Produce Ltd., et al., 2025 ONSC 2403*](#) at para 35.

²⁴ Ganni Affidavit at para 25.

receiver will be extremely costly.²⁵ This will not maximize the proceeds available to satisfy the Mortgages.

24. Much like in *Farm Credit Canada v Kapital Produce Ltd. et al.*, there is “no evidence of harm, urgency, or any real or perceived risk of dissipation of the Debtor’s assets or diminution in the value of the assets if a receiver is not appointed.”²⁶

25. In all of the above circumstances, it is not just and convenient to appoint a court-appointed receiver over the Property.

PART V – RELIEF SOUGHT/ORDER REQUESTED

26. The Respondents submit that the Application to appoint a receiver should be dismissed with costs.

²⁵ Ganni Affidavit at para 25.

²⁶ [*Farm Credit Canada v Kapital Produce Ltd. et al.*, 2025 ONSC 2403](#) at para 40.

ALL OF WHICH IS RESPECTFULLY SUBMITTED 29th day of December, 2025



SARA J. ERSKINE

BE LAW LLP

Suite 700 - 30 St. Patrick Street
Toronto, ON M5T 3A3

Sara J. Erskine (LSO #: 46856G)

Email: sara@be-law.ca

Tel: 416-597-5408

Jared S. Rosenbaum (LSO #: 74769U)

Email: jared.rosenbaum@be-law.ca

Tel: 647-556-7992

Lawyers for the Respondents,
Normandy 293 Maplehurst Inc., Normandy
295 Maplehurst Inc., 288 Sheppard Inc.,
2646214 Ontario Ltd. and Nawar Mahfooth

SCHEDULE “A”

AUTHORITIES CITED

1. [*Bank of Nova Scotia v. Freure Village of Clair Creek*, 1996 CanLII 8258 \(ONSC\)](#)
2. [*Bank of Montreal, v. Carnival National Leasing Limited*, 2011 ONSC 1007](#)
3. [*Anderson v. Hunking*, 2010 ONSC 4008](#)
4. [*Canadian Equipment Finance and Leasing Inc. v The Hypoint Company Limited*, 2618905 Ontario Limited, 2618909 Ontario Limited, Beverly Rockcliffe, and Chantal Bock, 2022 ONSC 6186](#)
5. [*Farm Credit Canada v. Kapital Produce Ltd., et al.*, 2025 ONSC 2403](#)

I certify that I am satisfied as to the authenticity of every authority cited in the factum.

29th day of December, 2025



SARA J. ERSKINE

BE LAW LLP

Suite 700 - 30 St. Patrick Street
Toronto, ON M5T 3A3

Sara J. Erskine (LSO #: 46856G)

Email: sara@be-law.ca

Tel: 416-597-5408

Jared S. Rosenbaum (LSO #: 74769U)

Email: jared.rosenbaum@be-law.ca

Tel: 647-556-7992

Lawyers for the Respondents,
Normandy 293 Maplehurst Inc., Normandy
295 Maplehurst Inc., 288 Sheppard Inc.,
2646214 Ontario Ltd. and Nawar Mahfooth

RPN FINANCE CORP., et al.
Appellants

-and- **NORMANDY 293 MAPLEHURST INC., et al.**
Respondents

Court File No. CL-25-00753591-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

RESPONDING FACTUM

BE LAW LLP

Suite 700 - 30 St. Patrick Street
Toronto, ON M5T 3A3

Sara J. Erskine (LSO #: 46856G)

Email: sara@be-law.ca

Tel: 416-597-5408

Jared S. Rosenbaum (LSO #: 74769U)

Email: jared.rosenbaum@be-law.ca

Tel: 647-556-7992

Lawyers for the Respondents,
Normandy 293 Maplehurst Inc., Normandy 295
Maplehurst Inc., 288 Sheppard Inc., 2646214 Ontario
Ltd. and Nawar Mahfooth

Email for party served: