

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

DORR CAPITAL CORPORATION and OLYMPIA TRUST COMPANY

Plaintiffs

and

FLATO GREENS INC., DUNDALK MIXED USE EXPANSION ONE INC.,
PATTERSON STREET HOLDINGS INC., FLATO NORTH VILLAGE
DUNDALK INC., BRAEMORE DUNDALK TWO INC., MELANCTHON
MEADOWS INC., 2760562 ONTARIO INC., FLATO MANAGEMENT INC.
and SHAKIR REHMATULLAH

Defendants

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June 22, 2026

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PART I - OVERVIEW

1. Flato Developments Inc. is a real estate developer and homebuilder that has operated in Ontario since 2005. The corporate defendants are project-specific Flato entities, focused on developing single-family homes, semi-detached homes, townhouses and rental housing in the Dundalk, Ontario region. Shakir Rehmatullah is Flato's Founder and President.¹

2. Dorr Capital Corporation ("DCC") was Flato's mortgage broker, until it began lending directly to Flato in or about 2021 or 2022. Unfortunately, Flato's ability to service the DCC loans has been affected by the significant softening of the real estate market, and Flato defaulted on the loans. As such, Flato and DCC negotiated a forbearance agreement in early 2026.

3. Flato acknowledges its obligations to DCC. But the appointment of a receiver is not the appropriate remedy at this time. Flato seeks until September 30, 2026, to continue in its fundraising efforts.

4. The appointment of a receiver is not "just and convenient". The appointment of a receiver does not enhance and facilitate the preservation and realization of assets for the benefit of all creditors. First, DCC is holding \$2 million of Flato money that it refuses to release in order for Flato to satisfy its debts. Second, the appointment of a receiver will introduce risk to the real estate assets, drive up costs unnecessarily, and the receiver will not be in any better position to recover the debt than Flato's efforts which are currently in progress. This list of reasons for the court not to exercise its jurisdiction are set out below:

¹ Except as specifically noted below, the defendants use the term "**Flato**" to refer to all defendants and all other Flato-related parties.

- a) DCC continues to withhold \$2 million belonging to a Flato-related company that could and should be applied to satisfy the interest arrears in full;
- b) DCC's security is in first position on real estate assets with more than sufficient equity. The issue is one of immediate liquidity;
- c) Flato is in the process of selling portions of the EcoPark Lands (as defined in the forbearance agreement) for an amount sufficient to address its EcoPark obligations;
- d) Flato has kept DCC fully apprised of its ongoing efforts through extensive and proactive (near-daily) communication;
- e) DCC has threatened to improperly withhold consent to the EcoPark APS;
- f) Flato is not otherwise in breach of the Forbearance Agreement; and
- g) There is considerable prejudice in appointing a receiver now and little prejudice to DCC in building in a short period of time in a soft market, particularly as DCC is in first position on every parcel and obtained additional security (a third mortgage) under the Forbearance Agreement.

5. The \$2 million that DCC refuses to return to a Flato-related company would more than satisfy Flato's interest arrears. Brian Dorr, DCC's principal, has flatly and repeatedly refused to do so.

6. In short, and particularly given the issue of consent to the EcoPark APS and the \$2 million, DCC appears to be deliberately manufacturing the conditions for Flato's continued default.

7. The defendants thus respectfully ask the Court to adjourn this motion to a date after September 30, 2026, to allow the defendants to continue working to preserve the value and equity of the affected projects and to bring the loans into good standing. Further, the defendants ask that the court schedule a case conference in the interim to address next steps with respect to the \$2 million that DCC is withholding from Flato while asserting default for a lesser amount.

PART II – SUMMARY OF FACTS

A. Background and Parties

8. Flato Developments builds across the GTA, Markham, Brampton, New Tecumseth, Cameron, Owen Sound and Dundalk. Each corporate defendant – except for Flato Management Inc., which is the management company for the Flato portfolio – is an Ontario corporation holding a specific real estate project.²

9. The defendants’ relationship with DCC began in about 2017, when DCC acted as a mortgage broker for Flato. DCC began lending directly with investor-raised funds in 2021–2022.³

B. Loan Agreements with Dorr Capital Corporation

10. At different junctures, DCC made loans to the Borrowers that were secured against the following properties:⁴

Borrower(s)	Project Name	Total Principal Amount	Maturity Date
Flato Greens Inc.	EcoPark	\$5,000,000	March 1, 2026
Braemore Dundalk Two Inc. & Flato North Village Dundalk Inc.	Braemore	\$4,930,000	May 1, 2026
Patterson Street Holdings Inc.	Patterson	\$320,000	September 1, 2026
2760562 Ontario Inc. & Melancthon Meadows Inc.	Melancthon	\$2,250,000	September 1, 2026
Dundalk Mixed Use Expansion One Inc.	Expansion	\$13,500,000	November 1, 2026

² Affidavit of Shakir Rehmatullah affirmed June 19, 2026 (“**Rehmatullah Affidavit**”), at para. 13, Responding Motion Record of the Defendants (“**Responding MR**”), Tab A, [p. 9](#).

³ Rehmatullah Affidavit, at paras. 6, 14–15, Responding MR, Tab A, [pp. 7, 9–10](#).

⁴ Rehmatullah Affidavit, at para. 15, Responding MR, Tab A, [p. 10](#).

11. In September 2024, the commitment letters for each of the above loans were amended so that a default under any one DCC Loan constitutes a default under every DCC Loan. Substantial equity and value remain in the Lands.⁵

C. The Projects and Loans

12. Below is a brief description of each of the real estate projects (the “**Projects**”) that is the subject of the DCC Loans, including its location, the purpose for which it was acquired, the financing provided by DCC, and its current stage of development.

13. **EcoPark:** The EcoPark Lands is a single parcel of approximately 88 acres of vacant development land in the Dundalk area, acquired by Flato with DCC purchase financing (a \$5 million first mortgage advanced approximately four years ago). Zoning approval was obtained approximately three years ago, and Flato is now working toward draft plan approval, expected within about six months. The intended development is a mix of single-family homes, semis and townhouses, together with industrial and commercial space and rental apartments. Flato is selling portions of the EcoPark Lands, including a roughly 7-acre parcel behind a gas station for which a developer has offered \$4.1 million (about \$585,000 per acre), with sale proceeds to be paid to DCC.⁶

14. **Braemore:** The Braemore Lands comprise approximately 40 acres on which there are currently two tenant-occupied homes. The Braemore Lands were acquired as two separate properties from two different owners, with DCC providing purchase financing of roughly \$4 million for the larger parcel and about \$930,000 for a one-acre access parcel. The lands are within

⁵ Rehmatullah Affidavit, at para. 16, Responding MR, Tab A, [p. 10](#).

⁶ Rehmatullah Affidavit, at para. 18, Responding MR, Tab A, [pp. 10–11](#).

the settlement boundary and remain in the early planning stages. In response to market conditions, Flato has revised its plan from larger single-family homes to include townhomes, smaller single-family homes and a rental apartment building as Phase 1, with the remainder built out as Phase 2.⁷

15. **Patterson:** The Patterson Lands consist of a single residential house in the New Tecumseth area, acquired by Flato approximately seven to eight years ago and presently rented, with DCC purchase financing of approximately \$600,000 to \$700,000. The property forms part of a larger intended land assembly; Flato owns adjacent parcels (not subject to this receivership) and intends to hold the Patterson Lands and assemble surrounding properties to permit future re-zoning and development. In the broader development of which these lands form a part, Flato has approximately 100 homes under construction and has already sold and closed about 50 homes.⁸

16. **Melancthon:** The Melancthon Lands are two adjacent parcels of agricultural land, each containing a single-family detached home, totalling approximately 125 acres. They were acquired as a long-term investment for future development, which Flato anticipates may take 10 to 15 years or longer to realize. Unlike the other Projects, the DCC financing here was not purchase financing; Flato granted security over the lands to DCC in or about January 2023 in exchange for operating capital for its other projects.⁹

17. **Expansion:** The Expansion Lands are approximately 100 acres in the Dundalk area that are zoned and approved for development, acquired by Flato approximately seven years ago. Flato intends to develop them as a complete, master-planned community of approximately 500 single-family, semi-detached and townhome units, with associated commercial, institutional and

⁷ Rehmatullah Affidavit, at para. 20, Responding MR, Tab A, [pp. 11–12](#).

⁸ Rehmatullah Affidavit, at para. 21, Responding MR, Tab A, [p. 12](#).

⁹ Rehmatullah Affidavit, at para. 22, Responding MR, Tab A, [p. 12](#).

servicing components. DCC advanced approximately \$12 million in October 2022 and a further \$1.5 million in May 2025. An initial phase is presently being sold and will soon be under construction, with subsequent phases proceeding as the internal road network is extended.¹⁰

18. As these descriptions illustrate, the Projects are at varying stages of development, ranging from agricultural land held for the long term to communities that are actively being sold and built out. In each case, Flato has invested significant time, capital and expertise, and substantial equity and value remain in the Lands. It is this value that Flato seeks to preserve, for the benefit of all stakeholders including DCC, and would be eroded by the premature appointment of a receiver, for the reasons set out further below.

D. Forbearance Agreement

19. The defendants' ability to service the DCC loans have been affected by the significant softening of the real estate market, rather than by any lack of underlying equity or value in the Projects. As a result of these market conditions, including increased purchaser defaults, requests for closing extensions, and negotiated purchase price reductions driven by more conservative approaches taken by lenders, the defendants went into default on their loans.¹¹

20. On March 31, 2026, DCC, the Borrowers, Flato Management Inc. and Rehmatullah signed a forbearance agreement ("**Forbearance Agreement**"). To oversimplify the agreement, DCC agreed to forbear from enforcing the DCC Loans until April 1, 2027, provided interest payments were kept current and proceeds of sale of a portion of the EcoPark Lands were directed to DCC.¹²

¹⁰ Rehmatullah Affidavit, at para. 23, Responding MR, Tab A, [pp. 12–13](#).

¹¹ Rehmatullah Affidavit, at para. 25, Responding MR, Tab A, [p. 13](#).

¹² Rehmatullah Affidavit, at para. 28 and Exhibit "8", Responding MR, Tabs A and A8, [pp. 15](#) and [114](#).

i. *Forbearance EcoPark APS Obligations*

21. Section 3 of the Forbearance Agreement required Flato, among other things, to provide DCC, by April 30, 2026, with: (a) an agreement of purchase and sale (the “**EcoPark APS**”) approved in writing by DCC (acting reasonably) for the sale of the “Part 20 Lands” at a minimum price of \$6 million with a \$1 million deposit into trust, closing within 30 days of a severance consent; and (b) an irrevocable direction for the deposit and net sale proceeds to be paid to DCC.¹³

22. Negotiations with the developer/buyer have taken longer than anticipated because the purchaser is conducting extensive due diligence.¹⁴ Although the negotiated price is presently below the \$6 million minimum, a separate gas-station sale (expected to yield approximately \$2.5 million) is also being pursued; the combined proceeds are expected to exceed the \$6 million threshold.¹⁵ Once the EcoPark APS is signed, the \$1 million deposit will be released to DCC within 30 days.¹⁶

23. Section 4 of the Forbearance Agreement requires weekly written updates regarding the EcoPark APS negotiations. Flato has been updating DCC constantly.¹⁷

ii. *Interest Arrears*

24. Under the Forbearance Agreement, the defendants agreed that Interest Arrears would not exceed \$1,200,000 at any given time until the EcoPark APS Deposit was remitted to DCC. The

¹³ Rehmatullah Affidavit, at para. 34, Responding MR, Tab A, [pp. 16–17](#)

¹⁴ Rehmatullah Affidavit, at para. 35, Responding MR, Tab A, [p. 17](#).

¹⁵ Rehmatullah Affidavit, at para. 37, Responding MR, Tab A, [p. 17](#).

¹⁶ Rehmatullah Affidavit, at para. 38, Responding MR, Tab A, [p. 17](#).

¹⁷ Rehmatullah Affidavit, at paras. 26, 39, Responding MR, Tab A, [pp. 13, 18](#).

defendants have been actively working to raise the funds needed to clear the arrears.¹⁸ The Interest Arrears are secured against title to the EcoPark Lands by the DCC EcoPark Third Mortgage, registered in third position as Instrument No. GY285636 on April 13, 2026, as additional security granted as part of the Forbearance Agreement.¹⁹

iii. Reporting Obligations

25. Under ss. 3(f) and 19 of the Forbearance Agreement, DCC agreed to obtain certain appraisals and Flato Greens agreed to provide concept plans and planning, appraisal, and ESA reports per Schedule “I” by June 1, 2026.²⁰ Flato has complied with its reporting obligations. The only reports not produced to DCC are reports that do not yet exist because the relevant project has not reached the stage of development at which they would be prepared.²¹

iv. Further Encumbrances over the Lands

26. Under s. 14 of the Forbearance Agreement, Flato Greens agreed not to grant further encumbrances over the Lands except the DCC Third Mortgage and a mortgage securing the purchaser’s deposit.²² The other “prior encumbrances” DCC raises each pre-date the Forbearance Agreement and Flato advised DCC transparently before entering into the Forbearance Agreement.

27. DCC complains that a fourth mortgage in favour of Realtrium Developments Corp. (“**Realtrium**”) for \$4,000,000 was registered (Instrument No. GY287195) on May 21, 2026

¹⁸ Rehmatullah Affidavit, at paras. 40–41, Responding MR, Tab A, [p. 18](#).

¹⁹ Rehmatullah Affidavit, at para. 42 and Exhibit “9”, Responding MR, Tabs A and A9, [pp. 18](#) and [198](#).

²⁰ Rehmatullah Affidavit, at para. 44, Responding MR, Tabs A and A8, [pp. 19](#) and [160](#).

²¹ Rehmatullah Affidavit, at para. 45(a)–(e), Responding MR, Tab A, [pp. 19–20](#).

²² Rehmatullah Affidavit, at para. 46, Responding MR, Tabs A and A8, [pp. 20](#) and [131](#).

without their consent.²³ However, this mortgage was registered pursuant to a Commitment Letter and Acknowledgment and Direction executed in May 2025 — nearly a year before the Forbearance Agreement.²⁴ Flato granted no new charge after signing the Forbearance Agreement in March 2026. In any event, DCC’s \$5 million mortgage on EcoPark remains in first.²⁵

v. Municipal Property Taxes

28. DCC claims property tax arrears total \$46,990.59 as of June 2026. This is incorrect as that figure includes 2026 amounts owing that are not actually in arrears. The actual amount that was in arrears at the time the tax certificates attached to the Dorr Affidavit were prepared was \$27,640.13.²⁶ Since then, the defendants have made several property tax payments, resulting in the EcoPark tax arrears being fully cleared, and \$250 has been paid toward each of the remaining Lands. The defendants intend to pay the remaining arrears imminently.²⁷

E. Flato’s Ongoing Efforts to Raise Capital and Comply with the Forbearance Agreement

29. The defendants have undertaken various efforts to secure the capital necessary to comply with the Forbearance Agreement.

30. **First**, the defendants have sought to clear the Interest Arrears by demanding repayment of a \$2 million investment that Maude Investment Corporation (“**Maude**”, a company related to Flato) made in RealAlt High Yield Mortgage Trust (“**RealAlt**”), one of Mr. Dorr’s funds related

²³ Rehmatullah Affidavit, at para. 47, Responding MR, Tab A, [p. 20](#), referring to the Affidavit of Brian Dorr sworn June 5, 2026 [“Dorr Affidavit”], at [para. 65](#).

²⁴ Rehmatullah Affidavit, at para. 48 and Exhibit “10”, Responding MR, Tabs A and A10, [pp. 20–21](#), 228.

²⁵ Rehmatullah Affidavit, at paras. 49–53, Responding MR, Tab A, [pp. 21–22](#), referring to Dorr Affidavit, at [para. 49](#).

²⁶ Rehmatullah Affidavit, at para. 54, Responding MR, Tab A, [p. 22](#).

²⁷ Rehmatullah Affidavit, at paras. 55–56 and Exhibit “11”, Responding MR, Tabs A and A11, [pp. 23](#) and [259](#).

to DCC. Maude advanced the \$2 million to RealAlt in two tranches (November 30, 2021 and October 31, 2022), on the express agreement that it would be loaned to the Flato Beeton project and returned to Maude when that financing was repaid to DCC.²⁸

31. To that effect, on October 25, 2022, DCC and several Flato companies signed a loan agreement that contemplated a loan facility of up to \$5 million, registered as a third mortgage against the Beeton project.²⁹ Ultimately, DCC only ever advanced approximately \$1.65 million to Flato under that loan agreement, although Maude advanced a full \$2 million to RealAlt.

32. Flato paid out DCC's third mortgage on the Beeton project on July 9, 2024 (\$1,770,396.07), but neither RealAlt nor DCC returned Maude's \$2 million, either then or since.³⁰ Flato has repeatedly asked Brian Dorr, DCC's principal, to return the funds or set them off against the DCC Loans. Dorr has refused to do so.³¹

33. Undeniably, \$2 million advanced by a company related to Flato to a fund managed by DCC remains "invested" and DCC refuses to return it to Maude or use it towards Flato's debts, as Flato has repeatedly requested. This \$2 million would fully clear all existing interest arrears. Without authority, DCC has "invested" the \$2 million when Maude has no interest in being a DCC investor.

34. **Second**, the defendants continue to sell inventory homes and parcels of land, and working with a subsequent mortgagee working toward paying out DCC's first mortgage on the EcoPark

²⁸ Rehmatullah Affidavit, at paras. 58–62 and Exhibits "13" and "14", Responding MR, Tabs A and A13–A14, [pp. 23–24](#) and [279–349](#).

²⁹ Rehmatullah Affidavit, at para. 64 and Exhibits "15", Responding MR, Tabs A and A15, [pp. 24–25](#) and [351](#).

³⁰ Rehmatullah Affidavit, at paras. 66 and Exhibits "15", "16" and "17", Responding MR, Tabs A and A13–A14, [pp. 23–24](#) and [279–349](#).

³¹ Rehmatullah Affidavit, at paras. 67–69, Responding MR, Tab A, [pp. 25–26](#).

Lands (a commitment possible within days prior to the hearing of this motion).³² The efforts are very much an earnest work in progress and Flato has been transparent with regular reporting on same.

F. Prejudice That Would be Caused by Granting a Receivership

35. Substantial negative downstream consequences would follow for the defendants and the entities that the defendants collaborate with, if a receivership were granted at this stage, including:

- a) development approvals in progress or granted for EcoPark and Expansion could be affected or pulled entirely;
- b) prior phases of development would be slowed or halted;
- c) the EcoPark and Expansion projects depend on access and servicing that run through adjacent lands owned by other Flato entities not party to this proceeding — a receiver would face significant difficulty, delay and cost;
- d) the lands form integrated, master-planned communities linked by shared access, roads and servicing — removing parcels through a receivership would disrupt orderly development and diminish value; and
- e) a receivership would introduce substantial receivership costs and interrupt well-advanced projects, eroding value for all stakeholders including DCC.³³

PART III – STATEMENT OF ISSUES, LAW & AUTHORITIES

36. There is no dispute about the test for the appointment of a receiver under s. 243 of the *BIA* or s. 101 of the *CJA* — that is, whether it is just or convenient to do so.

³² Rehmatullah Affidavit, at paras. 73–74, Responding MR, Tab A, [pp. 26–27](#).

³³ Rehmatullah Affidavit, at para. 79(a)–(f), Responding MR, Tab A, [pp. 28–29](#).

37. As reiterated by Justice Osborne in *Canadian Equipment Finance and Leasing Inc. v. The Hypoint Company Limited*³⁴, numerous factors are historically taken into account in determining whether it is appropriate to appoint a receiver, including:

- a) whether irreparable harm might be caused if no order is made, although, it is not essential for a creditor to establish irreparable harm if a receiver is not appointed where the appointment is authorized by 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 assets 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 a receiver should be granted cautiously;
- 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.³⁵

³⁴ *Canadian Equipment Finance and Leasing Inc. v. The Hypoint Company Limited*, [2022 ONSC 6186](#).

³⁵ *Canadian Equipment Finance and Leasing Inc. v. The Hypoint Company Limited*, [2022 ONSC 6186](#), at para. [25](#).

38. The factors are not a checklist, but should be viewed holistically to determine whether, in all the circumstances, the appointment of a receiver is just or convenient.³⁶

39. Where a debtor has substantially complied with its obligations and remains a viable business, the appointment of a receiver is not just or convenient. In *Mitsubishi HC Capital Canada Inc. v. Ribs Transport Inc.*³⁷, Justice Kurz found that the debtor had substantially complied with the settlement agreement and that payments totalling \$432,000 over ten months demonstrated the debtor remained a viable business capable of meeting the agreement's terms. The court held that, if a receiver were appointed, there was a reasonable risk the business would no longer remain viable, with assets sold off at a discount and at great expense — a result that, viewed holistically, would not be just or convenient.³⁸

40. The Court's discretion to allow a defaulting borrower time to refinance or sell its assets, rather than appointing a receiver immediately, is illustrated in *Meridian v. Okje Cho & Family Enterprise Ltd.*³⁹ In that case, in an earlier proceeding, Justice Pattillo granted the respondents an adjournment to finalize an Agreement of Purchase and Sale that would satisfy the respondents' debt obligations to the applicant. In doing so, Justice Patillo expressly stated that if he was satisfied on the return date that, based on the evidence, there was a "realistic possibility" the borrower could resolve its obligations to the lender and its other creditors, he would have adjourned the application for a reasonable period to permit that to occur, on certain conditions.⁴⁰

³⁶ *Aggregated Investments Inc. et al. v. Pace Group Holding Inc. et al.*, [2025 ONSC 2595](#), at para. 25.

³⁷ *Mitsubishi HC Capital Canada Inc. v. Ribs Transport Inc.*, [2025 ONSC 3066](#).

³⁸ *Mitsubishi HC Capital Canada Inc. v. Ribs Transport Inc.*, [2025 ONSC 3066](#), at paras. 34–35.

³⁹ [2021 ONSC 3755](#).

⁴⁰ *Meridian v. Okje Cho & Family Enterprise Ltd.*, [2021 ONSC 3755](#), at paras. 10–13.

A. Appointing a Receiver at This Stage Is Neither Just Nor Convenient

41. Whether it is just or convenient to appoint a receiver is assessed by weighing the factors set out above holistically, in light of all the circumstances. Applied to the present circumstances, some of the determinative factors — the risk (or absence of risk) to the security holder, the nature of the property, the preservation of value pending resolution, the conduct of the parties, the likelihood of maximizing recovery, and the balance of convenience — each weigh against the appointment of a receiver at this stage.

i. DCC Continues to Withhold at Least \$2 Million from Maude

42. Maude, a Flato-related company, advanced \$2 million to RealAlt, a DCC-managed fund, on the express understanding that it would be returned once the Flato Beeton loan was repaid. That loan was repaid in July 2024. Yet, despite repeated demands, the funds have not been returned. The most recent account statement reflects a book value of \$1,586,540 as at September 30, 2025.⁴¹

43. This relates to two factors. First, as to the conduct of the parties, DCC appears to be manufacturing the very conditions of default upon which it now relies, withholding the liquidity the defendants need to completely eliminate the Interest Arrears while simultaneously moving to appoint a receiver based on those very arrears. The defendants could clear the arrears immediately, whether directly or by way of set-off, if DCC or RealAlt returned the funds to Maude as Dorr previously agreed to do. Second, as to the risk to the security holder and the related question of

⁴¹ Rehmatullah Affidavit, at paras. 58–72 and 84, Responding MR, Tab A, [pp. 23–26](#) and [30](#).

irreparable harm, the existence of these funds confirms that DCC faces no genuine risk to its security: the amounts said to be in default are exceeded by funds that DCC is holding hostage.⁴²

ii. Flato Is in the Process Selling Portions of the EcoPark Lands

44. The nature of the property, the preservation and protection of the property pending resolution, and the likelihood of maximizing recovery all favour allowing the defendants' sale efforts to continue. The Lands are development properties whose value is best realized by an experienced developer advancing them through the entitlement and sale process, not by a receiver liquidating them.

45. The circumstances warrant an adjournment rather than the appointment of a receiver: a credible and experienced developer has made an offer for the Part 20 Lands and is actively conducting its due diligence, and the concurrent sale of the gas-station site is expected to yield approximately \$2.5 million, such that the combined proceeds are expected to exceed the \$6 million minimum sale price required under the Forbearance Agreement. Permitting these sales to close will preserve and protect the value of the property pending resolution and maximize the return to all stakeholders, whereas a forced receivership sale would realize materially less.⁴³

iii. Flato Has Kept DCC Fully Apprised Through Proactive Communication

46. This is not a case of an uncooperative or evasive debtor. Rehmatullah has had over 70 calls with Dorr since January 2026 alone, in addition to at least four dinners and regular contact between Dorr and others at the Flato office. The defendants have also provided weekly updates and

⁴² Rehmatullah Affidavit, at paras. [69](#), [71](#).

⁴³ Rehmatullah Affidavit, at paras. 19, 24 and 34–38, Responding MR, Tab A, [pp. 11](#), [13](#) and [16–17](#).

connected DCC with their consultants and appraisers.⁴⁴ DCC has had no difficulty obtaining information or cooperation, and there is no basis to conclude that it has lost confidence in the defendants' management such that a receiver is required to enforce its rights.

iv. Flato Is Not Otherwise in Breach of the Forbearance Agreement

47. **Flato has provided DCC every report that presently exists:** The defendants have complied with their obligations and provided DCC with every report that presently exists; the only reports not produced are those that do not yet exist because the relevant project has not reached the stage of development at which they would be prepared, as DCC is aware.⁴⁵

48. **The “further encumbrances” pre-date the Forbearance Agreement:** The Realtrium mortgage was registered pursuant to a commitment letter executed in May 2025, nearly a year before the Forbearance Agreement. The other prior encumbrances DCC raises date from the summer of 2025 and were known to DCC at the time the Forbearance Agreement was signed. Flato granted no new charge after March 2026. DCC's \$5 million first mortgage remains undisplaced.⁴⁶

49. **DCC has misstated the tax arrears on the properties at issue:** DCC asserts tax arrears of \$46,990.59, but this improperly includes 2026 amounts that are owing but not yet in arrears. The EcoPark tax arrears have been cleared in full, payments have been made toward each of the remaining Lands, and the defendants intend to discharge the balance imminently. This is the conduct of a debtor preserving, not wasting, its assets.⁴⁷

⁴⁴ Rehmatullah Affidavit, at para. 26, Responding MR, Tab A, [pp. 13–14](#).

⁴⁵ Rehmatullah Affidavit, at paras. 44–45, Responding MR, Tab A, [pp. 19–20](#).

⁴⁶ Rehmatullah Affidavit, at paras. 46–53 and Exhibit “10”, Responding MR, Tabs A and A10, [pp. 20–22](#) and [228](#).

⁴⁷ Rehmatullah Affidavit, at paras. 54–56, Responding MR, Tab A, [pp. 22–23](#).

B. There Is Major Prejudice in Appointing a Receiver and Little Prejudice in Adjourning

50. The effect of a receivership order on the parties and the practical difficulty a receiver would face all weigh strongly against appointment at this stage. The nature of the property is critical: the EcoPark and Expansion projects depend on access and servicing that run through adjacent lands that are owned by other Flato entities who are not party to this proceeding and not subject to the DCC Loans.

51. Thus, a receiver confined to the mortgaged parcels could not carry out its duties efficiently as they would face significant difficulty, delay and cost in developing the projects, including in obtaining alternative access approvals from the Ministry of Transportation. Because the Lands form integrated, master-planned communities linked by shared roads and servicing, fragmenting ownership through a receivership over only some of them would diminish the value of both the mortgaged and the surrounding lands, and development approvals already granted to Flato for EcoPark and Expansion could be affected or pulled entirely. Flato is uniquely positioned to preserve and maximize the value of these projects for all stakeholders, including DCC.⁴⁸

52. By contrast, DCC faces no meaningful prejudice — and certainly no irreparable harm or risk to its security — in waiting a few months. DCC is in first position on every parcel and obtained additional security under the Forbearance Agreement in the form of the DCC EcoPark Third Mortgage; its principal and accruing interest are as secure as possible, and substantial equity remains in the Lands.⁴⁹ While DCC purports to have a contractual right to seek the appointment of a receiver under its security documents, that is not determinative: the appointment remains a

⁴⁸ Rehmatullah Affidavit, at para. 79(a)–(f), Responding MR, Tab A, [pp. 28–29](#).

⁴⁹ Rehmatullah Affidavit, at paras. 42–43, Responding MR, Tab A, [p. 18](#).

discretionary remedy to be granted cautiously, having regard to all of the circumstances. Weighing the absence of any real risk to DCC against the substantial and largely irreversible prejudice to the projects, the balance of convenience falls decisively in favour of a short adjournment.

PART IV – ORDER REQUESTED

53. The defendants respectfully request that the Court adjourn this motion to a date after September 30, 2026, to allow the defendants to continue working to preserve the value and equity of the affected projects and to bring the loans into good standing, including by selling portions of the EcoPark Lands and pursuing the return or set-off of the \$2 million Maude investment.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 22nd day of June, 2026.



Mark Ross / Eric Brousseau / Leonie van Haeren

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SCHEDULE “A”

LIST OF AUTHORITIES

1. *Aggregated Investments Inc. et al. v. Pace Group Holding Inc. et al.*, [2025 ONSC 2595](#).
2. *Canadian Equipment Finance and Leasing Inc. v. The Hypoint Company Limited*, [2022 ONSC 6186](#).
3. *Meridian v. Okje Cho & Family Enterprise Ltd.*, [2021 ONSC 3755](#).
4. *Mitsubishi HC Capital Canada Inc. v. Ribs Transport Inc.*, [2025 ONSC 3066](#).

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

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

Date: June 22, 2026



Signature
ERIC BROUSSEAU

SCHEDULE “B”

TEXT OF STATUTES, REGULATIONS & BY - LAWS

Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3

243(1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

- (a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
- (b) exercise any control that the court considers advisable over that property and over the insolvent person’s or bankrupt’s business; or
- (c) take any other action that the court considers advisable.

Restriction on appointment of receiver

(1.1) In the case of an insolvent person in respect of whose property a notice is to be sent under subsection 244(1), the court may not appoint a receiver under subsection (1) before the expiry of 10 days after the day on which the secured creditor sends the notice unless

- (a) the insolvent person consents to an earlier enforcement under subsection 244(2); or
- (b) the court considers it appropriate to appoint a receiver before then.

Definition of *receiver*

(2) Subject to subsections (3) and (4), in this Part, *receiver* means a person who

- (a) is appointed under subsection (1); or
- (b) is appointed to take or takes possession or control — of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt — under
 - (i) an agreement under which property becomes subject to a security (in this Part referred to as a “security agreement”), or
 - (ii) a court order made under another Act of Parliament, or an Act of a legislature of a province, that provides for or authorizes the appointment of a receiver or receiver-manager.

Definition of *receiver* — subsection 248(2)

(3) For the purposes of subsection 248(2), the definition *receiver* in subsection (2) is to be read without reference to paragraph (a) or subparagraph (b)(ii).

Trustee to be appointed

(4) Only a trustee may be appointed under subsection (1) or under an agreement or order referred to in paragraph (2)(b).

Place of filing

(5) The application is to be filed in a court having jurisdiction in the judicial district of the locality of the debtor.

Orders respecting fees and disbursements

(6) If a receiver is appointed under subsection (1), the court may make any order respecting the payment of fees and disbursements of the receiver that it considers proper, including one that gives the receiver a charge, ranking ahead of any or all of the secured creditors, over all or part of the property of the insolvent person or bankrupt in respect of the receiver's claim for fees or disbursements, but the court may not make the order unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations.

Meaning of *disbursements*

(7) In subsection (6), *disbursements* does not include payments made in the operation of a business of the insolvent person or bankrupt.

Courts of Justice Act, R.S.O. 1990, c. C.43

Injunctions and receivers

101 (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so.

Terms

(2) An order under subsection (1) may include such terms as are considered just.

DORR CAPITAL CORPORATION et al.
Plaintiffs

-and- FLATO GREENS INC. et al.
Defendants

Court File No. CL-26-00000262-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

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RCP-E 4C (September 1, 2020)