

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
JUSTICE NEWBOULD

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)
)

TUESDAY, THE 21st
DAY OF APRIL, 2015

BETWEEN:



DBDC SPADINA LTD., and THOSE CORPORATIONS LISTED ON SCHEDULE "A"
HERETO

Applicants

- and -

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP LTD. and
EGLINTON CASTLE INC.

Respondents

- and -

THOSE CORPORATIONS LISTED IN SCHEDULE "B" HERETO, TO BE BOUND BY THE
RESULT

ORDER

THIS MOTION, made by the manager, Schonfeld Inc. (the "**Manager**"), for advice and directions with respect to the distribution of the balance of the net proceeds of sale of the property at 2454 Bayview Avenue (the "**Property**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Twenty-Fifth Report of the Manager, the Affidavit of Brian Johnson sworn April 1, 2015 (including exhibits), the Affidavit of Talea Coghlin sworn April 1, 2015 (including exhibits), the Affidavit of Philip Gennis sworn April 15, 2015 (including exhibits) (the “**Gennis Affidavit**”), the Affidavit of Steven L. Graff sworn April 16, 2015 (including exhibits) (the “**Graff Affidavit**”) and such other material as was filed, and on being advised that each of the Applicants, Dibri Inc. (“**Dibri**”), and msi Spergel inc. in its capacity as the Court-appointed receiver and manager of all the assets, undertakings, and properties of Academy Lands Ltd. (“**Academy Lands**”) (in such capacity, the “**Academy Lands Receiver**”) in the proceedings bearing Court File Number CV-14-10706-00CL (the “**Academy Lands Proceedings**”) consent to this Order and that the Manager does not oppose this Order, and on hearing the submissions of counsel for the Manager, counsel for 368230 Ontario Limited (“**368**”), counsel for Dibri, counsel for the Academy Lands Receiver and such other counsel as were present, no one else appearing for any other person on the service list;

1. **THIS COURT ORDERS** that the balance of the net proceeds from the sale of the Property in the amount of \$1,303,199.16, held by the Manager, plus any additional amounts paid by the Academy Lands Receiver to the Manager (collectively, the “**Surplus**”), be paid forthwith as follows:

- (a) the sum of \$188,845.00 (the “**Disputed Funds**”) shall be retained by the Manager, which shall hold the Disputed Funds in Trust pending an Order of this Court following a hearing to determine:
 - (i) whether amounts that Dibri alleges were paid for property taxes to the former owner of the Property, Academy Lands, are enforceable against 368

as the new owner as a credit against property taxes due from the tenant of the Property under a written lease dated December 5, 2011; and/or

- (ii) the entitlement of the various parties to the Disputed Funds and directing the distribution for the Disputed Funds

(subparagraphs (i) and (ii) above, collectively the “**Disputed Funds Hearing**”), which Disputed Funds Hearing shall occur on May 25, 2015 or as soon after that date as the Disputed Funds Hearing can be heard; and

- (b) the sum of \$424,655.01, together with interest and fees payable at the rate of \$230.17 per diem from April 21, 2015, be paid to TCE Capital Corporation as assignee of a charge on the Property in favour of Dibri; and
- (c) the remaining balance of the Surplus be paid to Dibri.

2. **THIS COURT ORDERS** that the hearing of the Disputed Funds Hearing in this proceeding shall be without prejudice to any party’s rights to enforce the findings and Orders of the Court as if this hearing were proceeding in the Academy Lands Proceeding.

3. **THIS COURT ORDERS AND DECLARES** that paragraph 2 of this Order does not impose any further obligations on the Academy Lands Receiver.

4. **THIS COURT ORDERS AND DECLARES** that the retention of the Disputed Funds by the Manager is in lieu of payment by the Junior Academy Inc. (as tenant of the Property) of the Disputed Funds to the Academy Lands Receiver in accordance with, and in satisfaction of, paragraphs 3 and 4 of the Order of the Honourable Justice Newbould dated December 17, 2014 in

the Academy Lands Proceedings (the "**December Order**"), which December Order is attached as Schedule "A" to this Order.


5. **THIS COURT ORDERS AND DECLARES** that retention of the Disputed Funds by the Manager under subparagraph 1(a) of this Order fully satisfies and discharges all payment obligations under the December Order.

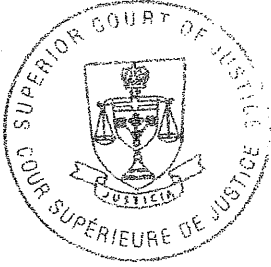
6. **THIS COURT ORDERS** that the fees and disbursements of the Academy Lands Receiver in the Academy Lands Proceedings, as set out in the Gennis Affidavit, be and are hereby approved.

7. **THIS COURT ORDERS** that the fees and disbursements of the Academy Lands Receiver's legal counsel, Aird & Berlis LLP, in the Academy Lands Proceedings, as set out in the Graff Affidavit, be and are hereby approved.



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ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

 APR 21 2015



Schedule "A"

Court File No. CV-14-10706-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) WEDNESDAY, THE 17TH DAY
)
JUSTICE NEWBOULD) OF DECEMBER, 2014

BETWEEN:

BUSINESS DEVELOPMENT BANK OF CANADA

Applicant

- and -

ACADEMY LANDS LTD.

Respondent

ORDER

THIS MOTION, made by msi Spergel inc. ("**Spergel**"), in its capacity as the Court-appointed receiver and manager (in such capacities, the "**Receiver**"), without security, of all of the assets, undertakings and properties of Academy Lands Ltd. (the "**Debtor**"), for an order, among other things: (i) approving the Second Report of the Receiver dated November 21, 2014 (the "**Second Report**"), and the actions of the Receiver set out therein; (ii) ordering The Junior Academy Inc. (the "**Tenant**") to pay rent and other arrears to the Receiver, forthwith; and (iii) ordering the Tenant to provide to the Receiver, forthwith, a post-dated cheque for future amounts owing, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report and the appendices thereto, the affidavit of Brian Johnson sworn December 11, 2014 and the affidavit of Christine Hanyecz sworn December 15, 2014, and on hearing the submissions of counsel for the Receiver, counsel for the Tenant and counsel for Business Development Bank of Canada, no one appearing for any other person on the service list, although duly served as appears from the affidavit of Mona Markussen, sworn November 21, 2014, filed,

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the Second Report be and is hereby approved and the actions of the Receiver described therein be and are hereby approved.

3. **THIS COURT ORDERS** that the Tenant pay rent and other arrears to the Receiver, ~~\$188,845~~ *\$188,845 without prejudice to the issue* forthwith, in the total amount of ~~\$197,731.03~~, which is the amount of the minimum rent plus HST for the months of September, October, November and December, 2014 (\$245,210.00), plus the amount of property taxes relating to the building for the 2012, 2013 and 2014 calendar years (\$97,521.03), minus the amounts previously paid by the Tenant to the Debtor on account of

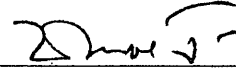
~~property taxes relating to the building for the 2012, 2013 and 2014 calendar years (\$145,000.00).~~

of the receiver to establish there is owing to the end of December, 2014.

4. ~~**THIS COURT ORDERS** that the Tenant provide to the Receiver, forthwith, a post-dated cheque dated January 1, 2015 for the sum of \$66,302.50.~~

5. THIS COURT ORDERS that the tenant is to forthwith pay to the receiver costs of \$7,500.

5. THIS COURT ORDERS ~~pre-judgment and~~ post-judgment interest on the aforesaid sums at a rate per annum equal to the prime interest rate of a Canadian chartered bank plus two percent (2.0%) per year.



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DEC 17 2014



BUSINESS DEVELOPMENT BANK OF CANADA

- and -

ACADEMY LANDS LTD.

Applicant

Respondent

Court File No. CV-14-10706-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

ORDER

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*Lawyers for msi Spergel inc., in its capacity as the Court-appointed
receiver and manager of Academy Lands Ltd.*

DBDC SPADINA LTD. et al

and

NORMA WALTON et al -and- THOSE CORPORATIONS
LISTED IN SCHEDULE B

Applicant

Respondent
Court File No. CV-13-10280-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at **Toronto**

ORDER

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