

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
Commercial List**

B E T W E E N:

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

MOTION RECORD OF THE MANAGER, SCHONFELD INC.
(Motion re: fee allocation and fee approval)

GOODMANS LLP
Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario
M5H 2S7

Brian Empey LSUC#: 30640G
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Tel: (416) 979-2211
Fax: (416) 979-1234

Lawyers for The Manager

TO: **SERVICE LIST**

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Affidavit of Elyse Nobert

I, Elyse Nobert, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a legal assistant employed by Goodmans LLP ("Goodmans"), counsel for the Manager, Schonfeld Inc. and, as such, have knowledge of the matters to which I hereinafter depose. Where I have been advised of facts by others, I have specified the source of my information and, in all such cases, believe it to be true.

2. Attached hereto and marked collectively as Exhibit "A" are letters dated from Mark Dunn of Goodmans to Fox Contracting Limited and Gemetec Wall & Ceiling Systems Ltd.

Although the attached letters are not signed, I am advised by Mark Dunn and believe that a letter in this form was sent to all parties with liens registered on title to the Schedule "B" Properties.

3. Attached hereto and marked as Exhibit "B" is a letter dated October 29, 2014 from Jack Copelovici to Mark Dunn.

4. Attached hereto and marked as Exhibit "C" is a letter dated March 9, 2015 from Mark Dunn to Jack Copelovici.

SWORN before me at the City of Toronto,
in the Province of Ontario, on April 14,
2015.

A Commissioner for taking affidavits

Name: Mark Dunn

Elyse Nobert

SCHEDULE "A" COMPANIES

1. Dr. Bernstein Diet Clinics Ltd.
2. 2272551 Ontario Limited
3. DBDC Investments Atlantic Ltd.
4. DBDC Investments Pape Ltd.
5. DBDC Investments Highway 7 Ltd.
6. DBDC Investments Trent Ltd.
7. DBDC Investments St. Clair Ltd.
8. DBDC Investments Tisdale Ltd.
9. DBDC Investments Leslie Ltd.
10. DBDC Investments Lesliebrook Ltd.
11. DBDC Fraser Properties Ltd.
12. DBDC Fraser Lands Ltd.
13. DBDC Queen's Corner Ltd.
14. DBDC Queen's Plate Holdings Inc.
15. DBDC Dupont Developments Ltd.
16. DBDC Red Door Developments Inc.
17. DBDC Red Door Lands Inc.
18. DBDC Global Mills Ltd.
19. DBDC Donalda Developments Ltd.
20. DBDC Salmon River Properties Ltd.
21. DBDC Cityview Lands Ltd.
22. DBDC Weston Lands Ltd.
23. DBDC Double Rose Developments Ltd.
24. DBDC Skyway Holdings Ltd.
25. DBDC West Mall Holdings Ltd.
26. DBDC Royal Gate Holdings Ltd.
27. DBDC Dewhurst Developments Ltd.
28. DBDC Eddystone Place Ltd.
29. DBDC Richmond Row Holdings Ltd.

SCHEDULE "B" COMPANIES

1. Twin Dragons Corporation
2. Bannockburn Lands Inc. / Skyline – 1185 Eglinton Avenue Inc.
3. Wynford Professional Centre Ltd.
4. Liberty Village Properties Ltd.
5. Liberty Village Lands Inc.
6. Riverdale Mansion Ltd.
7. Royal Agincourt Corp.
8. Hidden Gem Development Inc.
9. Ascalon Lands Ltd.
10. Tisdale Mews Inc.
11. Lesliebrook Holdings Ltd.
12. Lesliebrook Lands Ltd.
13. Fraser Properties Corp.
14. Fraser Lands Ltd.
15. Queen's Corner Corp.
16. Northern Dancer Lands Ltd.
17. Dupont Developments Ltd.
18. Red Door Developments Inc. and Red Door Lands Ltd.
19. Global Mills Inc.
20. Donalda Developments Ltd.
21. Salmon River Properties Ltd.
22. Cityview Industrial Ltd.
23. Weston Lands Ltd.
24. Double Rose Developments Ltd.
25. Skyway Holdings Ltd.
26. West Mall Holdings Ltd.
27. Royal Gate Holdings Ltd.
28. Royal Gate Nominee Inc.
29. Royal Gate (Land) Nominee Inc.
30. Dewhurst Development Ltd.
31. Eddystone Place Inc.

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- 32. Richmond Row Holdings Ltd.
- 33. El-Ad (1500 Don Mills) Limited
- 34. 165 Bathurst Inc.

SCHEDULE "C"**PROPERTIES**

1. 3270 American Drive, Mississauga, Ontario
2. 0 Luttrell Ave., Toronto, Ontario
3. 2 Kelvin Avenue, Toronto, Ontario
4. 346 Jarvis Street, Suites A, B, C, E and F, Toronto, Ontario
5. 1 William Morgan Drive, Toronto, Ontario
6. 324 Prince Edward Drive, Toronto, Ontario
7. 24 Cecil Street, Toronto, Ontario
8. 30 and 30A Hazelton Avenue, Toronto, Ontario
9. 777 St. Clarens Avenue, Toronto, Ontario
10. 252 Carlton Street and 478 Parliament Street, Toronto, Ontario
11. 66 Gerrard Street East, Toronto, Ontario
12. 2454 Bayview Avenue, Toronto, Ontario
13. 319-321 Carlaw, Toronto, Ontario
14. 260 Emerson Ave., Toronto, Ontario
15. 44 Park Lane Circle, Toronto, Ontario
16. 19 Tennis Crescent, Toronto, Ontario
17. 646 Broadview, Toronto, Ontario

A

November 22, 2013

Delivered via courier

Gemtec Wall & Ceiling Systems Ltd.
1700 Davis Drive West
Newmarket, ON L3Y 4V9

Dear sirs/mesdames:

**Re: Order dated November 5, 2013 in respect of the companies listed at
Schedule "B" thereto**

We are the lawyers for Schonfeld Inc. Receivers + Trustees (the "Manager") in its capacity as Manager of certain companies (the "Companies") listed at Schedule "B" to the Order of Justice Newbould dated November 5, 2013 (the "Order").¹ The Order is attached.

We are writing because we have been advised that your company may have advanced funds to one or more of the Companies and taken mortgage security against its real property. The Manager has not examined the validity or priority of any mortgages registered against the Companies' property and it reserves all rights in this regard.

The Manager was appointed by the Court to ensure that all interested parties are treated fairly and to establish and execute a fair process to deal with the Companies' assets, including the collateral pledged to third party mortgagees. The Manager's mandate is to, among other things, carry out the management, preservation and disposition of the Companies' property in a transparent and accountable manner. As part of this mandate, the Manager will keep all stakeholders informed of its activities and seek court approval, on notice to all interested parties, before selling the Companies' real estate assets.

¹ Justice Newbould appointed the Manager effective November 5, 2013. The terms of the Order were finalized on November 15, 2013 and the Order could not be issued and entered until November 18, 2013 because Justice Newbould asked counsel to hold it in escrow pending the resolution of a related motion between the parties.

The Order may affect rights that your company may otherwise have against the Companies or their property. Among other things:

- paragraph 12 of the Order provides that no legal proceeding may be commenced or continued against the Companies without the permission of the Manager or leave of the Court;
- paragraph 13 of the Order suspends and stays enforcement of remedies that might exist against the Companies² without the permission of the Manager or leave of the Court; and
- paragraphs 21 and 24 of the Order provide for certain charges that rank ahead of pre-existing security interests in the Companies' property.

The Manager is empowered to, among other things, undertake sole and exclusive authority to manage and control the Companies' property and operate each Company's business. We ask that you or your legal counsel direct any inquiries relating to the Order to Harlan Schonfeld (who is the principal of the Manager), James Merryweather of the Manager, Fred Myers (who is the partner at our office having carriage of this matter)³ or myself. Contact information for Mr. Schonfeld, Mr. Merryweather and Mr. Myers is below:

S Harlan Schonfeld CPA CIRP
James Merryweather CGA
SCHONFELD INC. Receivers & Trustees
438 University Avenue, 21st Floor
Toronto, ON M5G 2K8
Tel: 416.862.7785
Fax: 416.862.2136
E-mail: harlan@schonfeldinc.com
E-mail: jmerryweather@schonfeldinc.com

Fred Myers
Partner
Goodmans LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7
Tel: 416.597.5923
Fax: 416.979.1234
E-mail: fmyers@goodmans.ca

² Note that there are certain exceptions to this stay listed at paragraph 13.

³ Note that Mr. Myers is out of the country this week conducting examinations and will have less than usual access to e-mail and voicemail.

Goodmans^{LLP}

We look forward to hearing from you.

Yours very truly,

Goodmans LLP

Mark S. Dunn

cc: Schonfeld Inc.
Fred Myers, *Goodmans LLP*

6268347.1

Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7

Telephone: 416.979.2211
Facsimile: 416.979.1234
goodmans.ca

Direct Line: 416.849.6895
mdunn@goodmans.ca

November 22, 2013

Delivered via courier

Fox Contracting Ltd.
c/o 204-1220 Sheppard Avenue East
Toronto, ON M2K 2S5

Dear sirs/mesdames:

**Re: Order dated November 5, 2013 in respect of the companies listed at
Schedule "B" thereto**

We are the lawyers for Schonfeld Inc. Receivers + Trustees (the "Manager") in its capacity as Manager of certain companies (the "Companies") listed at Schedule "B" to the Order of Justice Newbould dated November 5, 2013 (the "Order").¹ The Order is attached.

We are writing because we have been advised that your company may have advanced funds to one or more of the Companies and taken mortgage security against its real property. The Manager has not examined the validity or priority of any mortgages registered against the Companies' property and it reserves all rights in this regard.

The Manager was appointed by the Court to ensure that all interested parties are treated fairly and to establish and execute a fair process to deal with the Companies' assets, including the collateral pledged to third party mortgagees. The Manager's mandate is to, among other things, carry out the management, preservation and disposition of the Companies' property in a transparent and accountable manner. As part of this mandate, the Manager will keep all stakeholders informed of its activities and seek court approval, on notice to all interested parties, before selling the Companies' real estate assets.

¹ Justice Newbould appointed the Manager effective November 5, 2013. The terms of the Order were finalized on November 15, 2013 and the Order could not be issued and entered until November 18, 2013 because Justice Newbould asked counsel to hold it in escrow pending the resolution of a related motion between the parties.

The Order may affect rights that your company may otherwise have against the Companies or their property. Among other things:

- paragraph 12 of the Order provides that no legal proceeding may be commenced or continued against the Companies without the permission of the Manager or leave of the Court;
- paragraph 13 of the Order suspends and stays enforcement of remedies that might exist against the Companies² without the permission of the Manager or leave of the Court; and
- paragraphs 21 and 24 of the Order provide for certain charges that rank ahead of pre-existing security interests in the Companies' property.

The Manager is empowered to, among other things, undertake sole and exclusive authority to manage and control the Companies' property and operate each Company's business. We ask that you or your legal counsel direct any inquiries relating to the Order to Harlan Schonfeld (who is the principal of the Manager), James Merryweather of the Manager, Fred Myers (who is the partner at our office having carriage of this matter)³ or myself. Contact information for Mr. Schonfeld, Mr. Merryweather and Mr. Myers is below:

S Harlan Schonfeld CPA CIRP
James Merryweather CGA
SCHONFELD INC. Receivers & Trustees
438 University Avenue, 21st Floor
Toronto, ON M5G 2K8
Tel: 416.862.7785
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Fax: 416.979.1234
E-mail: fmyers@goodmans.ca

² Note that there are certain exceptions to this stay listed at paragraph 13.

³ Note that Mr. Myers is out of the country this week conducting examinations and will have less than usual access to e-mail and voicemail.

Goodmans^{LLP}

We look forward to hearing from you.

Yours very truly,

Goodmans LLP

Mark S. Dunn

cc: Schonfeld Inc.
Fred Myers, *Goodmans LLP*

6268350.1

B

JACK COPELOVICI

BARRISTER

*1220 Sheppard Avenue East, Suite 204
Toronto, Ontario M2K 2S5*

Tel: (416) 494-0910

Fax: (416) 494-5480

email: jack@copel-law.com

October 29, 2014

Delivered by email and by fax

Mr. Mark Dunn
Mr. Brian Empey
Ms. Jacqueline LaBine
GOODMANS LLP
Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7

email : mdunn@goodmans.ca

email : bempey@goodmans.ca

email : jlabine@goodmans.ca

Dear Sirs and Madam:

Re: Fox Contracting Ltd. – 1 City View Drive, Toronto Lien matter

On October 16, 2014 we provided you with the signed MOS executed by all the Lien Claimants and 368230 Ontario Limited (368).

There is no question that t 368 is to receive the sum of \$144,285.53 plus \$36.00 per day on account of interest from September 2, 2014 to date of payment.

We had requested that you attend to this as soon as possible so as to stop the interest from running and advise when you have done so and that thereafter, the Claims of the Lien Claimants ought to be dealt with rapidly.

I believe you have received Claims forms from all four lien claimants already.

I sent you an email on October 23 asking as to the progress of the sending of the cheque to 368. There was no response.

I left you a voicemail yesterday asking when the cheque would be sent out. "Again, no response.

I appreciate that this matter is not the only one you have on your plate but I would hope you would realize that the interest is accruing and cutting into the amounts available for

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distribution to the lien claimants. Perhaps this is advantageous to 368 as it accrues interest but it is detrimental to the interests of the lien claimants.

In the event that the cheque is not sent out to 368 by the close of business this coming Monday I will seek a 9:30 appointment in November to see if the Court can assist in ensuring prompt payment as per the MOS.

Yours very truly,



Jack Copelovici

Signed electronically

JC:kv

Encl.

cc: *clients*

cc: LENCZNER SLAGHT GRIFFIN LLP

Attention: Mr. Peter Griffin

Ms. Shara N. Roy

Mr. Paul-Erik Veel

email : pgriffin@litigate.com

email : sroy@litigate.com

email : pveel@litigate.com

cc: Mr. Bram Zinman

email : bzinman@bellnet.ca;

email: speiou@bellnet.ca

cc: OLDFIELD, GREAVES, D'AGOSTINO

Attention: Mr. Edward L. D'Agostino

email: edagostino@watlaw.com

C

Goodmans LLP

Barristers & Solicitors

Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7

Telephone: 416.979.2211
Facsimile: 416.979.1234
goodmans.ca

Direct Line: 416.849.6895
mdunn@goodmans.ca

March 9, 2015

Our File No.: 14.0074

BY E-MAIL

Jack Copelovici
Barrister
1220 Sheppard Avenue East, Suite 204
Toronto, Ontario
M2K 2S5

Dear Mr. Copelovici:

Re: 1, 9 and 11 Cityview Drive, Toronto (the "Cityview Property")

The Manager's answers to the questions posed in your letter dated February 10, 2015 are set out below. For ease of reference, your questions have been reproduced below.

Before addressing the specific questions posed in your letter, it may be helpful to provide some further clarification with respect to the steps taken by the Manager to arrive at the fee allocation for the Cityview Property. Those steps are as follows:

1. A value was assigned in each category based on the scale described at paragraph 41 of the Manager's 22nd Report;
2. The values assigned to each of the categories were multiplied by the weight assigned to that category. For example, the Cityview Property received a score of 3 in the category "Active Property Management" and that category had a weight of 40% so the Manager multiplied 3 x .4 to arrive at a weighted value for Active Property Management relating to the Cityview Property;
3. The weighted values were added together to arrive at the total "Weighting" for the Property. The Weighting is a proxy for the complexity of the Manager's mandate as it related to each property. The Cityview Property's Weighting was 2.65;
4. The Weighting for each Property was then expressed as a percentage of the total weighting by adding all of the Weightings together to arrive at the total weighting and then dividing each Weighting by the total weighting. The total of all Weightings was 76 and the Weighting for the Cityview Property represented 3.5% of that total, which is the

Page 2

Goodmans^{LLP}

"Relative Weighting" for the Cityview Property. The Relative Weighting is a proxy for the complexity of each property relative to the total complexity of all of the properties;

5. The Relative Weighting was applied to costs incurred from the Manager's appointment to the "Final Allocation Date." The Final Allocation Date is determined based on the date on which the Manager sold or was discharged from the relevant property and the amount of work required after discharge or sale as described in Appendix 2 to the 22nd Report. In the case of the Cityview Property, the Final Allocation Date was 30 days from the date on which the second parcel of the Cityview Property was sold. Given the amount of work required from the Manager since that date in connection with the Cityview Property, the Final Allocation Date is likely conservative.

I also note that the figures in your letter is based on the fee allocation described in the 22nd Report and not on the more current fee allocation circulated February 2, 2015. A copy of the up to date fee allocation is attached. The current fee allocation to the Cityview Property is \$196,019.

A. ACTIVE PROPERTY MANAGEMENT (APM):

1. *Why was the APM given a weighting of 40%?*

The Manager assigned a weight to each of the categories used in the allocation methodology based on a review of its records and discussions with counsel. More specifically, the weights were reviewed and assigned by Harlan Schonfeld and James Merryweather of the Manager and Brian Empey (the partner at our office with overall carriage of the file), Ken Herlin (the partner in our office who has supervised the real estate work required on behalf of the Manager) and myself.

Note that neither the weighting mechanism, nor the fee allocation methodology as a whole, seeks to calculate the exact amount of time (and related fees) spent on any aspect of the Manager's mandate. The purpose of the Fee Allocation Methodology is to apportion the professional fees associated with this proceeding in a manner that is fair and reasonable based on the comparative effort required for each property. The costs of this proceeding include costs that are specific to one or more properties and costs that are common to all properties. For example, the Manager attended numerous court appearances to determine the respective rights of the Applicants and the Respondents. These attendances were a necessary component of the Manager's mandate but did not necessarily relate to any particular property. In the Manager's view, it is fair and equitable for all of the fees incurred in connection with this mandate -- and not only those that focused on a particular property -- be spread among the various assets that were in issue in this proceeding.

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Goodmans^{L.P.}

The “weight” assigned as part of the fee allocation methodology is meant to measure the amount of time spent on work in each category relating to one property relative to the amount of time spent on similar work relating to other properties.

2. *How much of the fees allocation of \$212,915.39 does this 40% allocation translate into?*

45.3% of \$196,019 or \$88,763.00

3. *Is that fees allocation amount 40% of \$212,915.39?*

No

4. *Why were the Cityview properties given a value of 3 under APM?*

As noted above, the Active Property Management value is a relative measure. It is meant to capture the effort involved with the management of the Cityview Property as compared to the other properties. The Manager assigned the Cityview Property a value of 3 because it concluded that management of the Cityview Property was “Complex” on the scale described at Appendix 2 to the Manager’s 22nd Report. A number of factors contributed to this conclusion, as described below.

The Manager’s property management activities are generally described in the Supplemental Report to the 22nd Report and in the Manager’s previous reports. The factors that made the management of the Cityview Property complex relative to the other Properties are listed below.

As a preliminary matter, the Manager notes that the Cityview Property was, from a property management perspective, two properties. Although both 9-11 Cityview and 1 Cityview were part of the same parcel register when the Manager was appointed, they were two separate buildings with different property management issues. All else being equal, the management of the Cityview Property was complex relative to the management of other properties that were (with one exception) a single building.

When the Manager was appointed the company that owned the Cityview Property, Cityview Industrial Ltd. (“**Cityview Industrial**”), had commenced, but not completed, the severance of the Cityview Property into two parcels and had entered into an Agreement of Purchase and Sale with respect to 9-11 Cityview. This agreement was conditional on severing 9-11 Cityview from 1 Cityview.

In order to maximize the value of the Cityview Property, and complete the Agreement of Purchase and Sale entered into before its appointment, the Manager was required to satisfy the conditions of severance, including:

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Goodmans

- payment of outstanding taxes: when the Manager was appointed, no funds were available to pay outstanding taxes. The Manager had to secure funding for these taxes, which Ms. Walton promised but did not deliver. Funding was ultimately secured from the Applicants;
- negotiations with the City of Toronto relating to the conveyance of a 2 metre strip of land to the city, in a form satisfactory to the City of Toronto;
- the Manager retained an Ontario land surveyor to prepare a reference plan required to complete the severance. The Manager supervised this work and obtained funding for it from the Applicants.

The Manager also addressed the consequences of a flood of 9-11 Cityview, which was caused by a burst ceiling pipe during an extremely cold part of January 2014. At the time of the flood, 9-11 Cityview contained two units and one of these units was vacant. The Manager, working with its property manager, supervised the remediation of issues relating to the flood and approved all expenditures relating to that remediation.

In addition to preventing further property damage, the Manager sought to recover amounts spent on the flood from Cityview's property insurer. This recovery effort ultimately failed because the Respondents had failed to notify their insurer that the unit in which the flood occurred was vacant.

The Manager also dealt with significant tenant issues at both 9-11 Cityview and 1 Cityview. The tenant at 9-11 Cityview claimed that the flood in the adjacent unoccupied unit caused damages to its adjoining unit and sought compensation from the Manager before providing a tenant estoppel required by the purchaser of that property. The Manager ultimately reached an agreement with the tenant that permitted the sale to proceed.

With respect to 1 Cityview, the tenant was a private school, Newton's Grove School Inc. ("Newton's Grove"). Newton's Grove's lease of 1 Cityview was intended to be temporary. More specifically, Newton's Grove entered into a lease with another one of the Schedule "B" Companies pursuant to which a new school was to be built on the Property located at 140 Queen's Plate Drive ("140 Queen's Plate"). However, no construction occurred at 140 Queen's Plate and funds advanced by the Applicants to fund such construction were diverted to other of the Companies and companies controlled by the Waltons. The pattern of funds transfers is described in Justice Brown's August 12, 2014 decision. When the Manager was appointed, the Schedule "B" Company that owned 140 Queen's Plate was unable to fund any construction and that property was ultimately sold pursuant to a power of sale proceeding.

Newton's Grove's lease with Cityview was, on its face, to continue until construction of a new facility for Newton's Grove at 140 Queen's Plate was complete. For the reasons set out above, this could not occur. As a result, the length of Newton's Grove's lease was uncertain. This uncertainty exerted significant downward pressure on the price of 1 Cityview. In addition, a broad marketing campaign in respect of 1 Cityview would have been impeded by Newton's Grove's ongoing operations, which limited the Manager's ability to show 1 Cityview. In order to alleviate these difficulties, the manager attempted to negotiate with Newton's Grove to amend its lease. The Manager ultimately did not complete a lease amendment because it was able to enter into a satisfactory sale agreement without doing so.

The Manager also faced numerous difficulties collecting rent owed by Newton's Gove. These issues culminated in Newton's Gove refusing to pay a portion of the rent relating to 1 Cityview because it had paid a \$58,333 in respect of the new school at 140 Queen's Plate and claimed to be entitled to set-off rent at 1 Cityview against the alleged debt relating to 140 Queen's Plate. The Manager ultimately commenced a small claims court proceeding, which remains ongoing, to collect outstanding amounts.

The Manager also performed the tax and accounting work required to manage cash flow relating to the Cityview Property and to ensure that Cityview Industrial complied with its tax obligations. This work was complicated by the fact that Newton's Gove had held itself out as being tax exempt (allegedly based on advice from Ms. Walton) but was not. The CRA conducted a GST audit of Cityview Industrial and concluded that GST in the aggregate amount of \$24,700 outstanding for 2003, and that a further \$31,200 for 2014 would be due. The tenant refused to pay its share of these taxes in accordance with the lease and it now seems likely that the Manager will be required to commence further proceedings in small claims court to collect this debt.

In addition, the Manager dealt with Cityview Industrial's unpaid suppliers to ensure that services continued to be provided in accordance with the Order of Justice Newbould dated November 5, 2013. For example, the Manager had to restore electricity to the school during the late fall after service was discontinued as a result of non-payment before the Manager was appointed.

5. *What would the fees allocation amount have been had there been a value of 2 assigned to the Cityview Properties?*

\$167,800

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Goodmans^{LLP}

6. *What would the fees allocation amount have been had there been a value of 1 assigned to the Cityview Properties?*

\$139,115

B. APS NEGOTIATION

1. *Why was the APM given a weighting of 10%?*

See answer to question A.1 above.

2. *How much of the fees allocation of \$212,915.39 does this 10% allocation translate into?*

$3 \times 10\% = 0.3 / 2.65 \times 196,019 = \$22,191$

3. *Is that fees allocation amount 10% of \$212,915.39?*

No.

4. *Why were the Cityview properties given a value of 3 under APS Negotiation?*

The Manager assigned a value of 3 because it concluded that the sale of the Cityview Property was "Complex" relative to other properties. The Manager concluded two relatively complicated transactions in order to maximize the value of the Cityview Property.

The Agreement of Purchase and Sale in respect of 9-11 Cityview, in the form that it was ultimately completed, required significant negotiation by both the Manager and its counsel. These negotiations related to, among other things, Cityview's inability to close on the promised timeline (because severance could not be obtained as a result of the issues described above) and Cityview Industrial's inability to give any representations and warranties.

As noted above, the sale of 1 Cityview was complicated by the Newton's Grove lease. After it became apparent that Newton's Grove could not move to 140 Queen's Plate, the Manager entered into relatively lengthy negotiations relating to the possible sale of 1 Cityview to a party related to Newton's Grove. While these negotiations were ongoing, the Manager received the offer that ultimately culminated in the sale of 1 Cityview. The Manager was able to negotiate with the ultimate purchaser of 1 Cityview for the property to be sold with Newton's Grove's lease in place.

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Goodmans^{LLP}

5. *What would the fees allocation amount have been had there been a value of 2 assigned to the Cityview Properties?*

\$189,007

6. *What would the fees allocation amount have been had there been a value of 1 assigned to the Cityview Properties?*

\$181,968

C. LEGAL COMPLEXITY:

1. *Why was the Legal Complexity given a weighting of 25%?*

See answer to A.1 above with respect to the allocation rationale.

2. *How much of the fees allocation of \$212,915.39 does this 25% allocation translate into?*

$3 \times 25\% = 0.75/2.65 \times \$196,019 = \$55,477$

3. *Is that fees allocation amount 25% of \$212,915.39?*

No.

4. *Why were the Cityview properties given a value of 3 under Legal Complexity?*

The Manager gave the Cityview property a value of 3 because it concluded that the legal work associated with the Cityview property was "Complex" on the scale described at Appendix 2 to the 22nd Report. A number of factors contributed to this conclusion, as described below.

As noted above, the Manager completed the severance of the Cityview Property so that 1 Cityview and 9-11 Cityview could be sold separately. The Manager's counsel assisted with this severance, including engaging in negotiations with the City of Toronto relating to the completion of the severance and the steps necessary to satisfy the conditions of severance.

The Manager's counsel also completed the legal work required to complete the two sales described above, including drafting, negotiation and conveyancing. Counsel on the sale of 9-11 Cityview was Todd Holmes (then of Devry Smith LLP), with limited participation by Goodmans LLP. Mr. Holmes had been involved in the proposed sale of 9-11 Cityview prior to the Manager's appointment so the Manager limited the cost of closing that transaction by using Mr. Holmes to perform much of the work associated

with the sale of 9-11 Cityview. Goodmans LLP acted for the Manager with respect to all aspects of the sale of 1 Cityview.

In this regard, note that realizing on the value of the Cityview Property ultimately required two property sales. Realizing on almost all of the other properties only required a single property sale. All else being equal, therefore, the real estate work on the Cityview Property was more onerous than the work relating to properties that only required one sale.

In addition, the sale of 9-11 Cityview was complicated by the decision by one of the lien claimants, Laser, to oppose the sale on the basis that the sale price achieved by the Manager was not sufficient. Laser's position was not supported by any evidence beyond the opinion of its principal that a better result could have been achieved. After a contested hearing, Justice Newbould made an Order dated August 20, 2014 providing that Laser could purchase the 1 Cityview for the same price, and on the same terms, as the proposed purchaser. As a condition precedent of the exercise of this option, Laser was required to provide evidence that it had the financing required to close the transaction.

Laser purported to exercise its option on August 23, 2014 but the only "evidence" of financing provided was a Commitment Letter from "Bruno Bortolus, in Trust for a company to be incorporated without any personal liability." The Manager, after consulting with its counsel, determined that the purported Commitment Letter was not proof of financing within the meaning of Justice Newbould's August 20 Order.

After determining that Laser had failed to satisfy the condition precedent to the exercise of its option, the Manager's counsel attended at the request of the proposed purchaser to obtain a further order clarifying that the contemplated transaction could proceed.

In addition, Cityview Industrial commenced an action against a potential purchaser of 1 Cityview prior to the Manager's appointment. The Manager's counsel reviewed the files relating to this litigation and determined that the litigation should be preserved but not actively pursued by the Manager until a later date. We have corresponded with counsel to the Defendants from time to time to achieve this result.

5. *What would the fees allocation amount have been had there been a value of 2 assigned to the Cityview Properties?*

\$178,437

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Goodmans^{LLP}

6. *What would the fees allocation amount have been had there been a value of 1 assigned to the Cityview Properties?*

\$160,674

D. CLAIMS PROCESS:

1. *Why was the Claims Process given a weighting of 10%?*

See question A.1 above.

2. *How much of the fees allocation of \$212,915.39 does this 10% allocation translate into?*

$2 \times 10\% = 0.2/2.65 \times \$196,019 = \$14,794$

3. *Is that fees allocation amount 10% of \$212,915.39?*

No.

4. *Why were the Cityview properties given a value of 2 under Claims Process?*

The Manager concluded that the effort involved with the claims process relating to the Cityview Property was considered "moderate". Among other things, the Manager toured the property in order to assess the work performed, reviewed Cityview Developments' books and records, reviewed the documents registered by the lien claimants and reviewed evidence relating to the date of last supply and the timeliness of the lien.

5. *What would the fees allocation amount have been had there been a value of 1 assigned to the Cityview Properties?*

\$189,007

E. MANAGER INTERACTION WITH STAKEHOLDERS

1. *Why was Manager Interaction given a weighting of 10%?*

See question A.1.

2. *How much of the fees allocation of \$212,915.39 does this 10% allocation translate into?*

$1 \times 10\% = 0.1/2.65 \times \$196,019 = \$7,397$

3. *Is that fees allocation amount 10% of \$212,915.39?*

No.

4. *Why were the Cityview properties given a value of 1 under Manager's Interaction?*

The Manager determined that the level of its interaction with stakeholders on the Cityview Property, including the mortgagee and the lienholders, warranted a "low" rating relative to the other Properties.

F. PROPERTY VALUE (PV)

1. *Why was the PV given a weighting of 5%?*

See A.1 above.

2. *How much of the fees allocation of \$212,915.39 does this 50% allocation translate into?*

$$2 \times 5\% = 0.1/2.65 \times \$196,019 = \$7,397$$

3. *Is that fees allocation amount 5% of \$212,915.39?*

No

G. GENERAL QUESTIONS

1. *Did the fact that there was a lien/mortgage holdback of some \$800,000 factor into the amount of fees allocation?*

No. The fee allocation does not include any measure of a property's ability to contribute to the Manager's fees. In fact, significant fees are allocated to properties where no proceeds are available and the charge that secures the Manager's fees has no value.

2. *What is meant by "Weighting" on the Schedule B properties?*

Weighting is an overall score (highest being 3.0) for each property and is calculated as the sum of each individual score x its weighting percentage.

$$\sum \text{APM Score} \times 40\% + \text{APS Score} \times 10\% + \text{Legal Score} \times 25\% + \text{Claim Score} \times 10\% + \text{Interaction Score} \times 10\% + \text{Value Score} \times 5\%.$$

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Goodmans^{LLP}

3. Please advise arithmetically how the figure of 2.6 is arrived at for the Cityview Properties.

The revised figure of 2.65 is calculated as:

APM	3 x 40% =	1.20	
APS	3 x 10% =	0.30	
Legal	3 x 25% =	0.75	
Claims	2 x 10% =	0.20	
Interaction	1 x 10% =	0.10	
Value	2 x 5% =	0.10	2.65

4. What is meant by "Initial Relative Weighting 100%" on the Schedule B properties?

Percentage of figure calculated above, divided by the sum of all calculated weightings for all properties. The sum of all weightings is 76.

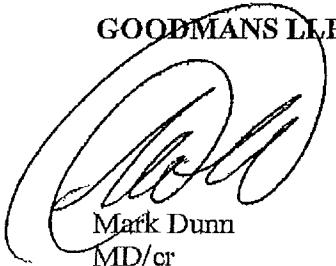
5. Please advise arithmetically how the figure of 3.8% is arrived at for the Cityview Properties.

Revised figure of 3.5% is calculated as $2.65/76.0 = 3.5\%$

I trust the foregoing is satisfactory.

Yours very truly,

GOODMANS LLP



Mark Dunn
MD/cr

6427385.8

2

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

B E T W E E N:

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

THIRD REPORT OF THE MANAGER, SCHONFELD INC.

- 1 -

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I. Introduction

1. This is the Third Report of Schonfeld Inc. (the "**Manager**") in its capacity as Manager of certain companies listed at Schedule "B" to the Order of Justice Newbould dated November 5, 2013 (the "**Companies**"),¹ together with the real estate properties owned by the Companies (the "**Properties**"). Cityview Industrial Ltd. ("**Cityview**") is one of the Companies.

A. Purpose of this Report

2. This Manager has brought a motion for, among other things:

- (a) the vesting of all of Cityview's right, title and interest in and to the lands legally described as Part of Lot 22, Concession 2 Fronting the Humber, City of Toronto, designated as Parts 3, 4 and 5 on Plan 66R26674 (the "**Road Widening Lands**") in the City of Toronto in order to satisfy one (1) of the conditions imposed by the City of Toronto Committee of Adjustments pursuant to a Notice of Decision dated July 18, 2013 (File #B27/13EYK) (the "**Road Widening Conveyance**");
- (b) an approval and vesting order (the "**Approval and Vesting Order**") in respect of the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") for the lands and building legally described as Part of Lot 22, Concession 2 Fronting the Humber, City of Toronto, designated as Part 2 on Plan 66R26674 (the "**Part 2 Lands**") between Cityview and Red Finch Developments Limited ("**Red Finch**" or the "**Purchaser**") dated March 26, 2013 as amended by first amendment to agreement of purchase and sale made between the Manager and Red Finch as of the 14th day of February, 2014 (the "**Amendment**");
- (c) directing that proceeds received by the Manager in connection with the Transaction (the "**Cityview Proceeds**") be dealt with as follows:

¹ Schedule "B" was amended by Order dated January 16, 2014.

- 3 -

- (i) the amount of \$969,583.99 to be held in trust pending either a final determination with respect to the quantum, validity and priority of construction liens registered against the Cityview Property;
 - (ii) the balance of the Cityview Proceeds, net of closing costs, be paid to the Mortgagee (as defined below) in satisfaction of the First Mortgage (as defined below); and
 - (d) an Order permitting the Confidential Appendices to this Report, as described below, to be filed under seal without being served on the Service List.
3. This Report provides a summary of the Transaction and a recommendation that this Honourable Court grant the relief described in the Manager's Notice of Motion.

B. Terms of reference

4. Based on its review and interaction with the parties to date, nothing has come to the Manager's attention that would cause it to question the reasonableness of the information presented herein. However, the Manager has not audited, or otherwise attempted to independently verify, the accuracy or completeness of any financial information of the Companies. The Manager therefore expresses no opinion or other form of assurance in respect of any of the Companies' financial information that may be in this Report.

C. Confidentiality

5. In the Manager's judgment, disclosure of some of the documents appended to this Report would negatively impact the Manager's ability to carry out its mandate by, among other things, interfering with the integrity of any subsequent sales process in respect of the Cityview Property if the Transaction is not completed. In particular, and without limiting the generality of the foregoing, it is the Manager's judgment that it would impair the Manager's ability to maximize realization of the Cityview Property were any information to be made public concerning any discussions of sale process or values of the Cityview Property among the Manager, the parties or any of their advisers and/or any possible bidders for Cityview Property or any of them. Accordingly, a number of Appendices to this Report have been identified as Confidential Appendices and will be filed in a separate Confidential Appendix Brief. The Manager

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respectfully requests an Order authorizing it to file the Confidential Appendices under seal without serving the Confidential Appendix Brief on the Service List.

II. The Transaction

A. Interested Parties

6. Cityview owns a Property municipally known as 9 and 11 Cityview Drive, Toronto (the "Cityview Property"). The Cityview Property is subject to two mortgages (the "Mortgages") in favour of 368230 Ontario Limited (the "Mortgagee"), a company controlled by Dr. Bernstein, as described below:

Instrument	Registered Amount	Date	Interest rate
Charge (AT3123206), Notice of Assignment of Rents General (AT3123219) (the "First Mortgage")	\$4,000,000	September 7, 2012	8%
Charge (AT3271120), Notice of Assignment of Rents General (AT3271124)	\$650,000	April 5, 2013	11%

7. Payout statements from the Mortgagee are attached as Appendix 1.

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8. In addition, the following four companies have registered construction liens against the Cityview Property, in the amounts set out below:

Instrument	Lien Amount	Party
Construction Lien (AT3426580) Certificate of Action (AT3463563)	\$138,586	Gemtec Wall & Ceiling Systems Ltd.
Construction Lien (AT3426936) Certificate of Action (AT3461899)	\$721,375	Fox Contracting Ltd.
Construction Lien (AT3463067) Certificate of Action (AT3487262)	\$153,691	Laser Heating & Air Conditioning Inc.
Construction Lien (AT3472538) Notice of Change of Lawyer and Statement of Claim	\$4,876.41	Macnaughton Hermesen Britton Clarkson Planning Limited

9. The Manager understands that Gemtec Wall & Ceiling Systems Ltd. ("Gemtec") is a subcontractor of Fox Contracting Limited ("Fox") and that Gemtec's claims are subsumed in Fox's claim. In other words, Fox has included amounts owed to Gemtec in its own claim.

B. The Sale Agreement

10. Cityview entered into the Sale Agreement before the Manager was appointed. The Sale Agreement is attached as Confidential Appendix A. The Manager subsequently entered into the Amendment with Red Finch on February 14, 2014, which is attached as Confidential Appendix B. The Amendment requires that the Transaction close on or before February 28, 2014. The Manager does not expect that this deadline will be extended and, accordingly, time is of the essence.

11. The Sale Agreement contemplates that Cityview will sell the Part 2 Lands, which are a portion of the Cityview Property, to Red Finch. The balance of the Cityview Property will be retained by Cityview and marketed for sale at a later date.

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12. Since Cityview was already subject to the Sale Agreement when the Manager was appointed, the Manager could not expose the Cityview Property to the market without first disclaiming the Sale Agreement. In order to determine whether to disclaim the Sale Agreement, the Manager carefully considered the value of the Sale Agreement and discussed it with the Applicants and the Respondents. The Manager also obtained a comfort letter with respect to the sale price offered by Red Finch from Norman Height (a certified appraiser), which is attached as Confidential Appendix C. The Applicants, the Respondents and the Mortgagee have advised that they are satisfied with the purchase price set out in the Sale Agreement. Based on all of these factors, the Manager considers that it is commercially reasonable under the circumstances to complete the Transaction.

C. The Road Widening

13. In order to complete the Transaction, Cityview must sever the Part 2 Lands from the balance of the Cityview Property. As documented in the Notice of Decision dated July 18, 2013 and appended as Appendix 2, Cityview has obtained conditional consent to the necessary severance from the City of Toronto. All of the conditions have now been satisfied except for the conveyance of the Road Widening Lands (a two metre strip at the edge of the Cityview Property) to the City of Toronto free and clear of all encumbrances. The Manager and the City of Toronto have agreed to the form of vesting order, set out as Schedule "C" to the Notice of Motion, being proposed to convey the Road Widening Lands to the City of Toronto (the "Road Widening Vesting Order").

D. Registered interests in the Cityview Property

a. Mortgages

14. The Manager instructed its counsel, Goodmans LLP, to conduct a review of the Mortgages. Goodmans has advised the Manager that the Mortgages are validly registered against the Cityview Property.

b. Construction liens

15. As noted above, four construction liens are registered against the Cityview Property. The Manager has not assessed the validity of these liens, the priority of the liens (if valid) relative to the Mortgages or the lien claimants' entitlement to the amounts claimed. In order to allow the

- 7 -

Transaction to close but protect the interests of the lien claimants, the Approval and Vesting Order provides that \$969,583 (being the amount of the lien claims, less the amounts included in more than one lien plus the amount of \$96,056 to secure any costs award)² is to be held in trust by the Manager pending further Order of the Court following a determination with respect to the validity and priority of the liens or a joint direction of the Mortgagee and the lien claimants.

c. Proposed Use of Proceeds

16. The Manager recommends that the proceeds of the Transaction, net of closing costs and the amount described in paragraph 15 above, be paid to partially satisfy the First Mortgage. After providing for the liens as set out above, the net proceeds available on closing will not be sufficient to pay out the First Mortgage. Accordingly, the Mortgages will remain registered against the portion of the Cityview Property being retained by Cityview and the amount outstanding will be reduced by the amount paid to the Mortgagee from the proceeds of the Transaction. The Manager is not at this time anticipating that there will be funds available to Cityview and therefore no other distribution of funds is being proposed in connection with the Transaction.

E. Recommendations

17. For reasons set out above, the Manager respectfully recommends that this Honourable Court grant the relief sought by the Manager in its Notice of Motion.

² The amount for costs is based on the amount that would have to be paid to vacate the lien pursuant to the *Construction Lien Act*.

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All of which is respectfully submitted this 19th day of February, 2014.

SCHONFELD INC.

In its capacity as Manager pursuant to the Order of Newbould, J. dated November 5, 2013

Per: _____

Harlan Schonfeld CPA-CIRP

SCHEDULE "A" COMPANIES

1. Dr. Bernstein Diet Clinics Ltd.
2. 2272551 Ontario Limited
3. DBDC Investments Atlantic Ltd.
4. DBDC Investments Pape Ltd.
5. DBDC Investments Highway 7 Ltd.
6. DBDC Investments Trent Ltd.
7. DBDC Investments St. Clair Ltd.
8. DBDC Investments Tisdale Ltd.
9. DBDC Investments Leslie Ltd.
10. DBDC Investments Lesliebrook Ltd.
11. DBDC Fraser Properties Ltd.
12. DBDC Fraser Lands Ltd.
13. DBDC Queen's Corner Ltd.
14. DBDC Queen's Plate Holdings Inc.
15. DBDC Dupont Developments Ltd.
16. DBDC Red Door Developments Inc.
17. DBDC Red Door Lands Inc.
18. DBDC Global Mills Ltd.
19. DBDC Donalda Developments Ltd.
20. DBDC Salmon River Properties Ltd.
21. DBDC Cityview Lands Ltd.
22. DBDC Weston Lands Ltd.
23. DBDC Double Rose Developments Ltd.
24. DBDC Skyway Holdings Ltd.
25. DBDC West Mall Holdings Ltd.
26. DBDC Royal Gate Holdings Ltd.
27. DBDC Dewhurst Developments Ltd.
28. DBDC Eddystone Place Ltd.
29. DBDC Richmond Row Holdings Ltd.

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SCHEDULE "B" COMPANIES

1. Twin Dragons Corporation
2. Bannockburn Lands Inc. / Skyline -- 1185 Eglinton Avenue Inc.
3. Wynford Professional Centre Ltd.
4. Liberty Village Properties Ltd.
5. Liberty Village Lands Inc.
6. Riverdale Mansion Ltd.
7. Royal Agincourt Corp.
8. Hidden Gem Development Inc.
9. Ascalon Lands Ltd.
10. Tisdale Mews Inc.
11. Lesliebrook Holdings Ltd.
12. Lesliebrook Lands Ltd.
13. Fraser Properties Corp.
14. Fraser Lands Ltd.
15. Queen's Corner Corp.
16. Northern Dancer Lands Ltd.
17. Dupont Developments Ltd.
18. Red Door Developments Inc. and Red Door Lands Ltd.
19. Global Mills Inc.
20. Donalda Developments Ltd.
21. Salmon River Properties Ltd.
22. Cityview Industrial Ltd.
23. Weston Lands Ltd.
24. Double Rose Developments Ltd.
25. Skyway Holdings Ltd.
26. West Mall Holdings Ltd.
27. Royal Gate Holdings Ltd.
28. Royal Gate Nominee Inc.
29. Royal Gate (Land) Nominee Inc.
30. Dewhurst Development Ltd.
31. Eddystone Place Inc.

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- 32. Richmond Row Holdings Ltd.
- 33. El-Ad (1500 Don Mills) Limited
- 34. 165 Bathurst Inc.

1

MORTGAGE DISCHARGE STATEMENT

TO: CITYVIEW INDUSTRIAL LTD.

RE: LENDER: 368230 ONTARIO LIMITED
 BORROWER: CITYVIEW INDUSTRIAL LTD.
 PROPERTY: 1, 9-11 CITYVIEW DRIVE, ETOBICOKE
 PRINCIPAL: \$4,000,000.00

PRINCIPAL	\$4,000,000.00
PLUS: Interest outstanding @ 8.0% from January 5, 2014 to and including February 28, 2014 being 55 days @ \$876.71/day	\$48,219.05
Legal Fees (\$15,000.00 + HST)	\$16,950.00
TOTAL AMOUNT OWING	<u>\$4,065,169.05</u>
	(see below)

Notes:

1. The Discharge will be registered upon receipt of the following:

- (a) the sum of \$4,065,169.05 payable to Leneauer Slagter, in trust plus per diem if closing is after February 28, 2014
- (b) the sum of \$466.80 payable to Beard Winter LLP, in trust to the payment of our legal fees herein (\$350.00 plus HST) and the cost to register the Discharge (71.30).

EXECUTED at Toronto, Ontario on the 19 day of February, 2014.

368230 ONTARIO LIMITED

Per 

I have authority to bind the Corporation

E. & O. E.
GDC/eh

MORTGAGE DISCHARGE STATEMENT

TO: CITYVIEW INDUSTRIAL LTD.

RE: LENDER: 368230 ONTARIO LIMITED
 BORROWER: CITYVIEW INDUSTRIAL LTD.
 PROPERTY: 1, 9-11 CITYVIEW DRIVE, ETOBICOKE
 PRINCIPAL: \$650,000.00

PRINCIPAL	\$ 650,000.00
PLUS: Interest outstanding @ 11.0% from January 5, 2014 to and including February 28, 2014 being 55 days @ \$195.89/day	\$10,773.95
Legal Fees (\$15,000.00 plus HST)	\$16,950.00
TOTAL AMOUNT OWING	<u>\$677,723.95</u>
	(see below)

Notes:

1. The Discharge will be registered upon receipt of the following:

- (a) the sum of \$677,723.95 payable to Lenczner Stachur, in trust, plus per diem if closing is after February 28, 2014
- (b) the sum of \$466.80 payable to Beard Winter LLP, in trust re the payment of our legal fees herein (\$350.00 plus HST) and the cost to register the Discharge (71.30).

EXECUTED at Toronto, Ontario on the 19 day of February, 2014.

368230 ONTARIO LIMITED

Per: 

I have authority to bind the Corporation

E.A.G.E.
GDC/ch

2



City Planning Division
Jennifer Keesmaat, M.E.S. MCIP RPP
Chief Planner and Executive Director

Committee of Adjustment
Etobicoke York Panel
2 Civic Centre Court
Toronto, Ontario M9C 5A3
T: 416-394-8080
F: 416-394-8042

Thursday, July 18, 2013

NOTICE OF DECISION

CONSENT

(Section 53 of the Planning Act)

File Number:	B27/13EYK	Zoning:	LC2
Owner(s):	CITY VIEW INDUSTRIAL LTD	Ward:	Etobicoke North (02)
Agent:	MACNAUGHTON HERMSEN BRITTON CLARKSON PLANNING		
Property Address:	1 AND 9-11 CITY VIEW DR	Community:	
Legal Description:	CON 2 FTH PT LOT 22		

Notice was given and the application considered on Thursday, July 18, 2013, as required by the Planning Act.

THE CONSENT REQUESTED:

To obtain consent to sever the property into two lots.

Retained - Part 2, Plan 66R-26674

9 City View Drive

The lot frontage is 104.21 m and the lot area is 13 267.19 m². The existing one-storey industrial/office building will be maintained.

Conveyed - Part 1, Plan 66R-26674

1 City View Drive

The lot frontage is 198.32 m and the lot area is 10 739.42 m². The existing one-storey industrial/office building will be maintained.

Dedication - Parts 3, 4 & 5, Plan 66R-26674

Parts 3, 4 & 5 have an area of 573.02 m² and will be dedicated to the City for a public sidewalk.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

The Consent Application is Approved on Condition

The Committee has considered the provisions of Section 51(24) of the Planning Act and is satisfied that a plan of subdivision is not necessary. The Committee therefore consents to the creation of new lots as shown on the attached plan on the condition that before a Certificate of Consent is issued, as required by Section 53(42) of the Planning Act, the applicant is to file the following with the Committee office within ONE YEAR of the date of this Decision:

B27/13EYK

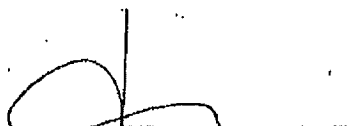
1. Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department.
2. Municipal numbers for the subject lots indicated on the applicable Registered Plan of Survey shall be assigned to the satisfaction of Survey and Mapping Services, Engineering Services, Engineering and Construction Services. Contact: John Fligg @ (416) 338-5031 or Elizabeth Machynia @ (416) 338-5029.
3. The applicant shall satisfy all conditions concerning City/Private owned trees, to the satisfaction of Urban Forestry Services.
4. Where no street trees exist, the owner shall provide payment in an amount to cover the cost of planting a street tree abutting each new lot created, to the satisfaction of Urban Forestry Services.
5. Two copies of the registered reference plan of survey integrated to NAD 83 CSRS (3 degree Modified Transverse Mercator projection), delineating by separate Parts the lands and their respective areas, shall be filed with the Manager of Land and Property Surveys, Engineering Services, Engineering and Construction Services. Contact: John House, Supervisor, of Property Records, at 416 392-8338; jhouse@toronto.ca, or his designate, Virgil Gomes at 416 338-5033; vgomes@toronto.ca
6. Three copies of the registered reference plan of survey satisfying the requirements of the Manager of Land and Property Surveys, Engineering Services, Engineering and Construction Services, shall be filed with the Committee of Adjustment.
7. The following conditions shall be fulfilled to the satisfaction of the Engineering and Construction Services Division, West District:
 - (i) Prepare all documents and convey to the City, for the purpose of accommodating the existing boulevard sidewalk, at a nominal cost, a 2.0 m wide strip of land (the entire existing easement area on Parts 3, 4 and 5 of the Reference Plan 66R-26674) along the City View Drive frontage of both the conveyed lot (1 City View Drive) and retained Lot (9-11 City View Drive), in fee simple, such lands to be free and clear of all physical and title encumbrances, and subject to a right-of-way for access in favour of the Grantor until such times as said lands have been dedicated as a public highway, all to the satisfactory to the Executive Director, Engineering and Construction Services and the City Solicitor;
 - (ii) Submit a draft Reference Plan of Survey to the Executive Director, Engineering and Construction Services, for review and approval, prior to depositing it in the Land Registry Office. The plan should:
 - (a) be in metric units and integrated to the 1983 North American Datum (Canadian Spatial Reference System and the 3 degree Modified Transverse Mercator Projection);
 - (b) delineate by separate PARTS the lands to be conveyed to the City, the remainder of the site and any appurtenant rights-of-way and easements; and
 - (c) show the co-ordinate values of the main corners of the subject lands in a schedule on the face of the plan;


B27/13EYK

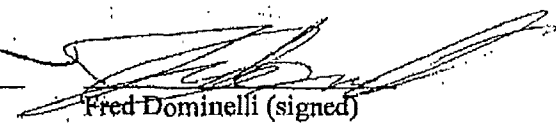
- (iii) Pay all costs for registration and preparation of reference plan(s);
 - (iv) Retain a Qualified Person to conduct environmental site assessment for the lands to be conveyed to the City;
 - (v) Submit all environmental site assessment reports prepared in accordance with the Record of the Site Condition Regulation (O.Reg. 153/04) describing the current conditions of the land to be conveyed to the City and the proposed remedial action plan based on the site condition standards approach, to the Executive Director, Engineering and Construction Services, for peer review;
 - (vi) Pay all costs associated with the City retaining a third-party peer reviewer including a 7% administrative cost to the City, and submit a certified cheque payable to the City of Toronto in the amount of \$3,000.00, as an initial deposit towards the cost of the peer review to the Executive Director, Engineering and Construction Services. Submit further deposits when requested to cover all costs of retaining a third-party peer reviewer (unused funds will be returned to the Owner by the City);
 - (vii) At the completion of the site remediation process, submit a Statement from the Qualified Person, to the Executive Director, Engineering and Construction Services, for peer review and concurrence, that, based on all necessary supporting environmental documents, the land to be conveyed to the City meets either:
 - (a) The applicable MOE Generic Site Condition Standards (Table 1, 2, or 3) for the most environmentally sensitive adjacent land use or
 - (b) The Property Specific Standards (PSSs) as approved by the MOE for a Risk Assessment/Risk Management Plan which was conducted in accordance with the City Policies and Conditions for the Acceptance of the Risk Assessed Lands (Clause 18, of the Works Committee Report 2, April 25, 26, and 27, 2006) and it is unlikely that there is any off-site contamination resulting from past land uses on the development site, that has migrated on to the adjacent rights-of-way, that would exceed the applicable Site Condition Standards;
8. Within **ONE YEAR** of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions and prepare for electronic submission to the Deputy Secretary-Treasurer, the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) or subsection 53(42) of the *Planning Act*, as it pertains to the conveyed land and/or consent transaction.

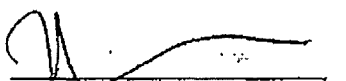
SIGNATURE PAGE

File Number:	B27/13EYK	Zoning	I.C2
Owner(s):	CITY VIEW INDUSTRIAL LTD	Ward:	Etobicoke North (02)
Agent:	MACNAUGHTON HERMSEN BRITTON CLARKSON PLANNING		
Property Address:	1 AND 9-11 CITY VIEW DR	Community:	
Legal Description:	CON 2 FTH PT LOT 22		


 Dominic Gulli (signed)


 Douglas S. Colbourne
 (signed)


 Fred Dominelli (signed)



 Mary-Anne Popescu (signed)


 Paul Valenti (signed)

DATE DECISION MAILED ON: Friday, July 26, 2013

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: Thursday, August 15, 2013

CERTIFIED TRUE COPY

11/17
 Susannie Pringle
 Manager & Deputy Secretary Treasurer
 Etobicoke York Panel

To appeal this decision to the Ontario Municipal Board, send a completed OMB Appellant Form (A1) to the Manager & Deputy Secretary-Treasurer, Committee of Adjustment. You must pay a filing fee of \$125.00, by certified cheque or money order, in Canadian funds, payable to the Minister of Finance. An additional reduced fee of \$25.00 is required for each connected appeal filed by the same appellant. To obtain a copy of Appellant Form (A1) and other information about the appeal process please visit the Ontario Municipal Board web site at www.omb.gov.on.ca.

NOTE: Only individuals, corporations and public agencies may appeal a decision to the Ontario Municipal Board. The appeal may not be filed by an unincorporated association or group. However, the appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

B E T W E E N:

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

FIFTEENTH REPORT OF THE MANAGER, SCHONFELD INC.

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I. Introduction

1. This is the Fifteenth Report of Schonfeld Inc. (the “**Manager**”) in its capacity as Manager of certain companies listed at Schedule “B” to the Order of Justice Newbould dated November 5, 2013 (the “**Companies**”),¹ together with the real estate properties owned by the Companies (the “**Properties**”).

A. Purpose of this Report

2. This Manager has brought a motion for, among other things:
- (a) an approval and vesting order in respect of the sale transaction (the “**Skyway Transaction**”) contemplated by the Agreement of Purchase and Sale dated May 27, 2014 (the “**Skyway Agreement**”) between 2395089 Ontario Ltd. (“**239 Ontario**”) and the Manager in respect of the property known municipally as 115-119 Skyway Avenue in Toronto, Ontario (the “**Skyway Property**”). The Skyway Agreement is attached as Skyway Confidential Appendix “A”;
 - (b) an Order permitting the Confidential Appendices to this Report in respect of the Skyway Transaction (the “**Skyway Confidential Appendix Brief**”) to be filed under seal without being served on the Service List;
 - (c) an approval and vesting order in respect of the sale transaction (the “**Cityview Transaction**”) contemplated by the Agreement of Purchase and Sale accepted on May 29, 2014, as amended by an agreement dated June 13, 2014, revived and amended by an agreement dated June 23, 2014 and further revived and amended by an agreement dated as of July 14, 2014 (collectively, the “**Cityview Agreement**”) between Cyclone Creative Inc. (“**Cyclone**”) and Cityview Industrial Ltd. in respect of the property known municipally as 1 City View Drive in Toronto, Ontario (the “**1 Cityview Property**”). The Cityview Agreement is attached as Cityview Confidential Appendix “A”; and

¹ Schedule “B” was amended by Order dated January 16, 2014.

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- (d) an Order permitting the Confidential Appendices to this Report in respect of the Cityview Transaction (the “**Cityview Confidential Appendix Brief**”) to be filed under seal without being served on the Service List;

3. This Report provides a summary of the Skyway Transaction and the Cityview Transaction (collectively, the “**Transactions**”) and a recommendation that this Honourable Court grant the relief described in the Manager’s Notice of Motion.

B. Terms of reference

4. Based on its review and interaction with the parties to date, nothing has come to the Manager’s attention that would cause it to question the reasonableness of the information presented herein. However, the Manager has not audited, or otherwise attempted to independently verify, the accuracy or completeness of any financial information of the Companies. The Manager therefore expresses no opinion or other form of assurance in respect of any of the Companies’ financial information that may be in this Report.

C. Confidentiality

5. In the Manager’s judgment, disclosure of some of the documents appended to this Report would negatively impact the Manager’s ability to carry out its mandate by, among other things, interfering with the integrity of any subsequent sales process in respect of the Skyway Property and the 1 Cityview Property if either or both of the Transactions are not completed. In particular, and without limiting the generality of the foregoing, it is the Manager’s judgment that it would impair the Manager’s ability to maximize realization of the Skyway Property and the 1 Cityview Property were any information to be made public concerning any discussions of sale processes or values of the Skyway Property or the 1 Cityview Property among the Manager, the parties or any of their advisers and/or any possible bidders for the Skyway Property or the 1 Cityview Property or any of the Properties. Accordingly, a number of Appendices to this Report have been identified as Confidential Appendices and will be filed in separate Confidential Appendix Briefs. The Manager respectfully requests an Order authorizing it to file the Confidential Appendices under seal without serving the Skyway Confidential Appendix Brief or the Cityview Confidential Appendix Brief on the Service List.

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D. Background

6. The Companies are a group of real estate development corporations incorporated as part of a series of joint ventures between Dr. Stanley Bernstein and companies that he controls (the “**Bernstein Group**”) and Norma and Ronauld Walton and entities that they control (the “**Walton Group**”). Most of the Companies were incorporated to purchase and develop a particular Property.

7. In the summer and fall of 2013, the relationship between the Walton Group and the Bernstein Group broke down amid allegations that the Walton Group had, among other things, placed mortgages on jointly-held properties without the Bernstein Group’s consent and failed to provide reporting required by the agreements that govern the joint venture. The dispute between the Walton Group and Bernstein Group is described in more detail in the Endorsement of Justice Newbould dated November 5, 2013, which is attached as Appendix “1”.

8. Pursuant to the Order of Justice Newbould dated November 5, 2013, which is attached as Appendix “2”, the Manager was appointed to provide independent management of the Companies and the Properties for the benefit of all stakeholders.

9. The Manager’s mandate was further expanded to include all of the real estate properties owned by the Walton Group pursuant to the Reasons of Justice Brown dated August 12, 2014. The Manager was also appointed receiver of the individual Respondents, Norma and Ronauld Walton on an interim basis pending appointment of a permanent receiver.

II. The Skyway Transaction

A. Interested Parties

10. The Skyway Property is owned by one of the Companies, Skyway Holdings Ltd. (“**Skyway**”). A mortgage in the amount of \$2,800,000 (the “**Skyway Mortgage**”) and a Notice of Assignment of Rents each in favour of 368230 Ontario Limited (the “**Mortgagee**”), a company controlled by the Applicants, are registered on title to the Skyway Property.

11. In addition, construction liens are registered on title to the Skyway Property as follows:

- (a) \$8,138.83 in favour of Macnaughton Hermesen Britton Clarks Planning Ltd.;

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(b) \$3,420.51 in favour of Laser Heating and Air Conditioning Inc. (“**Laser**”); and

(c) \$846.94 also in favour of Laser.²

12. By Order dated June 10, 2014 (the “**Meridian Order**”) the sale of the Property known municipally as 30-34 Meridian Road in Toronto (the “**Meridian Property**”) was approved. The Meridian Property is adjacent to the Skyway Property and the Skyway Mortgage and the construction liens noted above were originally registered against both the Meridian Property and the Skyway Property. The Meridian Order provided for the amount of \$15,508.75 (the “**Meridian Lien Holdback**”) to be held back from the proceeds of the sale of the Meridian Property and held in trust by the Manager pending further Order of the court after the Manager has conducted a claims process.

B. The Marketing Process

13. The Skyway Property, which was renovated extensively by the previous tenant for use in specialized pharmaceutical manufacturing, was the subject of an extensive marketing process. CBRE Limited (“**CBRE**”) conducted a formal marketing campaign for the Skyway Property. This campaign included e-mails to CBRE’s private database, a listing of the Skyway Property on CBRE’s website and twitter account, listing on MLS, features in The Globe and Mail on two occasions, and marketing mailings sent directly to potential pharmaceutical users.

14. The marketing brochure and confidentiality agreement were sent to 846 potentially interested parties. A total of 23 potential purchasers requested further information about the Skyway Property.

15. CBRE conducted nine tours of the Skyway Property. The prospective purchasers and agents that toured the Skyway Property were generally experienced participants in the Toronto commercial real estate market. These parties are listed in CBRE’s marketing report, which is attached as Skyway Confidential Appendix “B”.

16. Each prospective purchaser that toured the Skyway Property provided similar feedback: given that the interior of the building was built out for a specific use, the lack of parking and

² The Manager paid the amounts outstanding listed in (b) and (c) above and these liens will be, discharged.

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shipping space, and the age of the equipment, the costs of renovating the Skyway Property to create a useable premise placed significant downward pressure on the purchase price.

17. The Manager received three offers for the Skyway Property. The highest initial offer was submitted by 239 Ontario. After receiving 239 Ontario's initial offer, CBRE negotiated with 239 Ontario in order to achieve a higher purchase price and acceptable terms.

18. On May 27, 2014, the Manager and 239 Ontario executed the Skyway Agreement.

C. Timing of the Skyway Transaction

19. The Skyway Transaction is scheduled to close on August 20, 2014.

D. Stakeholder Approval

20. The Applicants and the Respondents have been provided with copies of the Skyway Agreement and have been kept informed of the Manager's efforts to market and sell the Skyway Property and to complete the Skyway Transaction. Neither the Applicants, the Mortgagee, which is controlled by the Applicants, nor the Respondents have raised any objections to the Skyway Transaction.

E. Proposed Distribution of Sale Proceeds

21. The Manager instructed its counsel, Goodmans LLP ("**Goodmans**"), to conduct a review of the Skyway Mortgage. Goodmans has advised the Manager that the Skyway Mortgage is validly registered against the Skyway Property.

22. The Manager recommends that the proceeds of the Skyway Transaction, net of closing costs, be used to satisfy the remaining unpaid balance of the Skyway Mortgage. A payout statement with respect to the Skyway Mortgage is attached as Appendix "3". The Manager anticipates that the net proceeds available on closing will be sufficient to pay out the remaining amount owed pursuant to the Skyway Mortgage. The Manager recommends that any excess proceeds be held in trust by the Manager pending further Order of the Court after the Manager has conducted a claims process to identify creditors entitled to payment by Skyway.

23. As noted above, three construction liens are registered against the Skyway Property. The Manager has not assessed the validity of these liens, the priority of the liens (if valid) relative to

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the Skyway Mortgage or the lien claimants' entitlement to the amounts claimed. The Meridian Lien Holdback is currently being held in trust by the Manager. Retention of the Meridian Lien Holdback by the Manager pending further Order of the Court will protect the lien claimants' interests. Therefore, closing of the Skyway Transaction will not affect the lien claimants.

III. The Cityview Transaction

A. Interested Parties

24. Cityview Industrial Ltd. ("**Cityview**") is one of the Companies and owns a Property known municipally as 1-9/11 City View Drive in Toronto (the "**Cityview Property**"). Two mortgages are registered against the Cityview Property: a first mortgage in the amount of \$4,000,000 and a second mortgage in the amount of \$650,000 (collectively, the "**Cityview Mortgages**"), and notices of assignment of rents both in favor of the Mortgagee.

25. According to the payout statements provided by the Mortgagee, the outstanding balance on the Cityview Mortgages is \$3,200,876.51. These payout statements are attached as Appendix "4".

26. In addition, construction liens are registered against the Cityview Property as follows:

- (a) \$138,586 in favour of Gemtec Wall & Ceiling Systems Ltd. ("**Gemtec**");
- (b) \$721,375 in favour of Fox Contracting Limited ("**Fox**");³
- (c) \$4,876.41 in favour of Macnaughton Hermesen Britton Clarkson Planning Limited; and
- (d) \$153,691 in favour of Laser.

B. The Part 2 Lands

27. By an agreement of purchase and sale dated March 26, 2013, as amended (the "**Part 2 Agreement**"), Cityview agreed to sell the property known municipally as 9-11 City View Drive in Toronto, being Part 2 on Plan 66R-26674 (the "**Part 2 Lands**"), to Red Finch Developments

³ The Manager understands that Gemtec is a subcontractor of Fox and that most or all of Gemtec's claim is included within Fox's claim.

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Limited. By Order dated February 21, 2014, which is attached as Appendix “5”, Justice Spence approved the sale of the Part 2 Lands (the “**February 21 Order**”). The balance of the Cityview Property, the 1 Cityview Property, was retained by Cityview for sale at a later date. The Manager’s activities relating to the sale of the Part 2 Lands were reported in the Third Report of the Manager dated February 19, 2014 (the “**Third Report**”). The Third Report is attached as Appendix “6”.

28. The February 21 Order provided for the amount of \$969,583.99 (the “**Cityview Lien Holdback**”) to be held in trust by the Manager pending further Order of the Court after the Manager has conducted a claims process.

C. The Marketing Process

29. The 1 Cityview Property is presently leased to the Newton Grove School (the “**School**”). The terms of this lease, which are described below, were a significant obstacle to the Manager’s efforts to sell the 1 Cityview Property.

30. The School’s lease of the 1 Cityview Property was intended to be temporary. More specifically, the School entered into a lease with another one of the Companies pursuant to which a new school was to be built on the Property located at 140 Queen’s Plate Drive (“**140 Queen’s Plate**”). However, no construction occurred at 140 Queen’s Plate and funds advanced by the Applicants to fund such construction were diverted to other of the Companies and companies controlled by the Waltons. The pattern of funds transferred is described in Justice Brown’s August 12, 2014 decision. When the Manager was appointed, the Company that owned 140 Queen’s Plate was unable to fund any construction and that Property was ultimately sold pursuant to a power of sale proceeding.

31. The School’s lease with Cityview, which is attached as appendix “7”, is to terminate when construction of a new facility for the School at 140 Queen’s Plate is complete. For the reasons set out above, this will not occur. As a result, the length of the School’s lease is uncertain. This uncertainty exerted significant downward pressure on the price of the 1 Cityview Property. In addition, a broad marketing campaign in respect of the 1 Cityview Property would have been impeded by the School’s ongoing operations, which limited the Manager’s ability to show the 1 Cityview Property.

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32. After it became apparent that the School could not move to 140 Queen's Plate, the Manager discussed the possible sale of the 1 Cityview Property to a party related to the School. While these negotiations were ongoing, the Manager received the offer that ultimately culminated in the Cityview Agreement. As noted above, the Cityview Agreement, together with the amendments thereto, are attached as Cityview Confidential Appendix "A".

33. In the Manager's view, the Cityview Agreement represents the best available option to realize on the 1 Cityview Property. CBRE has issued a letter, which is attached as Cityview Confidential Appendix "B", in which it opines that the purchase price contemplated by the Cityview Agreement is reasonable in the circumstances. Accordingly, the Manager recommends completion of the Cityview Agreement in accordance with its terms

D. Timing of the Cityview Transaction

34. The Cityview Transaction is expected to close on August 29, 2014.

E. Stakeholder Approval

35. The Applicants and the Respondents have been provided with copies of the Cityview Agreement and have been kept informed of the Manager's efforts to sell the 1 Cityview Property and to complete the Cityview Transaction. Neither the Applicants, the Mortgagee, which is controlled by the Applicants, nor the Respondents have raised any objections to the Cityview Transaction.

F. Proposed Distribution of Sale Proceeds

36. The Manager instructed Goodmans to conduct a review of the Cityview Mortgages. Goodmans has advised the Manager that the Cityview Mortgages are validly registered against the 1 Cityview Property.

37. As noted above, four construction liens are registered against the Cityview Property. The Manager has not assessed the validity of these liens, the priority of the liens (if valid) relative to the Cityview Mortgages or the lien claimants' entitlement to the amounts claimed. As noted above, the Cityview Lien Holdback (being the amount of the lien claims, less the amounts included in more than one lien, plus an amount to secure any costs award) is currently being held in trust by the Manager. Retention of the Cityview Lien Holdback by the Manager pending

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further Order of the Court will protect the lien claimants' interests. Therefore, closing of the Cityview Transaction will not affect the lien claimants.

38. The Manager recommends that the proceeds of the Cityview Transaction, net of closing costs, be used to satisfy the Cityview Mortgages. The net proceeds available on closing will not be sufficient to pay out the remaining amount owed pursuant to the Cityview Mortgages.

G. Conclusion and Recommendations

39. As set out above, the Transactions are each the result of a transparent and competitive marketing process. The Applicants and the Mortgagee consent to the completion of the Transactions and no parties oppose the Transactions. Accordingly, for the reasons set out in the above report, the Manager respectfully recommends that this Honourable Court grant the relief sought in the Manager's notice of motion.

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All of which is respectfully submitted this 18th day of August, 2014.

SCHONFELD INC.

In its capacity as Manager pursuant to the Order of Newbould, J. dated November 5, 2013

Per:

Harlan Schonfeld CPA-CIRP

DBDC SPADINA LTD., et al
Applicants

NORMA WALTON, et al
Respondents

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

ONTARIO
SUPERIOR COURT OF JUSTICE
Commercial List

Proceeding commenced at Toronto

SUPPLEMENTARY MOTION RECORD OF
THE MANAGER, SCHONFELD INC.

(Motion re: fee approval, fee allocation and other matters)

GOODMANS LLP
Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7

Brian Empey LSUC#: 30640G
Mark S. Dunn LSUC#: 55510L
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Lawyers for The Manager

File No. 14-0074

4

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**THE HONOURABLE
JUSTICE SPENCE**

)
)
)

FRIDAY, THE 21ST
DAY OF FEBRUARY, 2014

Court File No.: CV-13-1 0280-00CL

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

APPROVAL AND VESTING ORDER

(Cityview Industrial Ltd. – Road Widening Lands (as defined below))

THIS MOTION, made by Schonfeld Inc. in its capacity as the Court-appointed manager (the "Manager") without security, of all of the assets, undertakings and properties of Cityview Industrial Ltd. ("Cityview") for an order approving each of: (a) the vesting of all of Cityview's right, title and interest in and to the lands legally described as Part of Lot 22, Concession 2 Fronting the Humber, City of Toronto, designated as Parts 3, 4 and 5 on Plan 66R26674 (the

- 2 -

“Road Widening Lands”) in the City of Toronto in order to satisfy one (1) of the conditions imposed by the City of Toronto Committee of Adjustments pursuant to a Notice of Decision Consent dated July 18, 2013 (File #B27/13EYK) (the **“Road Widening Conveyance”**); and (b) the sale transaction (the **“Transaction”**) contemplated by an agreement of purchase and sale (the **“Sale Agreement”**) to for the lands and building legally described as Part of Lot 22, Concession 2 Fronting the Humber, City of Toronto, designated as Part 2 on Plan 66R26674 (the **“Part 2 Lands”**) between the Manager and Red Finch Developments Limited (the **“Purchaser”**) dated March 26, 2013 as amended by first amendment to agreement of purchase and sale made as of the 14th day of February, 2014 and appended to the Report of the Manager dated February 18th, 2014 (the **“Report”**), and vesting in the Purchaser Cityview’s right, title and interest in and to the Part 2 Lands, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Manager, no one appearing for any other person on the service list:

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Manager is hereby authorized and approved, with such minor amendments as the Manager may deem necessary. The Manager is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Part 2 Lands to the Purchaser or whomever the Purchaser directs in writing.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Manager’s certificate to the Purchaser substantially in the form attached as Schedule C hereto (the **“Part 2 Manager’s Certificate”**) and the registration and/or recordation of this Order on title to the Part 2 Lands, all of Cityview’s right, title and interest in and to the Part 2 Lands shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), purchase options, liens, executions, writs of seizure and sale, levies, charges, or other financial or monetary claims, whether or not they have attached or been

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perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the **"Part 2 Claims"**) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Newbould dated November 5, 2013; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those claims listed on Schedule B hereto (all of which items (i), (ii) and (iii) are collectively referred to as the **"Part 2 Encumbrances"**, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule C) and, for greater certainty, this Court orders that all of the Part 2 Encumbrances affecting or relating to the Part 2 Lands are hereby expunged and discharged as against the Part 2 Lands.

4. THIS COURT ORDERS that upon the registration and/or recordation in the Land Registry Office for the Land Titles Division of Toronto of an Application for Vesting Order with respect to the Part 2 Lands, in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Part 2 Lands in fee simple, and is hereby directed to delete and expunge from title to the Part 2 Lands all of the Part 2 Claims listed in Schedule B hereto.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of the Road Widening Claims and the Part 2 Claims (collectively, the **"Claims"**), the net proceeds from the sale of the Part 2 Lands shall stand in the place and stead of the Road Widening Lands and the Part 2 Lands, and that from and after the delivery of the Manager's Road Widening Certificate and the Manager's Part 2 Certificate (collectively, the **"Manager's Certificates"**) all Claims and Road Widening Encumbrances and Part 2 Encumbrances (collectively, the **"Encumbrances"**) shall attach to the net proceeds from the sale of the Part 2 Lands with the same priority as they had with respect to the Road Widening Lands and the Part 2 Lands immediately prior to the sale, as if the Road Widening Lands had not been conveyed to the City of Toronto and the Part 2 Lands had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the conveyance and sale, respectively.

6. THIS COURT ORDERS that the proceeds of the Transaction, net of closing costs, shall be distributed as follows:

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- (a) the amount of \$969,583.99 (the "Lien Holdback") shall be held in trust by the Manager pending further Order of this Court; and
- (b) the balance of the proceeds of the Transaction, net of closing costs, shall be paid to 368230 Ontario Limited (the "Mortgagee") in satisfaction of the first ranking charge registered as AT3123206 (the "First Mortgage").

7. THIS COURT ORDERS that a motion to determine the priority of the the Encumbrances, including the priority of the Mortgagee in respect of the First Mortgage and in respect of the charge registered as AT3271120 (the "Second Mortgage") and/or Gemtec Wall & Ceiling Systems Ltd., Fox Contracting Ltd., Laser Heating & Air Conditioning Inc., Macnaughton Hermesen Britton Clarkson Planning Limited (collectively the "Lien Claimants") in respect of the liens set out in Schedule D hereto, as that priority relates to the Lien Holdback shall be brought forthwith following the completion of the Transaction (the "Priority Motion"), The Priority Motion shall be brought before a Judge of the Commercial List in Toronto, or as such a Judge may direct.

8. THIS COURT ORDERS that following hearing of the Priority Motion, and if necessary, any party may bring a motion to challenge the validity of the Encumbrances registered by the Lien Claimants and the Lien Claimants entitlement to payment from Cityview and/or the Mortgagee and/or the Lien Claimants may bring a motion for a payment in respect of the Lien Holdback, on the following terms

- (i) the Mortgagee may seek payment of some or all of the Lien Holdback in satisfaction of the First Mortgage or Second Mortgage;
- (ii) each Lien Claimant may seek a payment of no more than the face amount of their lien as set out in Schedule "F" hereto from the Lien Holdback;
- (iii) each Lien Claimant may also seek a costs of the motion and such costs, if awarded, may be paid from the Lien Holdback. However, the maximum cost award to be paid to each Lien Claimant from the Lien Holdback is as follows:
 - (1) Fox Contracting Ltd. may be paid up to \$50,000;
 - (2) Gemtec Wall & Ceiling Systems Ltd may be paid up to \$10,000 plus any portion of the amount described in (1) above that is not paid to Fox;
 - (3) Laser Heating & Air Conditioning Inc. may be paid up to \$38,422.69; and

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- (4) Macnaughton Hermesen Britton Clarkson Planning Limited may be paid up to \$1,219.10 (the "Repayment Motion").

The Repayment Motion shall be brought before a Judge of the Commercial List in Toronto, or as such a Judge may direct.

9. THIS COURT ORDERS AND DIRECTS the Manager to file with this Court the Manager's Part 2 Certificate, forthwith after delivery thereof.

10. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Cityview and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of Cityview;

the vesting of the Part 2 Lands in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Cityview and shall not be void or voidable by creditors of Cityview, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

11. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

12. 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 Manager 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 Manager, as an officer of this

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Court, as may be necessary or desirable to give effect to this Order or to assist the Manager and its agents in carrying out the terms of this Order.

13. THIS COURT ORDERS that no holder of any Part 2 Encumbrances shall take any steps or proceedings, or make any filings or claims in connection therewith, against the Part 2 Lands or against the Purchaser in connection with any of such Part 2 Encumbrances following delivery of the Part 2 Manager's Certificate in accordance with paragraph 3 hereof.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

FEB 21 2014



Schedule C – Form of Part 2 Manager's Certificate

Court File No.: CV-13-1 0280-00CL

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

MANAGER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Newbould of the Ontario Superior Court of Justice (the "**Court**") dated November 5, 2013, Schonfeld Inc. was appointed as the Manager (the "**Manager**") without security, of all of the assets, undertakings and properties of Cityview Industrial Ltd. (the "**Cityview**" and others).

B. Pursuant to an Order of the Court dated _____, the Court approved the agreement of purchase and sale made as of March 26, 2013, as amended by first amendment to agreement of purchase and sale made as of March 26, 2013 as amended February 14, 2014 and as further amended from time to time (collectively, the "**Sale Agreement**") between the Manager and Red Finch Developments Limited (the "**Purchaser**") and provided for the vesting in the Purchaser of Cityview's right, title and interest in and to the lands legally described as Part of Lot 22, Concession 2 Fronting the Humber, City of Toronto, designated as Part 2 on Plan 66R26674 (the "**Part 2 Lands**"), which vesting is to be effective with respect to the Part 2 Lands upon the delivery by the Manager to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Part 2 Lands; (ii) that the conditions to Closing as set out in Section 13 of the Sale Agreement have been satisfied or waived by the Manager and the Purchaser; and (iii) the transaction has been completed to the satisfaction of the Manager.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MANAGER CERTIFIES the following:

1. The Purchaser has paid and the Manager has received the Purchase Price for the Part 2 Lands payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Section 13 of the Sale Agreement have been satisfied or waived by the Manager and the Purchaser; and

3. The transaction contemplated in the Sale Agreement has been completed to the satisfaction of the Manager.
4. This Certificate was delivered by the Manager at Toronto, Ontario on February ___, 2014.

SCHONFELD INC., in its capacity as Court
appointed Manager of **CITYVIEW**
INDUSTRIAL LTD. and not in its personal
capacity

Per: _____

Harlan Schonfeld
President

Schedule D – Part 2 Claims to be deleted and expunged from title to the Part 2 Lands

1. **Charge in the original principal amount of \$4,000,000 in favour of 368230 Ontario Limited registered on September 7, 2012 as Instrument No. AT3123206;**
2. **Notice of Assignment of Rents General in favour of 368230 Ontario Limited registered on September 7, 2012 as Instrument No. AT3123219;**
3. **Charge in the original principal amount of \$650,000 in favour of 368230 Ontario Limited registered on April 5, 2013 as Instrument No. AT3271120;**
4. **Notice of Assignment of Rents General in favour of 368230 Ontario Limited registered on April 5, 2013 as Instrument No. AT3271124;**
5. **Construction Lien by Gemtec Wall & Ceiling Systems Ltd. registered on October 9, 2013 as Instrument No. AT3426580;**
6. **Construction Lien by Fox Contracting Ltd. registered on October 9, 2013 as Instrument No. AT3426936;**
7. **Certificate by Fox Contracting Ltd. registered on November 26, 2013 as Instrument No. AT3461899;**
8. **Construction Lien by Laser Heating & Air Conditioning Inc. registered on November 27, 2013 as Instrument No. AT3463067;**
9. **Certificate by Gemtec Wall & Ceiling Systems Ltd. registered on November 28, 2013 as Instrument No. AT3463563;**
10. **Construction Lien by MacNaughton Hermsen Britton Clarkson Planning Limited registered on December 6, 2013 as Instrument No. AT3472538;**
11. **Certificate by Laser Heating & Air Conditioning Inc. registered on December 24, 2013 as Instrument No. AT3487262; and**
12. **Certificate by MacNaughton Hermsen Britton Clarkson Planning Limited registered on January 20, 2014 as Instrument No. AT3502096;**

**Schedule E – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Part 2 Lands**

(unaffected by the Vesting Order)

- 1. Notice registered June 17, 1959 as Instrument No. EB216574;**
- 2. Notice registered March 13, 1962 as Instrument No. EB255931;**
- 3. Notice registered January 29, 1973 as Instrument No. EB412063;**
- 4. Transfer Easement registered March 29, 1983 as Instrument No. TB79879;**
- 5. Agreement registered March 16, 1984 as Instrument No. TB159922; and**
- 6. Notice registered March 27, 2000 as Instrument No. E317117**

Schedule F – Lien Holdback Amounts

Instrument	Lien Amount	Cost	Party
Construction Lien (AT3426580) Certificate of Action (AT3463563)	\$138,586	\$10,000 plus any amount not paid to Fox Contracting Ltd. from the \$50,000 described below	Gemtec Wall & Ceiling Systems Ltd.
Construction Lien (AT3426936) Certificate of Action (AT3461899)	\$721,375	\$50,000	Fox Contracting Ltd.
Construction Lien (AT3463067) Certificate of Action (AT3487262)	\$153,691	\$38,422.69	Laser Heating & Air Conditioning Inc.
Construction Lien (AT3472538) Notice of Change of Lawyer and Statement of Claim	\$4,876.41	\$1,219.10	Macnaughton Hermesen Britton Clarkson Planning Limited

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

and

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

Applicants

Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)
Proceeding commenced at Toronto

~~CONFIDENTIAL~~
ORDER

GOODMANS LLP
Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7

Brian Empey LSUC #30640G
Mark S. Dunn LSUC #55510L

Tel: 416.979.2211
Fax: 416.979.1234

Lawyers for the Inspector

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) **FRIDAY, THE 28th DAY**

)

JUSTICE NEWBOULD

)

) **OF FEBRUARY, 2014****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 ON SCHEDULE B HERETO, TO BE
BOUND BY THE RESULT

THIS MOTION made by Schonfeld Inc. (the "Manager") in its capacity as Manager appointed pursuant to the order of Justice Newbould dated November 5, 2013 for an order, *inter alia*: amending the order of Justice Spence dated February 21, 2014 (the "Approval and Vesting Order") to correct certain typographical errors contained therein.

ON READING the Approval and Vesting Order and on hearing submissions from counsel to the Manager, the Applicants and the Respondents.

1. **THIS COURT ORDERS** that the Approval and Vesting Order is amended as follows:

- 2 -

- (a) In paragraph 3, the reference in item (iii) to "those claims listed on Schedule B" is amended to "those claims listed on Schedule D";
- (b) In paragraph 3, the reference to "the permitted encumbrances, easements and restrictive covenants listed on Schedule C", is amended to "the permitted encumbrances, easements and restrictive covenants listed on Schedule E"; and
- (c) In paragraph 4, the reference to "all of the Part 2 Claims listed in Schedule B" is amended to "all of the Part 2 Claims listed in Schedule D".



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:



FEB 28 2014

SCHEDULE "A" COMPANIES

1. Dr. Bernstein Diet Clinics Ltd.
2. 2272551 Ontario Limited
3. DBDC Investments Atlantic Ltd.
4. DBDC Investments Pape Ltd.
5. DBDC Investments Highway 7 Ltd.
6. DBDC Investments Trent Ltd.
7. DBDC Investments St. Clair Ltd.
8. DBDC Investments Tisdale Ltd.
9. DBDC Investments Leslie Ltd.
10. DBDC Investments Lesliebrook Ltd.
11. DBDC Fraser Properties Ltd.
12. DBDC Fraser Lands Ltd.
13. DBDC Queen's Corner Ltd.
14. DBDC Queen's Plate Holdings Inc.
15. DBDC Dupont Developments Ltd.
16. DBDC Red Door Developments Inc.
17. DBDC Red Door Lands Inc.
18. DBDC Global Mills Ltd.
19. DBDC Donalda Developments Ltd.
20. DBDC Salmon River Properties Ltd.
21. DBDC Cityview Lands Ltd.
22. DBDC Weston Lands Ltd.
23. DBDC Double Rose Developments Ltd.
24. DBDC Skyway Holdings Ltd.
25. DBDC West Mall Holdings Ltd.
26. DBDC Royal Gate Holdings Ltd.
27. DBDC Dewhurst Developments Ltd.
28. DBDC Eddystone Place Ltd.
29. DBDC Richmond Row Holdings Ltd.

SCHEDULE "B" COMPANIES

1. Twin Dragons Corporation
2. Bannockburn Lands Inc. / Skyline – 1185 Eglinton Avenue Inc.
3. Wynford Professional Centre Ltd.
4. Liberty Village Properties Ltd.
5. Liberty Village Lands Inc.
6. Riverdale Mansion Ltd.
7. Royal Agincourt Corp.
8. Hidden Gem Development Inc.
9. Ascalon Lands Ltd.
10. Tisdale Mews Inc.
11. Lesliebrook Holdings Ltd.
12. Lesliebrook Lands Ltd.
13. Fraser Properties Corp.
14. Fraser Lands Ltd.
15. Queen's Corner Corp.
16. Northern Dancer Lands Ltd.
17. Dupont Developments Ltd.
18. Red Door Developments Inc. and Red Door Lands Ltd.
19. Global Mills Inc.
20. Donalda Developments Ltd.
21. Salmon River Properties Ltd.
22. Cityview Industrial Ltd.
23. Weston Lands Ltd.
24. Double Rose Developments Ltd.
25. Skyway Holdings Ltd.
26. West Mall Holdings Ltd.
27. Royal Gate Holdings Ltd.
28. Royal Gate Nominee Inc.
29. Royal Gate (Land) Nominee Inc.
30. Dewhurst Development Ltd.
31. Eddystone Place Inc.

- 32. Richmond Row Holdings Ltd.
- 33. El-Ad (1500 Don Mills) Limited
- 34. 165 Bathurst Inc.

5

NORMA WALTON, et al
Respondents

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

Aug 20-14

**ONTARIO
SUPERIOR COURT OF JUSTICE
Commercial List**

Proceeding commenced at Toronto

August 20, 2014

The Stensson transaction is approved by all interested parties. At least 150,000 after taxes does not give it. The relief sample will report to it is approved.

The situation in the house will depend
on the City and the market. I expect
that it is opened by at least two of the
members. The horizon, one of the two members
has, has submitted that the property
is worth more than the sale price.
The inspection/manager is of the view that
the best possible price has been obtained
and that the value of the property is 71

**MOTION RECORD OF THE MANAGER,
SCHONFELD INC.**

(Motion for Approval and Vesting Orders re: 115 Skyview and 1 Cityview, returnable August 20, 2014)

GOODMANS LLP
Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7

Brian Empey LSU#: 30640G
Mark S. Dunn LSU#: 55510L
Tel: (416) 979-2211
Fax: (416) 979-1234

Lawyers for The Manager

File No. 14-0074

The sale showed not to take. I understood the concern. It would likely be that the bidders would not appear.

If Mr. Loria thinks the property is worth more, he can purchase it from the receiver at the price negotiated and set in the proposed sale agreement, and make the cash payment required. The sale is scheduled to close on August 29, 2014. Mr. Loria will have the right to do so by notifying the receiver by August 25, 2014 of his intention to do so and providing ^{written} evidence that he has obtained firm financing to do so, failing which his right to acquire the property shall cease.

Subject to that, the requested relief regarding Cityview is granted.

I am not prepared to make any order ~~that~~ regarding the 2013 litigation.

Done J.

6

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
MR. JUSTICE NEWBOULD

)
)
)

WEDNESDAY, THE 20th
DAY OF AUGUST, 2014

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

APPROVAL AND VESTING ORDER

(1 City View Drive, Toronto, Ontario)

THIS MOTION, made by Schonfeld Inc. in its capacity as the Court-appointed manager (the "**Manager**"), without security, of all of the assets, undertakings and properties of Cityview Industrial Ltd. ("**Cityview**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale for the lands and building legally described as Part of Lot 22, Concession 2 Fronting the Humber, Part 1, Plan 66R-26674, Etobicoke, City of Toronto, being all of PIN 07416-0035 (LT) (the "**Lands**") between the Manager and Cyclone Creative Inc. (the "**Purchaser**") dated May 27, 2014 and accepted May 29, 2014, as amended by agreement dated June 13, 2014 and as revived and amended by agreements dated June 23, 2014 and July

14, 2014 (collectively, the “**Sale Agreement**”) and appended to the Fifteenth Report of the Manager dated August 18, 2014 (the “**Report**”), and vesting in the Purchaser all of Cityview’s right, title and interest in and to the Lands, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Manager,
~~no one appearing for any other person on the service list:~~ *and of counsel for the*

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Manager is hereby authorized and approved, with such minor amendments as the Manager may deem necessary. The Manager is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Lands to the Purchaser, *subject to the terms of my endorsement of*

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Manager’s certificate to the Purchaser substantially in the form attached as Schedule C hereto (the “**Manager’s Certificate**”) and the registration of this Order on title to the Lands, all of Cityview’s right, title and interest in and to the Lands shall vest absolutely in the Purchaser free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), purchase options, liens, executions, writs of seizure and sale, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Newbould dated November 5, 2013; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those claims listed on Schedule D hereto (all of which items (i), (ii) and (iii) are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on

Schedule E) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Lands are hereby expunged and discharged as against the Lands.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of Toronto (No. 66) of an Application for Vesting Order with respect to the Lands, in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Lands in fee simple, and is hereby directed to delete and expunge from title to the Lands all of the Claims listed in Schedule D hereto.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of the Claims, the net proceeds from the Transaction (the “**Net Proceeds**”) shall stand in the place and stead of the Lands, and that from and after the delivery of the Manager’s Certificate all Claims and Encumbrances shall attach to the Net Proceeds with the same priority as they had with respect to the Lands immediately prior to the sale, as if the Lands had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the conveyance and sale, respectively.

6. THIS COURT ORDERS that the proceeds of the Transaction, net of closing costs shall be paid to 368230 Ontario Limited (the “**Mortgagee**”) in satisfaction of the first ranking charge registered as AT3123206 (the “**First Mortgage**”) and in satisfaction of the second ranking charge registered as AT3271120 (the “**Second Mortgage**”).

7. THIS COURT ORDERS AND DIRECTS the Manager to file with this Court a copy of the Manager’s Certificate, forthwith after delivery thereof.

8. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Cityview and any bankruptcy order issued pursuant to any such applications; and

- (c) any assignment in bankruptcy made in respect of Cityview;

the vesting of the Lands in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Cityview and shall not be void or voidable by creditors of Cityview, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

10. THIS COURT ORDERS that no holder of any Encumbrances shall take any steps or proceedings, or make any filings or claims in connection therewith, against the Lands or against the Purchaser in connection with any of such Encumbrances following delivery of the Manager's Certificate in accordance with paragraph 3 hereof.

11. THIS COURT ORDERS that the Confidential Appendices to the Report contained in the Cityview Confidential Appendix Brief (as defined in the Report) be sealed, kept confidential and not form part of the public record, but rather shall be placed separate and apart from the contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of this Court.

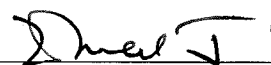
12. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Manager and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Manager, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Manager and its agents in carrying out the terms of this Order.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:

LE / DANS LE REGISTRE NO.:

AUG 20 2014

MB



Schedule A Companies

1. Dr. Bernstein Diet Clinics Ltd.
2. 2272551 Ontario Limited
3. DBDC Investments Atlantic Ltd.
4. DBDC Investments Pape Ltd.
5. DBDC Investments Highway 7 Ltd.
6. DBDC Investments Trent Ltd.
7. DBDC Investments St. Clair Ltd.
8. DBDC Investments Tisdale Ltd.
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11. DBDC Fraser Properties Ltd.
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26. DBDC Royal Gate Holdings Ltd.
27. DBDC Dewhurst Developments Ltd.
28. DBDC Eddystone Place Ltd.
29. DBDC Richmond Row Holdings Ltd.

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1. Twin Dragons Corporation
2. Bannockburn Lands Inc. / Skyline – 1185 Eglinton Avenue Inc.
3. Wynford Professional Centre Ltd.
4. Liberty Village Properties Ltd.
5. Liberty Village Lands Inc.
6. Riverdale Mansion Ltd.
7. Royal Agincourt Corp.
8. Hidden Gem Development Inc.
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27. Royal Gate Holdings Ltd.
28. Royal Gate Nominee Inc.
29. Royal Gate (Land) Nominee Inc.
30. Dewhurst Development Ltd.
31. Eddystone Place Inc.

- 32. Richmond Row Holdings Ltd.
- 33. El-Ad (1500 Don Mills) Limited
- 34. 165 Bathurst Inc.

Schedule C – Form of Manager’s Certificate

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

MANAGER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Newbould of the Ontario Superior Court of Justice (the “**Court**”) dated November 5, 2013, Schonfeld Inc. was appointed as the Manager (the “**Manager**”), without security, of all of the assets, undertakings and properties of Cityview Industrial Ltd. (“**Cityview**”) and others.

B. Pursuant to an Order of the Court dated ●, 2014 (the “**Approval and Vesting Order**”), the Court approved the agreement of purchase and sale dated May 27, 2014 and accepted May 29, 2014, as amended by agreement dated June 13, 2014 and as revived and amended by agreements dated June 23, 2014 and July 14, 2014, and as may be further amended and/or assigned from time to time (collectively, the “**Sale Agreement**”) between the Manager and Cyclone Creative Inc. (the “**Purchaser**”) and provided for: (A) the vesting in the Purchaser of Cityview’s right, title and interest in and to the lands legally described as Part of Lot 22, Concession 2 fronting the Humber, Part 1, Plan 66R26674, Etobicoke, City of Toronto, being all of PIN 07416-0035 (LT) (the “**Lands**”), which vesting is to be effective with respect to the Lands upon: (1) the delivery by the Manager to the Purchaser of a certificate confirming (i) the payment

by the Purchaser of the Purchase Price for the Lands; (ii) that the conditions to Closing as set out in Section 7 on Schedule B to the Sale Agreement have been satisfied or waived by the Manager and the Purchaser; and (iii) the transaction has been completed to the satisfaction of the Manager; and (2) the registration of the Approval and Vesting Order on title to the Lands.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MANAGER CERTIFIES the following:

1. The Purchaser has paid and the Manager has received the Purchase Price for the Lands payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Section 7 on Schedule B to the Sale Agreement have been satisfied or waived by the Manager and the Purchaser; and
3. The transaction contemplated in the Sale Agreement has been completed to the satisfaction of the Manager.

This Certificate was delivered by the Manager at Toronto, Ontario on _____, 2014.

SCHONFELD INC., in its capacity as Court
appointed Manager of **CITYVIEW**
INDUSTRIAL LTD. and not in its personal
capacity

Per: _____

Harlan Schonfeld
President

Schedule D –Claims to be deleted and expunged from title to the Lands

1. Charge in the original principal amount of \$4,000,000.00 in favour of 368230 Ontario Limited registered on September 7, 2012 as Instrument No. AT3123206;
2. Notice of Assignment of Rents – General in favour of 368230 Ontario Limited registered on September 7, 2012 as Instrument No. AT3123219;
3. Charge in the original principal amount of \$650,000.00 in favour of 368230 Ontario Limited registered on April 5, 2013 as Instrument No. AT3271120;
4. Notice of Assignment of Rents – General in favour of 368230 Ontario Limited registered on April 5, 2013 as Instrument No. AT3271124;
5. Construction Lien by Gemtec Wall & Ceiling Systems Ltd. registered on October 9, 2013 as Instrument No. AT3426580;
6. Construction Lien by Fox Contracting Ltd. registered on October 9, 2013 as Instrument No. AT3426936;
7. Certificate by Fox Contracting Ltd. registered on November 26, 2013 as Instrument No. AT3461899;
8. Construction Lien by Laser Heating & Air Conditioning Inc. registered on November 27, 2013 as Instrument No. AT3463067;
9. Certificate by Gemtec Wall & Ceiling Systems Ltd. registered on November 28, 2013 as Instrument No. AT3463563;
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11. Certificate by Laser Heating & Air Conditioning Inc. registered on December 24, 2013 as Instrument No. AT3487262; and
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Schedule E – Permitted Encumbrances, Easements and Restrictive Covenants related to the Lands
(unaffected by the Vesting Order)

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2. Notice registered on March 13, 1962 as Instrument No. EB255931;
3. Notice registered on January 29, 1973 as Instrument No. EB412063; and
4. Notice registered on March 27, 2000 as Instrument No. E317117.

DBDC SPADINA LTD. ET AL
and
NORMA WALTON ET AL

Court File No: CV-13-10280-00CL

Applicants

Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at TORONTO

APPROVAL AND VESTING ORDER

GOODMANS LLP

Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7

Brian Empey LSUC#: 30640G
Mark Dunn LSUC#: 55510L
Tel: 416.979.2211
Fax: 416.979.1 234

Lawyers for the Manager

et al

Applicants

Respondents

6302855

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

ORDER

Goodmans LLP
Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Mark Dunn LSUC#: 55510L

Tel: 416.979.2211

Fax: 416.979.1234

Lawyers for the Manager