

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

CAISSE DESJARDINS ONTARIO CREDIT UNION INC.

Applicant

- and -

ENGLISH LANE HOMES INC.

Respondent

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

REPLY FACTUM

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TO: **THE SERVICE LIST**

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REPLY FACTUM OF THE APPLICANT

PART I - INTRODUCTION

1. This Reply Factum is submitted by Caisse Desjardins Ontario Credit Union Inc. (the “**Applicant**”) in response to the Responding Factum served by English Lane Homes Inc. (the “**Debtor**”) on March 9, 2026.

2. The Applicant is filing this Reply Factum in response to the assertion by the Debtor that (a) there is a triable issue; and (b) there are unique circumstances to this case.

PART II - SUMMARY OF FACTS

3. Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the Factum of the Applicant served on March 4, 2026.¹

¹ Factum of Caisse Desjardins Ontario Credit Union Inc. returnable March 13, 2026.

4. The Debtor has failed to identify any provision of the Offer of Financing that the Applicant purportedly breached, nor has it put forward any evidence establishing that the Applicant acted outside its contractual rights. The Offer of Financing (including all of the amendments thereto) sets out: (a) the applicable maximum amounts of the facilities; and (b) the various terms and conditions on which the different advances were to be made.² Among other things:

- (a) It is apparent on the face of the Offer of Financing that the Debtor was never able to meet the conditions for advance of “Construction Advances” (the amounts that it was requesting be advanced) – among other things, the Debtor was required to have secured not less than \$52.3 million of pre-sales with deposits of not less than 20% of the gross unit price to be paid to the Debtor’s deposit trust account prior to any advances under the Construction Loan Facility,³ and the Debtor has indicated it has sold only three units to date;⁴
- (b) The amount of the facilities available under the Offer of Financing were never reduced – although the amount of the “Development Charges Advance” was reduced pursuant to the Second Amendment to the Offer of Financing dated November 23, 2022, the reduction resulted in an increase in the LC Facility by the same amount;⁵ and
- (c) The Indebtedness has matured.⁶

² See Exhibits “A” and “B” to the Affidavit of Geneviève Riverin-Boilard sworn January 29, 2026 (“**Riverin-Boilard Affidavit**”), Application Record of Caisse Desjardins Ontario Credit Union Inc. returnable March 13, 2026 (“**Applicant’s Application Record**”), Tab 2, pp. 25-67.

³ Exhibit “A” to the Riverin-Boilard Affidavit at s. 8, Pre-Sale Target (Conditions Precedent – Subsequent Advances), Applicant’s Application Record, Tab 2, p. 34.

⁴ Affidavit of Kamila Sharapova sworn February 26, 2026 at para. 33, Responding Application Record of English Lane Homes Inc. returnable March 13, 2026, p. 10.

⁵ Exhibit “B” to the Riverin-Boilard Affidavit, Applicant’s Application Record, Tab 2, pp. 53-54.

⁶ Riverin-Boilard Affidavit at para. 4, Applicant’s Application Record, Tab 2, p. 14.

PART III - STATEMENT OF ISSUES, LAW & AUTHORITIES

There is No Triable Issue that would Prevent the Appointment of a Receiver

5. The Debtor has provided no evidence to support an allegation that the Applicant had no basis to fail to provide advances. On the other hand, on the face of the Offer of Financing itself and the Debtor's evidence, it is apparent that the Debtor did not meet the conditions for advance and that allegations regarding the reduction in the facilities are unfounded. Further, the Debtor does not dispute the amounts that are owing to the Applicant, nor does it seemingly dispute that it did not achieve the level of pre-sales required under the Offer of Financing. The allegation of a dispute, in and of itself (particularly where there is no evidentiary basis for such allegation) in and of itself does not necessarily result in a determination that it is not just or convenient for a receiver to be appointed.⁷

There are No Unique Circumstances that Weigh Against the Appointment of a Receiver or Granting the Alternative Relief

6. The fact that there may not be other creditors of the Debtor is similarly inaccurate. The Debtor filed no evidence to support this assertion. To the contrary, the Applicant's materials include an outstanding property tax certificate indicating that, at the very least, the City of Toronto is similarly a creditor of the Debtor.⁸ There are also likely other stakeholders whose interests will need to be considered, including the purchasers referenced in the Debtor's materials.

⁷See [Endorsement of Justice Cavanagh dated May 13, 2024](#), *Constantine Enterprises Inc. v. Mizrahi (128 Hazelton) Inc. et al. and related matters*, Superior Court of Justice (Commercial List), Court File Nos. CV-24-00715321-00CL and CV-24-00715326-00CL, at para. 32.

⁸ Riverin-Boilard Affidavit at para. 4, Applicant's Application Record, Tab 2, p. 14; Exhibit "C" to the Riverin-Boilard Affidavit, Applicant's Application Record, Tab 2, p. 69.

7. The appraisal evidence included in the Debtor's materials neither makes this case unique nor does it mitigate the appointment of a receiver. Courts have often noted that appraisals, particularly dated ones, have little utility when considering the appointment of a receiver.⁹

8. The Debtor's right of redemption cannot impair the integrity of a court-supervised sales process.¹⁰ This has already been addressed by the amended proposed Order. The Debtor's alternative relief goes well beyond preserving a right of redemption. In substance, it would permit the Debtor to gain a significant advantage over other bidders in both having access to other offers provided and allowing it to bid after seeing such offers. Such relief would not merely chill the sales process; it would wholly undermine it.

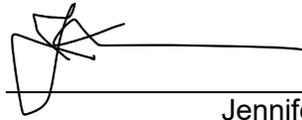
PART IV - ORDER REQUESTED

9. The Applicant seeks a receivership order substantially in the form served by the Applicant on the Service List on March 4, 2026.

⁹ See [Mao v. Liu](#), 2024 ONSC 752 at paras. [21-22](#); See also [Ashcroft Urban Developments Inc. \(Re\)](#), 2024 ONSC 7192 at paras. [107](#). and [109](#).

¹⁰ [Rose-Isli Corp. v. Frame-Tech Structures Ltd.](#), 2023 ONSC 832 at paras. [78-83](#), aff'd in [Rose-Isli Corp. v. Smith](#), 2023 ONCA 548 at paras. [8-10](#).

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 11th day of March, 2026.

A handwritten signature in black ink, consisting of a stylized initial 'J' followed by a horizontal line extending to the right.

Jennifer Stam

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SCHEDULE "A"

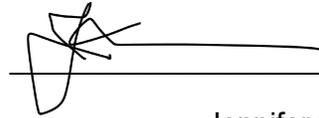
LIST OF AUTHORITIES

1. [Ashcroft Urban Developments Inc. \(Re\)](#), 2024 ONSC 7192
2. [Endorsement of Justice Cavanagh dated May 13, 2024](#), *Constantine Enterprises Inc. v. Mizrahi (128 Hazelton) Inc. et al. and related matters*, Superior Court of Justice (Commercial List), Court File Nos. CV-24-00715321-00CL and CV-24-00715326-00CL
3. [Mao v. Liu](#), 2024 ONSC 752
4. [Rose-Isli Corp. v. Frame-Tech Structures Ltd.](#), 2023 ONSC 832
5. [Rose-Isli Corp. v. Smith](#), 2023 ONCA 548

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

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

Date: March 11th, 2026



Jennifer Stam

SCHEDULE "B"

TEXT OF STATUTES, REGULATIONS & BY – LAWS

Nil.

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