

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

B E T W E E N:

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

- and -

2521311 ONTARIO INC. o.a. TOWNS OF THORNBURY

Respondent

**APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, and section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C.43**

AIDE MEMOIRE OF THE APPLICANT

December 14, 2023

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Lawyers for the Applicant

1. The Applicant, Foremost Mortgage Holding Corporation (the “**Lender**”), commenced this application on December 7, 2023 to appoint a receiver (the “**Application**”) over the Respondent, 2521311 Ontario Inc. (the “**Borrower**”).

2. The Lender served its application record on December 12, 2023.

3. The purpose of this attendance is to schedule a hearing of the Application on an urgent basis.

A. Background – the Parties and the Loan

4. The Lender and Borrower are parties to a commitment letter dated July 9, 2020, pursuant to which the Lender provided a loan facility of approximately \$8.8 million to the Borrower (the “**Loan**”). The Loan is secured by, among other things, a mortgage registered against a townhouse development (the “**Project**”) located at Lot #10, Louisa Street in Thornbury, Ontario (the “**Property**”).

5. The Borrower failed to repay the Loan by the maturity date of October 1, 2023, as contemplated by the terms of the Loan.

6. Per the terms of the Lender’s charge registered on title to the Property and a General Security Agreement executed by the Borrower, the Lender has the right to appoint a receiver in the event of a default on the Loan.

7. There are second and third mortgages in favour of Berkley Insurance Company and Jose Cruz, respectively.

B. Status of Matter and Next Steps

8. The Project, which was originally to be completed in January 2022, is only partially built and in a state of disrepair.

9. Since June 2022, the Lender has learned of significant construction deficiencies and other problems with the Project. These include:

- (a) significant water penetration, foundation, mould and fire separation issues, among many others;
- (b) the registration of several construction liens on title to the Property; and
- (c) stop work orders, orders to comply and orders to uncover made by the Town of Blue Mountains (where the Property is located) in connection with the Project.

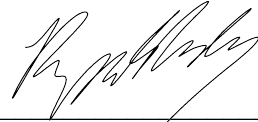
10. The Project site remains exposed to the elements. As the upcoming winter approaches, the Project's value, and the prospect of creditor recovery, is steadily deteriorating. Winterization measures are therefore a critical priority to protect the remaining value in the Project.

11. Accordingly, the Lender seeks to use this attendance to schedule a hearing of the Application for the first available date.

12. The Lender took quiet possession of the Property on or around December 3, 2023. However, a Receiver is still urgently required in order to complete the winterization work in the most efficient manner possible and, thereafter, to carry out a sales process for the Property.

13. The Lender submits that a 45-minute hearing will be sufficient to hear the Application.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 14th day of December, 2023.



Jeffrey Larry/ Ryan Shah

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