

COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF URBANCORP TORONTO MANAGEMENT INC., URBANCORP (ST. CLAIR VILLAGE) INC., URBANCORP (PATRICIA) INC., URBANCORP (MALLOW) INC., URBANCORP (LAWRENCE) INC., URBANCORP DOWNSVIEW PARK DEVELOPMENT INC., URBANCORP (952 QUEEN WEST) INC., KING RESIDENTIAL INC., URBANCORP 60 ST. CLAIR INC., HIGH RES INC., BRIDGE ON KING INC. (COLLECTIVELY, THE "APPLICANTS") AND THE AFFILIATED ENTITIES LISTED IN SCHEDULE "A" HERETO

Applicant

**NOTICE OF MOTION
FOR LEAVE TO APPEAL**

The court appointed monitor, KSV Kofman Inc. ("**KSV**" or the "**Monitor**"), will make a motion for leave to appeal to the Court of Appeal for Ontario, pursuant to sections 13 and 14 of the *Companies' Creditors Arrangement Act* (the "**CCAA**"). Subject to any motion for directions, the Court will hear the motion in writing at Osgoode Hall, 130 Queen Street West, Toronto, Ontario M5H 2N5.

PROPOSED METHOD OF HEARING: The motion is to be heard in writing, 36 days after service of the Monitor's motion record, factum and transcripts, if any, or on the filing of the Monitor's reply factum, if any, whichever is earlier, unless the Court orders an oral hearing.

THE MOTION IS FOR:

1. An order granting the Monitor leave to appeal the Order and Endorsement of Mr. Justice Myers dated May 11, 2018 (the “**Decision**”), declining the Monitor’s motion for an order upholding its disallowance of the claim filed by Speedy Electrical Contractors Ltd. (“**Speedy**”) pursuant to the Claims Procedure Order made in these CCAA proceedings on September 15, 2016 (the “**Claims Procedure Order**”); and
2. Such further and other relief as may be requested and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

A. Overview

3. Speedy has claimed \$2,323,638.54 against King Residential Inc. (“**KRI**”, an Applicant in these CCAA proceedings) in respect of a guarantee and collateral mortgage (the “**Secured Guarantee**”) that KRI provided despite receiving no consideration from Speedy. Rather, KRI provided the Secured Guarantee in respect of antecedent unsecured personal debts owing by Alan Saskin and antecedent unsecured business debts owing by Edge on Triangle Park Inc. (“**Edge**”), an entity not subject to these CCAA proceedings.
4. KRI granted the Secured Guarantee within one year of the commencement of these CCAA proceedings at a time when it was insolvent, and received only a nominal \$2 in return. In addition, at the time, Speedy was not dealing at arm’s length with KRI or Mr. Saskin, and KRI granted the Secured Guarantee with the intent to defeat, hinder or delay KRI’s creditors. The granting of the Secured Guarantee was therefore a transfer at undervalue and a fraudulent conveyance.

5. The proposed appeal deals with matters of importance to the Monitor, creditors of the Applicants, creditors of other Urbancorp affiliated entities which are the subject of other, separate insolvency proceedings with similar reviewable transaction issues with 14 similar actions outstanding, and future parties to insolvency proceedings generally.

6. The purpose and continued efficacy of provincial and federal fraudulent conveyance laws are placed into doubt by the Decision in the context of a corporate group controlled by the same individual. The Decision supports the proposition that, when insolvent, such an individual can ignore the best interests of any individual entity in the group (and those of the discrete creditors of each entity) if the prejudice incurred by the individual entity is of benefit to the group generally and the controlling individual personally. Accordingly, the Decision deals with a pervasive issue in commercial insolvencies – namely, how the rights of creditors of each separate entity in a group are to be analyzed when there has been a procedural consolidation of the proceedings but no substantive consolidation of the group.

7. In particular, the proposed appeal addresses, among other things, whether an insolvent entity controlled by an individual should be permitted to grant security over its assets to a third party for the antecedent unsecured debts of that individual and other entities controlled by that individual (which other entities have their own creditors and no interrelated business dealings with the first entity other than common control and management), in return for no consideration. The Decision answers this in the affirmative in the context of a party pressuring the insolvent entity to provide such security or risk the ability of affiliated companies to continue as a going

concern. This is precisely the type of prejudicial behaviour that the fraudulent conveyance laws applicable in this case are designed to safeguard against, and not condone, especially when dealing with entities under common control where the safeguards of independent directors and management do not exist. In this regard, the Decision undermines the very rationale for the existence of such legislation.

8. The issue of whether, as a matter of both law and policy, costs should be awarded in the context of reasonable claims disputes pursuant to claims procedure orders, will also be addressed.

B. Background Facts

(i) The Parties

9. At the Guarantee Date (as defined below), KRI was a wholly-owned subsidiary and nominee of TCC/Urbancorp (Bay) LP ("**Bay LP**"). At the relevant time, Alan Saskin held a 79.99% limited partnership interest in Bay LP.

10. At the relevant time, Edge was a wholly-owned subsidiary and nominee of TCC/Urbancorp (Bay Stadium) Limited Partnership, whose general partner was Deaja Partner (Stadium) Inc. (wholly owned by Mr. Saskin) and whose sole limited partner was Vestaco Investments (Stadium) Inc. (wholly owned by Mr. Saskin's spouse, Doreen Saskin).

11. Edge and KRI belonged to separate corporate groups. While they did not operate at arm's length given their ultimate common control at the hands of Mr. Saskin (directly or via family members or family trusts), they were distinct legal entities, each having its own creditors.

12. Speedy operates an electrical contracting business, and the Urbancorp group of companies (the “**Urbancorp Group**”) had been one of Speedy’s clients for more than 20 years. The President of Speedy, Albert Passero, has a long-standing relationship with Mr. Saskin.

13. In May 2016, the Urbancorp Group collapsed and the Applicants (a subset of the Urbancorp Group) commenced the present insolvency proceedings under the CCAA. The moving party, KSV, was appointed by the Court to act as Monitor of the Applicants.

(ii) Debts Owning by Edge to Speedy

14. On September 23, 2014, Mr. Saskin approached the President of Speedy and obtained a personal loan from Speedy for \$1 million, ostensibly to enable Mr. Saskin to fund some of his building projects. These funds were not paid to or for the benefit of KRI. This loan was evidenced by a one year term promissory note (due September 23, 2015) providing for 12.5% annual interest payable biannually (the “**Note**”).

15. Shortly thereafter, Speedy completed the work on a \$6 million electrical contract for a condominium development owned by Edge. Speedy certified that the last day of supply of service and materials for the project was October 22, 2014, at which time Speedy invoiced Edge for release of a *Construction Lien Act* (“**CLA**”) holdback amount of \$695,408.07.

16. The holdback amount, together with other outstanding amounts owing by Edge to Speedy, totalled \$1,038,911.34.

17. In or around the end of August 2015, Speedy became aware that Edge was having cash flow issues and Speedy began pressing Edge for payment. Mr. Saskin offered to provide Speedy with certain Edge condominium units as payment for the amounts owing by Edge to Speedy. This proposal was not accepted by Speedy as it would be contrary to provisions of the CLA relating to improper preference or priority over other potential trade creditors or lien claimants.

18. On August 31, 2015, Speedy issued a further invoice to Edge for an additional holdback amount of \$7,348.75 in respect of work invoiced on December 19, 2014. This amount forms part of the \$1,038,911.34 claimed by Speedy.

19. On September 23, 2015, Mr. Saskin defaulted on the Note.

20. On September 30, 2015, almost a year after the last day of supply of service and materials for the project and well outside the 45 day time period provided for under s. 31(3) of the CLA, Speedy registered a claim for a construction lien against the Edge project pursuant to the CLA in the sum of \$1,038,911.44 (the "**Lien**").

21. In the period that followed, Speedy threatened to petition Mr. Saskin into personal bankruptcy in respect of his personal debt and to bring legal proceedings in respect of the Lien.

22. At this time, KRI had no liability for either Mr. Saskin's personal debt, or the Edge debt.

(iii) The Israeli Bond Issuance and the Secured Guarantee

23. In the summer and fall of 2015, Mr. Saskin was in the process of raising funds through a bond issuance on the public markets in Israel.

24. The bond issuance required that the Lien on Edge be discharged. Speedy was aware that the presence of its Lien on the Edge development precluded Mr. Saskin from being able to complete the Israeli bond issuance. Mr. Saskin approached Speedy and asked for a discharge of the Lien, as well as an extension of time for payment on the Note, with the promise that the funds raised through the bond issuance would be used to repay Speedy and others who were owed money by Mr. Saskin and the Urbancorp Group.

25. In November 2015, Speedy, Mr. Saskin, Edge, and KRI entered into a debt extension agreement (the "**Debt Extension Agreement**"). Pursuant to the terms of the Debt Extension Agreement: (a) Speedy agreed to discharge the Lien, but maintained the claim for the underlying debt against Edge; (b) the maturity date of the Note for the personal debt owing to Speedy by Mr. Saskin was extended to January 30, 2016; and (c) KRI agreed to provide a limited guarantee to Speedy for Mr. Saskin's and Edge's outstanding obligations to Speedy together with a mortgage on thirteen specific condominiums and thirteen specific parking spots for which KRI was the registered owner (the "**Secured Guarantee**"). KRI received no consideration for guaranteeing and securing debts owed by Mr. Saskin and Edge, other than a nominal \$2. At this time, KRI had its own creditors, which were distinct from those of Mr. Saskin and Edge.

26. One of the effects of KRI's guarantee of the Note was to make an unsecured obligation of Mr. Saskin a secured obligation of KRI.

27. Consistent with the terms of the Debt Extension Agreement, the Lien was discharged and the Secured Guarantee was registered on title on November 16, 2015 (the "**Guarantee Date**").

28. The \$2 paid to KRI was grossly inadequate and entirely disproportionate to the value of the Secured Guarantee, which Speedy now claims is worth over \$2.3 million with costs and interest. Extending the maturity date of the Note did not benefit KRI and served only to benefit Mr. Saskin personally, while the discharge of the Lien (to the extent it was ever valid) by Speedy did not benefit KRI but instead benefited Edge.

29. As required in order to complete the bond issuance, counsel for Urbancorp Inc. provided opinions which disclosed the existence and later removal of the Lien, but intentionally failed to disclose that KRI had provided a guarantee in respect of the liabilities of Mr. Saskin and Edge without receiving any material consideration for having done so.

30. On December 7, 2015, the Tel Aviv Stock Exchange authorized the registration of a prospectus in connection with of the bond issuance. The prospectus does not disclose the existence of the Secured Guarantee.

31. Although Urbancorp Inc. raised approximately \$64 million in the bond issuance, Mr. Saskin did not use any of those funds to repay Speedy.

32. Soon after the bond issuance, the Urbancorp Group collapsed. On May 18, 2016, insolvency proceedings in respect of the Applicants (of which KRI is one) were commenced under the CCAA. Notably, given that the Secured Guarantee was granted by KRI to Speedy on November 16, 2015, the Secured Guarantee was granted within one year of the commencement of the CCAA proceedings.

33. The effect of the Secured Guarantee will be to defeat or hinder recoveries to the creditors of Urbancorp Inc., including the Israeli bondholders. Specifically, the Secured Guarantee will deprive Urbancorp Inc. of approximately \$2.3 million it would have received (and expected to receive pursuant to the bond prospectus) but for the issuance of the Secured Guarantee.

(iv) Speedy's Claim

34. On October 19, 2016, Speedy filed a proof of claim against KRI in the amount of \$2,323,638.54, comprising the \$1 million personal loan made to Mr. Saskin as well as the amounts owing to Speedy in respect of the Edge project (plus interest and costs that continue to accrue).

35. On November 11, 2016, the Monitor disallowed the claim in full on the basis that the granting of the Secured Guarantee was voidable as a transfer at undervalue pursuant to s. 96 of the *Bankruptcy and Insolvency Act* (“**BIA**”) and void as a fraudulent conveyance under the *Fraudulent Conveyances Act* (“**FCA**”). As noted above, at the time the Secured Guarantee was granted, KRI was not dealing with Speedy at arm's length and was insolvent. Further, KRI received purely token consideration (\$2) in exchange for the Secured Guarantee which was made by KRI with

the intent to defraud, defeat, hinder or delay creditors (including the Israeli bondholders).

36. On November 25, 2016, Speedy filed a Notice of Dispute. Paragraph 36(b) of the Claims Procedure Order provides that in the event that an objection raised in a Notice of Dispute is not settled within a time period or in a manner satisfactory to the Monitor, the Monitor may refer the objection raised to the Court for adjudication.

D. The Motion Below and the Decision

37. By Notice of Motion dated March 7, 2018, the Monitor brought a motion seeking to uphold its disallowance of Speedy's claim in full.

38. Mr. Justice Myers heard the Monitor's motion on May 1, 2018.

39. By way of Endorsement and Order dated May 11, 2018, the Motions Judge dismissed the Monitor's motion seeking to disallow Speedy's claim. He did so "based solely on the arm's length relationship and lack of fraudulent intent", finding that it was therefore unnecessary to deal with "a number of other issues" raised by the parties on the motion.

40. Unlike other types of determinations often made by supervising judges in CCAA proceedings, the Decision did not involve an exercise of discretion by the Motions Judge in the context of managing an ongoing restructuring process. To the contrary, the Decision arose from a straightforward adjudication of Speedy's claim and involved the application of relevant provisions of the CCAA, BIA and the FCA.

41. The Motions Judge ordered the Monitor to pay costs to Speedy in the amount of \$25,000, notwithstanding: (i) his express finding that “[i]t was reasonable and appropriate for the Monitor to bring this matter to the court”; and (ii) paragraph 36(b) of the Claims Procedure Order which expressly directs the Monitor to bring unsettled objections to the Court for adjudication.

D. Leave to Appeal Should be Granted

42. Leave to appeal the Decision should be granted in the present case. There is good reason to doubt the correctness of the Decision, the proposed appeal is *prima facie* meritorious and the proposed appeal involves matters of importance to the Monitor, creditors of the Applicants, creditors of other Urbancorp affiliated entities which are the subject of other, separate insolvency proceedings with similar reviewable transaction issues (which proceedings are listed below), and future parties to insolvency proceedings generally.

43. The Monitor respectfully submits that the Motions Judge made reversible errors in reaching the Decision, such that this Court can and should intervene and set aside the Decision and dismiss Speedy’s claim in full. In particular, the Motions Judge made a number of reversible errors, including:

- (a) erring in law and in principle and committing palpable and overriding errors by concluding that the Secured Guarantee should not be declared void as a transfer at undervalue under s. 96 of the BIA, including;

- (i) by concluding that Speedy and KRI were dealing with one another at arm's length at the time the Secured Guarantee was given by KRI;
- (ii) by concluding that KRI did not have the intention to defraud, defeat, or delay creditors, including:
 - (A) by treating Edge, KRI and Mr. Saskin as a single consolidated entity for purposes of determining whether there was a transfer at undervalue;
 - (B) by disregarding clear evidence of numerous "badges of fraud", including:
 - (I) the insolvency of KRI at the Guarantee Date;
 - (II) the lack of consideration received by KRI in exchange for the Secured Guarantee;
 - (III) the failure to have protected the distinct creditors of KRI;
 - (IV) the close relationship between Speedy and Mr. Saskin;
 - (V) the transfer being made in the face of threatened legal proceedings; and
 - (VI) the secrecy of the transfer from the main creditor prejudiced by the transfer as evidenced by the fact that Mr. Saskin and his counsel (in the opinions provided in anticipation of the bond issuance)

disclosed the existence and removal of the Lien, but failed to disclose that KRI had provided the Secured Guarantee in respect of the personal debts of Mr. Saskin and the liabilities of Edge;

- (C) by placing undue weight on the fact that Speedy registered its mortgages over the KRI condominium units on title as evidencing no secrecy in the transfer;
- (iii) by disregarding and/or misinterpreting clear evidence that KRI was insolvent on a cash flow basis at the time it granted the Secured Guarantee; and
- (iv) by misapplying the ruling in *Browne v. Dunn* (1893), 6 R. 67 (H.L.), and in doing so failing to conclude that the Lien was invalid under s. 31 of the CLA in face of clear evidence of its invalidity and, in particular, Speedy's sworn Statement of Last Supply under the CLA;
- (b) erring in law and in principle by concluding that the Secured Guarantee is not void as a fraudulent conveyance under the FCA for the same reasons set out immediately above; and
- (c) erring in law and in principle by ordering the Monitor to pay costs to Speedy in the amount of \$25,000 in the context of a court ordered claims process, in circumstances where the Motions Judge expressly found that it was both "reasonable and appropriate" for the Monitor to bring the dispute before the Court.

44. The proposed appeal will not unduly hinder the progress of the underlying “liquidating CCAA” proceedings. There is no ongoing operating business. The proceedings involve only the orderly disposition of various real estate assets, much of which has been completed to date. Accordingly, these proceedings primarily involve resolving a handful of disputed claims (of which Speedy is one) so as to be able to distribute the remaining money in the estate to its proven creditors.

45. Moreover, there are 14 other similar proceedings in the related Urbancorp Cumberland 2LP CCAA proceedings which will be affected by the determination herein, namely:

- (a) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al v. FirstService Residential Property Services Ontario Ltd. (Court File No. CV-18-596827-00CL);*
- (b) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al v. Barry Kerbel (Court File No. CV-18-596828-00CL);*
- (c) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al. v. MF Mechanical Ltd. et al. (Court File No. CV-18-596830-00CL);*
- (d) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al v. Elite Stone Design Corp. et al. (Court File No. CV-18-596832-00CL);*

- (e) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al v. Lido Construction Inc. et al.* (Court File No. CV-18-596834-00CL);
- (f) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al v. Triumph Roofing and Sheet Metal Inc. et al.* (Court File No. CV-18-596936-00CL);
- (g) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al v. Pacific Hardwood Limited* (Court File No. CV-18-596837-00CL);
- (h) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al v. CLM General Enterprise Ltd. et al.* (court File No. CV-18-596838-00CL);
- (i) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al v. Furkin Construction Inc.* (Court File No. CV-18-596840-00CL);
- (j) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al v. M5V Realty Inc. et al.* (Court File No. CV-18-596842-00CL);
- (k) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al v. Olena Shcherbakova* (Court File No. CV-18-596844-00CL);

- (l) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al v. Trang Tan* (Court File No. CV-18-596845-00CL);
 - (m) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al .v. Wayne Cameron Murdock* (Court File No. CV-18-596846-00CL); and
 - (n) *The Fuller Landau Group Inc. in its capacity as Court-Appointed Monitor of Urbancorp Cumberland 2 GP Inc. et al v. 994697 Ontario Inc. et al.* (Court File No. CV-18-596847-00CL).
46. Rules 37, 61.03.1 and 61.16 of the *Rules of Civil Procedure*.
47. Sections 11, 13 and 14 of the CCAA.
48. Such further and other grounds as the lawyers may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The materials that were before Mr. Justice Myers on the Motion below;
2. The Endorsement and Order of Mr. Justice Myers dated May 11, 2018;
and
3. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

June 1, 2018

DAVIES WARD PHILLIPS & VINEBERG LLP
155 Wellington Street West
Toronto ON M5V 3J7

Robin B. Schwill (LSO #384521)
Tel: 416.863.5502
Email: rschwill@dwpv.com

Matthew Milne-Smith (LSO #44266P)
Tel: 416.863.0900
Email: mmilne-smith@dwpv.com

Chantelle Spagnola (LSO #60620Q)
Tel: 416.367.7552
Email: cspagnola@dwpv.com

Lawyers for KSV Kofman Inc., in its Capacity
as Monitor

TO: ATTACHED SERVICE LIST

**URBANCORP TORONTO MANAGEMENT INC. ET AL.
SERVICE LIST
(Updated March 8, 2018)**

TO: DLA PIPER (CANADA) LLP
Suite 6000, Box 367
1 First Canadian Place
Toronto, ON M5X 1E2

Edmond F.B. Lamek / Danny M. Nunes
Tel: 416.365.3444 / 416.365.3421
Email: edmond.lamek@dlapiper.com/danny.nunes@dlapiper.com

Lawyers for the Urbancorp CCAA Entities

AND TO: KSV KOFMAN INC.
150 King Street West, Suite 2308
Toronto, ON M5H 1J9

Bobby Kofman / Noah Goldstein / Robert Harlang
Tel: 416-932-6228 / 416-932-6027 / 416-932-6225
Email: bkofman@ksvadvisory.com / ngoldstein@ksvadvisory.com /
rharlang@ksvadvisory.com

The Monitor

AND TO: DAVIES WARD PHILLIPS & VINEBERG LLP
155 Wellington Street West
Toronto, ON M5V 3J7

Robin B. Schwill / Jay Swartz
Tel: 416-863-5502 / 416-863-5520
Email: rschwill@dwpv.com / jswartz@dwpv.com

Lawyers for KSV Kofman Inc., in its capacity as Monitor

AND TO: BENNETT JONES LLP
3400 One First Canadian Place
Toronto, ON M5X 1A4

S. Richard Orzy / Raj S. Sahni
Tel: 416-777-5737 / 416-777-4804
Email: Orzyr@bennettjones.com / SahniR@bennettjones.com

Lawyers for Urbancorp Inc. and Alan Saskin

AND TO: DENTONS CANADA LLP
400-77 King Street West, TD Centre
Toronto, ON M5K 0A1
Neil Rabinovitch / Kenneth Kraft
Tel: 416-863-4656 / 416-863-4374
Email: neil.rabinovitch@dentons.com / kenneth.kraft@dentons.com
**Lawyers for Adv. Gus Gissin, in his capacity as the Court-appointed Israeli
Functionary of Urbancorp Inc.**

AND TO: GOODMANS LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7
Brian Empey
Tel: 416-597-4194
Email: bempey@goodmans.ca
Lawyers for Parc Downsview Park Inc.

AND TO: TORYS LLP
79 Wellington Street West, 30th Floor
Box 270, TD South Tower
Toronto, ON M5K 1N2
Scott A. Bomhof
Tel: 416-865-7370
Email: sbomhof@torys.com
Lawyers for First Capital Realty

AND TO: BLAKE, CASSELS & GRAYDON LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, ON M5L 1A9
Silvana M. D'Alimonte
Tel: 416-863-3860
Email: smda@blakes.com
Lawyers for Laurentian Bank of Canada

AND TO: CASSELS BROCK & BLACKWELL LLP

Suite 2100, Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2

Jane Dietrich / Natalie E. Levine

Tel: 416-860-5223 / 416-860-6568

Email: jdietrich@casselsbrock.com / nlevine@casselsbrock.com

Lawyers for Mattamy Homes Limited

AND TO: ROBINS APPLEBY LLP

120 Adelaide Street West, Suite 2600
Toronto, ON M5H 1T1

Leor Margulies / Dominique Michaud

Tel: 416-360-3372 / 416-360-3795

Email: lmargulies@robapp.com / dmichaud@robapp.com

Co-Counsel for Terra Firma Capital Corporation

AND TO: THORNTON GROUT FINNIGAN LLP

3200 – 100 Wellington Street West
TD Centre, Box 329
Toronto, ON M5K 1K7

John T. Porter

Tel: 416-304-0778

Email: jporter@tgf.ca

Co-Counsel for Terra Firma Capital Corporation

AND TO: TEPLITSKY, COLSON LLP

70 Bond Street, Suite 200
Toronto, ON M5B 1X3

James M. Wortzman / John Paul Ventrella / Catherine E. Allen

Tel: 416-865-5315 / 416-865-5327 / 416-865-5326

Email: jwortzman@teplitskycolson.com / jventrella@teplitskycolson.com /
callen@teplitskycolson.com

Lawyers for Atrium Mortgage Investment Corporation

AND TO: FRIEDMAN LAW PROFESSIONAL CORPORATION

150 Ferrand Drive, Suite 802
Toronto, ON M3C 3E5

Judy Hamilton

Tel: (416) 496-3340 ext. 136

Email: jh@friedmans.ca

Lawyers for Felice Raso

AND TO: AIRD & BERLIS LLP
Brookfield Place, 181 Bay Street
Suite 1800, Box 754
Toronto, ON M5J 2T

D. Robb English
Tel: 416-865-4748
Email: renglish@airdberlis.com

Lawyers for The Toronto-Dominion Bank

AND TO: BANK OF MONTREAL
First Canadian Place,
18th Floor, Toronto, ON M5X 1A1

Halim Chaccour
Tel: 416-867-4932
Email: halim.chaccour@bmo.com

AND TO: CHAITONS LLP
5000 Yonge Street,
10th Floor, Toronto, ON M2N 7E9

Harvey Chaiton
Tel: 416-218-1129
Email: harvey@chaitons.com

Lawyers for Bank of Montreal

AND TO: GOWLING WLG
1 First Canadian Place
100 King Street West, Suite 1600,
Toronto, ON M5X 1G5

Lilly A. Wong / Clifton P. Prophet / Frank Lamie
Tel: 416-369-4630 / 416-862-3509 / 416.962.2609
Email: lilly.wong@gowlingwlg.com / clifton.prophet@gowlingwlg.com /
frank.lamie@gowlingwlg.com

Lawyers for Canadian Imperial Bank of Commerce

AND TO: MCCARTHY TÉTRAULT LLP

Suite 5300
TD Bank Tower
Box 48, 66 Wellington Street West
Toronto ON M5K 1E6

Heather Meredith

Tel: 416-601-8342
Email: hmeredith@mccarthy.ca

Lawyer for the syndicate of lenders represented by The Bank of Nova Scotia, as Administrative Agent

AND TO: THE BANK OF NOVA SCOTIA

5075 Yonge Street,
Toronto, ON M2N 6C6

Mario Cacciola

Tel: 416-590-7994
Email: mario.cacciola@scotiabank.com

AND TO: WESTMOUNT GUARANTEE SERVICES INC.

600 Cochrane Drive, Suite 205
Markham, ON L3R 5K3

Jim Emanoilidis

Tel: 647-499-8249
Email: jim@westmountguarantee.com

AND TO: KAREG LEASING INC.

31 Davisville Avenue
Toronto, ON M4S 1G3

Dino Chiesa

Tel: 416-520-3119
Email: dinochiesa@resreit.ca

AND TO: MINISTRY OF FINANCE

77 Bay Street, 11th Floor
Toronto, ON M5G 2C8

Kevin O'Hara

Tel: 416-327-8463
Email: Kevin.Ohara@ontario.ca

AND TO: TORYS LLP
79 Wellington Street West, 30th Floor
Box 270, TD South Tower
Toronto, ON M5K 1N2
Adam M. Slavens
Tel: 416-865-7333
Email: aslavens@torys.com
Lawyers for Tarion Warranty Corporation

AND TO: CHAITONS LLP
5000 Yonge Street,
10th Floor, Toronto, ON M2N 7E9
Barry Rotenberg
Tel: 416-218-1133
Email: BRotenberg@chaitons.com

AND TO: HENDRICK AND MAIN DEVELOPMENTS INC.
109 Atlantic Ave, Suite 302B
Toronto, ON M6K 1X4
Rick Iafelice / Gemma Fox
Tel: 416-530-2438
Email: rick@mainandmain.ca / gemma@mainandmain.ca

AND TO: FASKEN MARTINEAU DUMOULIN LLP
333 Bay Street, Suite 2400
Toronto, ON M5H 2T6
Aubrey E. Kauffman
Tel: 416-868-3538
Email: akauffman@fasken.com
Lawyers for Travelers Guarantee Company of Canada

AND TO: FOGLER, RUBINOFF LLP
77 King Street West
TD Centre North Tower
Suite 3000, P.O. Box 95
Toronto, ON M5K 1G8
Vern W. DaRe
Tel: 416-941-8842
Email: vdare@foglers.com
Lawyers for Adrian Serpa and Stefano Serpa

AND TO: CITY OF TORONTO
Litigation Section, Legal Services Division
26th Floor, Metro Hall, Stn. 1260, 55 John Street
Toronto, ON M5V3C6

Christopher J. Henderson
Tel: 416-397-7106
Email: chender3@toronto.ca
Counsel for the City of Toronto

Lawyers for the City of Toronto

AND TO: FARBER FINANCIAL GROUP
150 York Street, Suite 1600
Toronto, ON M5H 3S5

Hylton Levy / Rob Stelzer
Tel: 416-496-3070 / 416-496-3500
Email: hlevy@farberfinancial.com / rstelzer@farberfinancial.com

**Financial Advisors for the Court-appointed Israeli Functionary of
Urbancorp Inc.**

AND TO: DICKINSON WRIGHT LLP
199 Bay Street, Suite 2200
Commerce Court
Toronto, ON M5L 1G4

Lisa S. Corne / David P. Preger
Tel: 416-646-4608 / 416-646-4606
Email: lcorne@dickinsonwright.com / dpreger@dickinsonwright.com

Lawyers for certain purchasers of pre-construction units

AND TO: SALVATORE MANNELLA PROFESSIONAL CORPORATION
3700 Steeles Ave W. Suite 600
Woodbridge, Ontario L4L 8K8

Salvatore Mannella
Tel: 905.856.0773 ext.273
Email: mannela@westonlaw.ca

Lawyers for Pro-Green Demolition Ltd.

AND TO: TORKIN MANES LLP
151 Yonge Street, Suite 1500,
Toronto ON M5C 2W7

Kayla Kwinter
Tel: 416 777 5420
Email: kkwinter@torkinmanes.com

Lawyers for MDF Mechanical Ltd.

AND TO: ALVAREZ & MARSAL CANADA INC.
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22, Toronto, ON M5J 2J1

Tony Zaspalis / Amanda Favot
Tel: (416) 847-5171 / (416) 847-5163
Email: tzaspalis@alvarezandmarsal.com / afavot@alvarezandmarsal.com

Receiver of Urbancorp (Leslieville) Developments Inc., Urbancorp (The Beach) Developments Inc., and Urbancorp (Riverdale) Developments Inc.

AND TO: BLAKE, CASSELS & GRAYDON LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, ON M5L 1A9

Pamela L.J. Huff / Milly Chow / Kelly Peters
Tel: 416-863-2958 / 416-863-2594 / 416-863-4271
Email: pamela.huff@blakes.com / milly.chow@blakes.com /
kelly.peters@blakes.com

Lawyers for the Receiver and Construction Lien Trustee, Alvarez & Marsal Canada Inc.

AND TO: CASSELS BROCK & BLACKWELL LLP
Suite 2100, Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2

Mark St. Cyr
Tel: (416) 869-5462
Email: mstcyr@casselsbrock.com

Lawyers for 1481614 Ontario Inc. formerly carrying on business as Coldwell Banker Case Realty

AND TO: GOLDMAN SLOAN NASH & HABER LLP
480 University Ave Suite 1600
Toronto, Ontario M5G 1V2

Mario Forte / Robert J. Drake
Tel: 416 597 6477 / 416-597-5014
Email: forte@gsnh.com / drake@gsnh.com

Lawyers for Fuller Landau LLP, Proposal Trustee to Alan Saskin

AND TO: FULLER LANDAU LLP
151 Bloor Street West
Toronto, ON M5S 1S4

Gary Abrahamson / Adam Erlich / Ken Pearl
Tel: 416-645-6524 / 416-645-6560 / 416-645-6519
Email: GAbrahamson@FullerLLP.com / AErlich@FullerLLP.com /
KPearl@FullerLLP.com

Proposal Trustee to Alan Saskin

AND TO: DELZOTTO ZORZI, LLP
4810 Dufferin Street, Suite D
Toronto, ON M3H 5S8

Robert W. Calderwood / Sabrina Adamski
Tel.: 416-665-5555
E-mail: rcalderwood@dzlaw.com / sadamski@dzlaw.com

Lawyers for Furkin Construction Inc. and GMF Consulting Inc.

AND TO: FINE & DEO
Barristers & Solicitors
Suite 300, 3100 Steeles Avenue West
Vaughan, ON L4K 3R1

Jonathan H. Fine / Maria Dimakas
Tel: 905-760-1800, Ext. 226 / 905-760-1800, Ext. 247
Email: jfine@finedeo.com / mdimakas@finedeo.com

**Lawyers for Toronto Standard Condominium Corporation No. 2302,
Toronto Standard Condominium Corporation No. 2348 and Toronto
Standard Condominium Corporation No. 2448**

AND TO: LEVINE SHERKIN BOUSSIDAN

Barristers & Solicitors
23 Lesmill Road, Suite 300
Toronto, ON M3B 3P6

Kevin Sherkin/Jeremy Sacks

Tel: (416) 224-2400

Email: Kevin@LSBLAW.com / jeremy@lsblaw.com

Lawyers for Speedy Electrical Contractors Ltd.

URBANCORP TORONTO MANAGEMENT INC. ET AL.
SERVICE LIST – EMAIL ADDRESSES
(Updated March 8, 2018)

edmond.lamek@dlapiper.com; danny.nunes@dlapiper.com; bkofman@ksvadvisory.com;
ngoldstein@ksvadvisory.com; rharlang@ksvadvisory.com; rschwill@dwpv.com;
jswartz@dwpv.com; Orzyr@bennettjones.com; SahniR@bennettjones.com;
neil.rabinovitch@dentons.com; kenneth.kraft@dentons.com; bempey@goodmans.ca;
sbomhof@torys.com; smda@blakes.com; jdietrich@casselsbrock.com;
nlevine@casselsbrock.com; lmargulies@robapp.com; dmichaud@robapp.com; jporter@tgf.ca;
jwartzman@teplitskycolson.com; jventrella@teplitskycolson.com; callen@teplitskycolson.com;
jh@friedmans.ca; renglish@airdberlis.com; halim.chaccour@bmo.com; harvey@chaitons.com;
lilly.wong@gowlingwlg.com; clifton.prophet@gowlingwlg.com; frank.lamie@gowlingwlg.com;
hmeredith@mccarthy.ca; mario.cacciola@scotiabank.com; jim@westmountguarantee.com;
dinochiesa@resreit.ca; Kevin.Ohara@ontario.ca; aslavens@torys.com;
BRotenberg@chaitons.com; rick@mainandmain.ca; gemma@mainandmain.ca;
akauffman@fasken.com; vdare@foglers.com; chender3@toronto.ca;
hlevy@farberfinancial.com; rstelzer@farberfinancial.com; lcorne@dickinsonwright.com;
dpreger@dickinsonwright.com; mannella@westonlaw.ca; kkwinter@torkinmanes.com;
tzaspalis@alvarezandmarsal.com; afavot@alvarezandmarsal.com; pamela.huff@blakes.com;
milly.chow@blakes.com; kelly.peters@blakes.com; mstcyr@casselsbrock.com;
forte@gsnh.com; drake@gsnh.com; GAbrahamson@FullerLLP.com; AErlich@FullerLLP.com;
KPearl@FullerLLP.com; rcalderswood@dzlaw.com; sadamski@dzlaw.com; jfine@finedeo.com;
mdimakas@finedeo.com; Kevin@LSBLAW.com; jeremy@lsblaw.com

IN THE MATTER OF the Companies' *Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended
AND IN THE MATTER OF a plan of compromise or arrangement of Urbancorp Toronto Management Inc., et al.

Court of Appeal File No.
Court File No. CV-16-11389-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION FOR LEAVE TO APPEAL

DAVIES WARD PHILLIPS & VINEBERG LLP
155 Wellington Street West
Toronto ON M5V 3J7

Robin B. Schwill (LSO #38452I)
Tel: 416.863.5502
Email: rschwill@dwpv.com

Matthew Milne-Smith (LSO #44266P)
Tel: 416.863.0900
Email: mmilne-smith@dwpv.com

Chantelle Spagnola (LSO #60620Q)
Tel: 416.367.7552
Email: cspagnola@dwpv.com

Lawyers for KSV Kofman Inc., in its Capacity as
Monitor