

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

**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 ONE BLOOR WEST TORONTO
GROUP (THE ONE) INC. AND ONE BLOOR WEST
TORONTO COMMERCIAL (THE ONE) GP INC.**

**FACTUM
(Stay Extension and Ancillary Relief)
Returnable August 8, 2025**

August 6, 2025

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PART I. INTRODUCTION

1. This factum is filed by Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as Court-appointed monitor (in such capacity, the “**Monitor**”) of One Bloor West Toronto Commercial (The One) LP (the “**Beneficial Owner**”), One Bloor West Toronto Group (The One) Inc. (the “**Nominee**”) and One Bloor West Toronto Commercial (The One) GP Inc. (together with the Nominee, the “**Applicants**”, and together with the Nominee and the Beneficial Owner, the “**Companies**”), in support of a motion by the Applicants for an order (the “**Stay Extension Order**”), among other things: (a) extending the Stay Period (as defined below) to and including February 12, 2026; and (b) in light of the full and final settlement of the Cult Lien (as defined below), ordering and directing the Accountant of the Ontario Superior Court of Justice to pay out the Cult Lien Security (as defined below) to the Nominee, and ordering that the Cult Lien Security shall no longer form part of the Lien Security (as defined in the Lien Regularization Order).¹

2. The relief sought pursuant to the proposed Stay Extension Order is required to provide the Companies with the stability necessary to continue the construction and development of the Project (as defined below), and to facilitate the return to the Companies of amounts that were posted with the Ontario Superior Court of Justice in connection with a lien claim that has now been fully resolved so that those amounts may be used towards the ongoing construction of the Project.

3. For the reasons set out herein and in the First Report, the Monitor respectfully requests that the Court grant the relief sought pursuant to the proposed Stay Extension Order.

¹ All capitalized terms used herein and not otherwise defined have the meaning ascribed to them in the Initial Order of this Court dated April 22, 2025 (the “**Initial Order**”) or the First Report of the Monitor dated July 30, 2025.

PART II. FACTS

A. Background

4. The Companies are entities established for the purpose of developing an 85-storey condominium, hotel and retail tower located at the southwest corner of Yonge Street and Bloor Street West in Toronto, Ontario (the “**Project**”).

5. On October 18, 2023, pursuant to the Order (Appointing Receiver) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), A&M was appointed as receiver and manager (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of the Companies, acquired for, or used in relation to, a business carried on by the Companies, including, without limitation, in connection with the Project and the Project itself (collectively, the “**Property**”). The principal purpose of the receivership proceedings (the “**Receivership Proceedings**”) was to bring stability and appropriate oversight to the Project, while preserving and protecting the Property for the benefit of stakeholders.²

6. In June 2024, the Court in the Receivership Proceedings approved a sale and investment solicitation process in respect of the Project, which culminated in a transaction with Tridel Builders Inc. and certain of its affiliates (collectively, “**Tridel**”) pursuant to which Tridel would be engaged as the project manager, construction manager and sales manager to complete the construction, development and realization of value from the Project (the “**Transaction**”), subject to Court approval of the Transaction and the transition of the Receivership Proceedings to proceedings commenced under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**” and the proceedings commenced thereunder being the “**CCAA Proceedings**”).³

² First Report at para 1.2 [[A964:A964](#)].

³ First Report at para 1.3 [[A965:A965](#)].

7. On April 22, 2025, at the joint hearing of an application brought by the Receiver on behalf of the Companies under the CCAA and a motion brought by the Receiver in the Receivership Proceedings, the Court granted three orders:

- (a) the Initial Order, among other things: (i) granting the Companies protection under the CCAA; (ii) appointing A&M as Monitor of the Companies; (iii) authorizing the Companies to enter into and borrow up to \$615 million under the DIP Credit Agreement; (iv) appointing FAAN Advisors Group Inc. as Chief Restructuring Officer of the Companies (in such capacity, the “**CRO**”); and (v) granting a stay of proceedings up to and including August 15, 2025 (the “**Stay Period**”);
- (b) an order, among other things, approving the Transaction; and
- (c) an order, among other things, discharging A&M as Receiver, provided that A&M shall remain Receiver for the performance of such incidental matters as may be required to complete the administration of the Receivership Proceedings.⁴

B. Extension of the Stay Period

8. The Stay Period under the Initial Order expires on August 15, 2025.⁵ The Monitor, on behalf of the Companies, is requesting an extension of the Stay Period to and including February 12, 2026.⁶ The approximately six-month extension of the Stay Period is necessary to maintain continued stability while the Companies, through the CRO and with the assistance of the Monitor and Tridel, continue to advance the construction of the Project and various other matters in

⁴ First Report at para 1.4 [[A965:A965](#)].

⁵ First Report at para 7.1 [[A983:A983](#)].

⁶ Draft Stay Extension Order at para 2 [[A1129:A1129](#)].

connection with the development of the Project, including, without limitation, the completion of the ongoing hotel operator selection process (the “**Hotel Process**”) and the development and finalization of the plan in respect of the treatment of condominium units in the Project (the “**CSA Plan**”).⁷

C. Release of the Cult Lien Security

9. In December 2023, Cult Iron Works Limited (“**Cult**”) registered a lien claim on title to the Project in the amount of \$444,669.05 (the “**Cult Lien**”). To vacate the Cult Lien from title, the Receiver deposited security in the form of certified funds with the Accountant of the Ontario Superior Court of Justice in the total amount of \$494,669.05 (being the amount of the Cult Lien, plus the sum of \$50,000.00 as security for costs) (the “**Cult Lien Security**”).⁸ Cult was subsequently deemed to have provided a Lien Notice under the Lien Regularization Order, which was continued in full force and effect in the CCAA Proceedings pursuant to the Initial Order.⁹

10. On July 28, 2025, a settlement agreement was entered into among Cult, the Companies and the Monitor that fully and finally settled the Cult Lien and all Cult claims (the “**Settlement**”).¹⁰

11. As a result of the Settlement, the Monitor, on behalf of the Companies, seeks the release of the Cult Lien Security, which, at present, forms part of the Lien Security.¹¹ The proposed Stay Extension Order provides that the Accountant of the Ontario Superior Court of Justice shall be ordered and directed to pay out the Cult Lien Security to the Nominee, and that the Cult Lien

⁷ First Report at para 7.2(i) [[A983:A983](#)].

⁸ First Report at para 4.22 [[A978:A978](#)].

⁹ See Initial Order at para 49 [[A1016:A1016](#)].

¹⁰ First Report at para 4.24 [[A979:A979](#)].

¹¹ See [Lien Regularization Order](#) at paras 2(i) and 8.

Security shall no longer form part of the Lien Security such that it is paid out of court and available for use by the Companies in accordance with their cash-flow forecast.¹²

PART III. ISSUES AND THE LAW

12. The issues to be considered on this motion are:

- (a) whether extending the Stay Period to and including February 12, 2026, is appropriate; and
- (b) whether the Court should order the release of the Cult Lien Security to the Companies.

13. The Monitor, on behalf of the Companies, respectfully submits that the Court should grant the foregoing relief pursuant to the proposed Stay Extension Order.

A. The Stay Period Should be Extended

14. The current Stay Period expires on August 15, 2025. Pursuant to subsection 11.02(3) of the CCAA, the Court may grant an extension of a stay of proceedings where: (a) circumstances exist that make the order appropriate; and (b) the debtor company satisfies the Court that it has acted, and is acting, in good faith and with due diligence.¹³

¹² Draft Stay Extension Order at paras 3–4 [[A1129;A1129](#)].

¹³ [Companies' Creditors Arrangement Act](#), R.S.C. 1985, c. C-36, s [11.02\(3\)](#).

15. The proposed extension of the Stay Period to and including February 12, 2026, is appropriate in the circumstances because:

- (a) the extension of the Stay Period is required to provide the stability necessary to ensure the continuing construction of the Project for the benefit of stakeholders, and for the Companies, through the CRO and with the assistance of the Monitor and Tridel, to advance various other matters in connection with the development of the Project, including, without limitation, the completion of the Hotel Process and the development and finalization of the CSA Plan;¹⁴
- (b) as detailed in the Updated Cash Flow Forecast, the amount available under the DIP Facility is projected to provide the Companies with sufficient liquidity to fund the ongoing construction and development of the Project and these CCAA Proceedings through to the end of the proposed extended Stay Period;¹⁵
- (c) the Companies, under the oversight of the CRO and the Monitor, have acted and continue to act in good faith and with due diligence to advance these CCAA Proceedings;¹⁶
- (d) creditors will not suffer any material prejudice if the Stay Period is extended; rather, the extension of Stay Period will allow for the continuing construction of the Project for the benefit of the Companies' creditors and other stakeholders; and

¹⁴ First Report at para 7.2(i) [[A983:A983](#)].

¹⁵ First Report at paras 6.1 and 7.2(ii) [[A982:A982](#) and [A984:A984](#)].

¹⁶ First Report at para 7.2(iii) [[A984:A984](#)].

- (e) the CRO, the Monitor and the Senior Secured Lenders are supportive of the request to extend the Stay Period to and including February 12, 2026.

16. In light of the foregoing, the Monitor, on behalf of the Companies, respectfully submits that the proposed extension of the Stay Period is necessary and appropriate in the circumstances.

B. The Cult Lien Security Should be Released

17. As a result of the full and final settlement of the Cult Lien, the Monitor, on behalf of the Companies, is seeking the release of the Cult Lien Security, as well as authorization for the underlying amounts to be used by the Companies in accordance with the cash flow forecast.

18. The Cult Lien was registered on title to the Project during the Receivership Proceedings prior to the approval of the Lien Regularization Order. To ensure that funding of construction of the Project continued uninterrupted, the Receiver deposited the Cult Lien Security with the Ontario Superior Court of Justice on a one-off basis to vacate the Cult Lien from title to the Project.

19. The Receiver subsequently sought, and the Court granted, the Lien Regularization Order to facilitate Lien Claims (as defined in the Lien Regularization Order) being addressed and resolved in an efficient and fair manner and to ensure that construction and financing of the Project could continue uninterrupted.¹⁷ The Lien Regularization Order obviates the need for posting security with the court for Lien Claims, as it provides that all Lien Claimants will instead benefit from the Lien Charge, being a Court-ordered charge principally against all holdback amounts and the Project to the same extent as provided for under the *Construction Act* (Ontario) as it existed immediately prior to July 1, 2018 (the “**Construction Act**”).¹⁸

¹⁷ See Joint Eighth Report of the Receiver and Pre-Filing Report of A&M as Proposed Monitor dated April 3, 2025, at para 7.16(i) [[A1069;A1069](#)].

¹⁸ See [Lien Regularization Order](#) at para 12.

20. Under the terms of the Lien Regularization Order, Cult was deemed to have filed a Lien Notice and the Cult Lien Security was deemed to form part of the Lien Security. Paragraph 8 of the Lien Regularization Order provides that all Lien Claimants shall have the right to share in any Lien Security posted for any Vacated Lien, in accordance with the Construction Act.¹⁹

21. The Construction Act provides that the security posted for a lien claim is to be pooled and available to other lien claimants.²⁰ However, the Construction Act also contemplates that the Court may, on notice to such persons as it may require, direct the reduction and release of security where it is appropriate to do so:²¹

44(5) Where an amount has been paid into court or security has been posted with the court under this section, the court, upon notice to such persons as it may require, **may order where it is appropriate to do so,**

- (a) the reduction of the amount paid into court, and the payment of any part of the amount paid into court to the person entitled; or
- (b) **the reduction of the amount of security posted with the court, and the delivery up of the security posted with the court for cancellation** or substitution, as the case may be. [Emphasis added]

22. The Ontario Superior Court of Justice has held that where a party no longer has a lien claim as a result of a settlement, the security deposited/posted for that party's lien may be returned for cancellation where the rights to security of any remaining lien claimants have been protected to the extent contemplated by the Construction Act.²² All remaining Lien Claimants have appropriate security by virtue of the Lien Charge. Accordingly, in the circumstances, it is appropriate for the

¹⁹ See [Lien Regularization Order](#) at para 8.

²⁰ See [Construction Lien Act, RSO 1990, c C.30](#) at s [44\(9\)2](#). [Construction Act]. The provisions of the Construction Act as they read on June 30, 2018, apply to the Project, as various contracts for the improvement of the Project were entered into before July 1, 2018.

²¹ Construction Act at s [44\(5\)](#).

²² See e.g., *Morley v Vann* (2007), [63 CLR \(3d\) 191](#) (Ont SCJ) at paras [18–21](#), [30](#).

Cult Lien Security to be returned to the Companies rather than maintained as a form of enhanced security for the remaining Lien Claimants.

23. The Monitor, on behalf of the Companies, respectfully submits that it is appropriate for this Court to release the Cult Lien Security to the Companies for the following reasons:

- (a) the Cult Lien and all Cult claims have been fully and finally resolved. The Cult Lien Security was specifically posted to address the filing of the Cult Lien prior to the granting of the Lien Regularization Order, and would not have been posted had the Cult Lien been asserted following the granting of the Lien Regularization Order;
- (b) Cult has consented to the Cult Lien Security being released to the Companies and has agreed that it will make such filings with the Ontario Superior Court of Justice as are necessary to discontinue the action that was commenced by Cult under Court File No. CV-24-00712684-0000 to perfect the Cult Lien;²³
- (c) all Lien Claimants have been provided notice of this motion;²⁴
- (d) all remaining Lien Claimants will continue to benefit from the remaining security underpinning the Lien Charge in accordance with the terms of the Lien Regularization Order; and

²³ Settlement Agreement dated July 28, 2025, at ss 4–5 [[A1118;A1118](#)]. The settlement payment to Cult under the Settlement Agreement was made on August 5, 2025.

²⁴ Counsel for the Lien Claimants are on the service list in these CCAA Proceedings and were served with this motion. See Certificate of Service of Jennifer Linde dated July 30, 2025.

- (e) releasing the amounts underlying the Cult Lien Security to the Companies will allow them to use such amounts towards the ongoing construction and development of the Project for the benefit of stakeholders.

PART IV. CONCLUSION

24. For the reasons set out herein and in the First Report, the Monitor, on behalf of the Companies, respectfully requests that this Court grant the proposed Stay Extension Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 6th day of August, 2025.

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SCHEDULE A
LIST OF AUTHORITIES

1. *Morley v Vann* (2007), [63 CLR \(3d\) 191](#) (Ont SCJ)

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

Date: August 6, 2025



Signature

SCHEDULE B STATUTORY REFERENCES

Companies' Creditors Arrangement Act, RSC 1985, c C-36

Stays, etc. — other than initial application

(2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

(3) The court shall not make the order unless

(a) the applicant satisfies the court that circumstances exist that make the order appropriate; and

(b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

Construction Lien Act, R.S.O. 1990, c. C.30

44(5) Where an amount has been paid into court or security has been posted with the court under this section, the court, upon notice to such persons as it may require, may order where it is appropriate to do so,

(a) the reduction of the amount paid into court, and the payment of any part of the amount paid into court to the person entitled; or

(b) the reduction of the amount of security posted with the court, and the delivery up of the security posted with the court for cancellation or substitution, as the case may be.

...

44(9) Where an order is made under subsection (1), (2) or (3), the following rules apply:

1. The lien claimant whose lien was the subject of the order may proceed with an action to enforce the claim against the amount paid into court or security posted in accordance with

the procedures set out in Part VIII, but no certificate of action shall be registered against the premises.

2. The amount paid into court or security posted is subject to the claims of all persons having a lien to the same extent as if the amount paid into court or security posted was realized by the sale of the premises in an action to enforce the lien and shall be distributed among all lien claimants in accordance with the priorities provided for in section 80.

3. Where any amount is realized in a lien action by the sale of the premises or otherwise, it shall be pooled into a common fund with the amount paid into court or security posted under this section, and shall be distributed among all lien claimants in accordance with the priorities provided for in section 80.

4. A lien claimant whose lien is sheltered, in accordance with subsection 36 (4), under the lien that was the subject of the order may proceed with an action to enforce the sheltered lien as if the order had not been made.

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

Court File No. CV-25-00740512-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ONE
BLOOR WEST TORONTO GROUP (THE ONE) INC. AND ONE BLOOR WEST
TORONTO COMMERCIAL (THE ONE) GP INC.**

Applicants

**ONTARIO
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