

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
HUDSON'S BAY COMPANY ULC / COMPAGNIE DE LA BAIE D'HUDSON SRI,
HBC CANADA PARENT HOLDINGS INC., HBC CANADA PARENT HOLDINGS
2 INC., HBC BAY HOLDINGS I INC., HBC BAY HOLDINGS II ULC, THE BAY
HOLDINGS ULC, HBC CENTERPOINT GP INC., HBC YSS 1 LP INC., HBC YSS 2
LP INC., HBC HOLDINGS GP INC., SNOSPMIS LIMITED, 2472596 ONTARIO
INC., AND 2472598 ONTARIO INC.

Applicants

FACTUM OF OXFORD PROPERTIES GROUP

August 25, 2025

THORNTON GROUT FINNIGAN LLP

100 Wellington Street West
Suite 3200, TD West Tower
Toronto ON M5K 1K7

D.J. Miller (LSO# 34393P)

Email: djmiller@tgf.ca

Tel.: (416) 304-0559

Andrew Nesbitt (LSO# 905140)

Email: anesbitt@tgf.ca

Tel.: (416) 307-2413

Lawyers for Oxford Properties Group

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PART I - OVERVIEW

1. This factum is filed by Oxford Properties Group and related Oxford entities (“**Oxford**”) in opposition to the Applicants’ motion for an Order (the “**Assignment Order**”) compelling the assignment of HBC’s anchor tenant leases in three Oxford shopping centres (the “**Oxford Leases**”) to Ruby Liu Commercial Investment Corp. (“**PurchaserCo**”) pursuant to section 11.3(3) of the CCAA.¹ This factum is also filed on behalf of the other landlords who oppose the assignment of leases to PurchaserCo (the “**Opposing Landlords**”), each of whom have coordinated their individual factum and the issues addressed in each factum to avoid duplication. In addition to addressing the Oxford Leases, this factum will focus on issues common to all Opposing Landlords as to process, transparency, good faith, PurchaserCo’s conduct and lack of commercial credibility.

2. The Opposing Landlords, being the landlords of 24 of the 25 leased premises affected by the APA (defined below) oppose the Assignment Order. HBC bears the onus of establishing that the proposed assignment is appropriate in the circumstances.² HBC has not met its onus, and the relief sought should be denied.

3. PurchaserCo, through its principal Ruby Liu, has consistently demonstrated that she is not a suitable or credible counterparty to long-term anchor tenant leases with Oxford. Her conduct alone, in seeking to directly influence the outcome of this motion, should be sufficient

¹ Capitalized terms used herein and not otherwise defined have the meaning given to them in the Affidavit of Nadia Corrado sworn August 9, 2025 (the “**Main Corrado Affidavit**”) in the Motion Record of Oxford Properties Group dated August 9, 2025 (“**MR**”) at Tab 2.

² *Donnelly Holdings Ltd.*, 2024 BCSC 275 at [para 60](#) [Donnelly].

to deny her request for the Assignment Order. Condoning or rewarding such behaviour by imposing an assignment on Opposing Landlords is not consistent with the principle that justice must be seen to be done.

4. Any suggestion by HBC that the Assignment Order should be considered within the context of “benefits to creditors” or “broader stakeholder interests” is illusory. There is no going concern business to be saved, and PurchaserCo did not submit a bid for a going concern acquisition of any part of HBC’s business. To the contrary, PurchaserCo’s bid expressly required that all HBC employees be terminated, and they were.³ As confirmed by HBC on cross-examination,⁴ any future use of the space previously operated by HBC, whether in its existing form or re-demised for other tenant purposes, will provide opportunities for employment.

PART II - THE FACTS

A. The Oxford Leases

5. On May 23, 2025, HBC entered into the Asset Purchase Agreement among HBC ULC, as vendor, PurchaserCo as purchaser, and Weihong Liu as Guarantor (the “**APA**”) pursuant to the Lease Monetization Process (“**LMP**”) established at Schedule “A” to the Lease Monetization Order.⁵ The APA contemplates the assignment of 25 of HBC’s leases, including the Oxford Leases,⁶ to PurchaserCo conditional on, among other things: (i) landlord consent; or (ii) an Order of the Court (forced assignment). Certain key terms of the Oxford Leases are

³ APA, s. 5.8, Affidavit of Franco Perugini sworn July 29, 2025, Exhibit “B” [**Perugini Affidavit**] in the Motion Record of the Applicants dated July 29, 2025, Tab 2.

⁴ Cross-Examination of Franco Perugini dated August 14, 2025, pg 194 Q 751 [**Perugini Cross**], Brief of Transcripts (“**TB**”), Tab D.

⁵ Lease Monetization Order dated March 21, 2025 [**Lease Monetization Order**].

⁶ Located at Upper Canada Mall, Southcentre Mall and Hillcrest Mall.

discussed in the Main Corrado Affidavit and outlined in the chart attached at Exhibit “H” thereto.

(i) PurchaserCo has No Intention of Complying with the Oxford Leases

6. HBC and PurchaserCo are seeking to override fundamental contractual criteria for obtaining landlord consent to an assignment of HBC’s leasehold interests while at the same time making bald pronouncements that PurchaserCo “will comply with the leases”. PurchaserCo’s efforts to force itself into the 24 anchor tenant locations owned by the Opposing Landlords, and its conduct throughout, demonstrates that it has no intention of respecting the terms of the leases that it wants to have assigned to it.

7. Each of the Oxford Leases contains express limitations on HBC’s ability to assign or transfer its leasehold interests.⁷ PurchaserCo has not even attempted to comply with the criteria for obtaining Oxford’s consent to an assignment under the Oxford Leases,⁸ and invites the Court to ignore these terms in seeking the Assignment Order. If present actions are any predictor of future performance, PurchaserCo will not hesitate to breach the terms of the Oxford Leases and ignore the rights provided to Oxford therein.

8. The commercial significance of these consent provisions is fundamental because consent rights: (i) allow Oxford meaningful control over who occupies and operates in the

⁷ Hillcrest Lease dated May 30, 1973, ss. 6.01-6.06, 6.13-6.14 [**Hillcrest Lease**]; Southcentre Lease dated August 7, 1974, ss. 7.00, 7.02 [**Southcentre Lease**]; Southcentre Supplemental Lease dated November 1, 1981, s. 1; Southcentre Lease Amending Agreement dated July 28, 1998, s. 1; Upper Canada Lease dated December 5, 1996, ss. 7.00, 7.04 [**Upper Canada Lease**]; Upper Canada Lease Amendment dated November 11, 1999 [**1999 LOI**].

⁸ Main Corrado Affidavit, paras 32, 43, 52, MR Tab 2.

shopping centres that it owns and in which it has invested hundreds of millions of dollars;⁹ (ii) safeguard the commercial and operational integrity of the shopping centres;¹⁰ and (iii) serve as essential tools for managing risk.¹¹

9. The Oxford Leases all contain use clauses that require the tenant to operate as a department store, with various other restrictions.¹² Every use clause is the product of careful negotiation between landlord and tenant. Tenants bargain for the specific rights they require, and landlords rely on the resulting restrictions to structure a complementary merchandising mix throughout the rest of their shopping centre. Without the certainty these clauses provide, Oxford could not curate a balanced and coordinated tenant environment that attracts consumers, preserves the identity of the shopping centre, and supports overall sales.¹³

10. Any failure to uphold the use clauses in the Oxford Leases creates immediate and serious commercial risks, both for Oxford and for other tenants in its shopping centres. A tenant operating outside its permitted use disrupts the intended balance of the shopping centre, cannibalizes business from other tenants, and creates conflicts that ultimately drive tenants away. The result is declining foot traffic, reduced rent, reputational harm, and financial loss, all of which erode the value of Oxford's assets.¹⁴

11. Use clauses also ensure that changes in one tenant's operations do not trigger breaches of other tenants' exclusivity rights and other rights within the shopping centre.¹⁵ Use

⁹ Main Corrado Affidavit, para 42, MR Tab 2.

¹⁰ Main Corrado Affidavit, para 42, 55, MR Tab 2.

¹¹ Main Corrado Affidavit, para 55, MR Tab 2.

¹² Upper Canada Lease, s. 7.00, as amended by the 1999 LOI; Hillcrest Lease, s. 6.01; Southcentre Lease, s. 7.00.

¹³ Main Corrado Affidavit, para 60, MR Tab 2.

¹⁴ Main Corrado Affidavit, para 61, MR Tab 2.

¹⁵ Main Corrado Affidavit, para 62, MR Tab 2.

restrictions support Oxford's co-tenancy obligations, providing assurances to tenants with specialized products or services that the anchor tenant will neither compete directly with them nor create nuisances (such as noise, vibration, or odour) that would degrade their premises.¹⁶

12. The suggestion that, if PurchaserCo is permitted to proceed with the assignment, landlords will miraculously change their mind and agree to amendments to the leases,¹⁷ cannot form the basis of a forced assignment of the leases. Oxford and the Opposing Landlords do not support any such plans as articulated, or any amendments to the relevant leases. Approving the APA over the objections of the Opposing Landlords will simply sentence the parties to years of costly and protracted litigation.

13. Other tenants in Oxford's malls have invested in their businesses on the reasonable expectation that the anchor tenant would continue to operate as a conventional department store, consistent with the use clauses in the Oxford Leases. The changes publicly promoted by Ms. Liu on behalf of PurchaserCo contravene the use clauses in the Oxford Leases and threaten the performance and viability of other retailers in the mall.¹⁸

(ii) HBC Leases Affect More Than the Leased Premises

14. HBC is an anchor tenant pursuant to each of the Oxford Leases.¹⁹ Anchor tenants play a defining role in shaping the identity, positioning, and overall tenant mix of a shopping centre. Their operations directly affect foot traffic, co-tenancy obligations, and the performance of

¹⁶ Main Corrado Affidavit, paras 49, 64, MR Tab 2.

¹⁷ See, for example, the July 10, 2025 email from Ms. Liu to Justice Osborne at Exhibit "V" to the Main Corrado Affidavit, MR Tab 2. See also, July 15, 2025 video from the Canadian Press at Exhibit "T" to the Affidavit of Natalie Longmore sworn August 8, 2025 [**Longmore Affidavit**], MR Tab 4.

¹⁸ Main Corrado Affidavit at para 68, MR Tab 2.

¹⁹ Perugini Cross, pg 75 Q 253, TB Tab D.

surrounding retailers.²⁰ When an anchor tenant materially alters its business model or downgrades its operations, the negative effects are immediate and widespread.²¹ The introduction of an unproven anchor tenant with no established retail credibility carries significant risk: it degrades the customer experience, lowers the overall quality of the centre, and creates a negative “halo effect” that can undermine entire wings of the mall.²²

15. These risks are particularly acute at Hillcrest Mall, where the HBC premises is uniquely located in the middle of the property, directly facing Yonge Street, the region’s major commercial artery. This visibility magnifies both its importance to Hillcrest Mall and the consequences of any failure by PurchaserCo to strictly comply with the use provisions of the lease.²³

16. In addition to the use requirements imposed on HBC under the Oxford Leases and described above, leases between Oxford and other tenants at its three malls subject to the APA also contain their own exclusive use provisions and restrictive covenants. These provisions and restrictive covenants: (i) limit the types of businesses other tenants may operate within the malls, either at certain times or altogether; and (ii) restrict the sale of particular categories of goods or services.²⁴ These covenants are material to the operation and tenant mix of Oxford’s malls. In assessing prospective tenants, Oxford carefully considers whether their operations would conflict with these covenants.²⁵ Any failure by PurchaserCo to comply with the use clauses in the Oxford Leases disrupts the Mall’s entire eco-system and the foundation upon which other

²⁰ Main Corrado Affidavit, para 71, MR Tab 2.

²¹ Main Corrado Affidavit, para 72, MR Tab 2.

²² Main Corrado Affidavit, para 73, MR Tab 2.

²³ Main Corrado Affidavit, para 37 and Exhibit “J”, MR Tab 2.

²⁴ Main Corrado Affidavit, para 75 and Exhibit “L”, MR Tab 2.

²⁵ Main Corrado Affidavit, para 77, MR Tab 2.

tenants agreed to use clauses that apply to them. This threatens Oxford's broader efforts to preserve a balanced and complementary merchandising mix that enhances customer experience and supports tenant attraction and retention.

(iii) PurchaserCo has no Understanding of Leases Sought to be Assigned

17. PurchaserCo and its team have no real understanding as to the terms of the leases they are seeking to take an assignment of, or the current state of the leased premises.²⁶ Even when PurchaserCo acknowledged the need for capital expenditures and repairs, the \$8 million that Oxford was initially advised on June 2, 2025 would be spent at Southcentre Mall²⁷ became \$4.5 million by the time PurchaserCo served its Reply materials on August 12, 2025.²⁸ Neither amount is sufficient to address the actual immediate costs (presented to HBC and PurchaserCo on June 6, 2025)²⁹ of \$13.3 million or further costs of \$1.9 million over the next 24 months at that location alone.³⁰ Oxford's evidence of these costs went unchallenged on cross-examination. This example underscores both the magnitude of the investment required, and PurchaserCo's lack of understanding or preparedness to assume these obligations.

(iv) Damages Will Be Significant if the APA is Approved

18. Oxford's unchallenged evidence is that assigning the leases to PurchaserCo, an unqualified assignee with no retail experience, threatens to erode hundreds of millions of dollars

²⁶ Main Corrado Affidavit, paras 95, 97 and letter attached at Exhibit "S" as to the tenant's responsibility for the roof of the leased premises, MR Tab 2.

²⁷ Main Corrado Affidavit, para 95, MR Tab 2.

²⁸ Reply Affidavit of Weihong (Ruby) Liu sworn August 12, 2025, Exhibit "F", Reply Motion Record of Ruby Liu Investment Corp. dated August 12, 2025, Tab 1.

²⁹ Main Corrado Affidavit, paras 95, 97, MR Tab 2; Perugini Cross, pg 234 QQ 940-941, TB Tab D.

³⁰ Main Corrado Affidavit, Exhibit "R" and Exhibit "S", MR Tab 2.

in asset value in Oxford's retail portfolio.³¹ The assignment of any leases, and especially anchor tenant leases, to an unvetted and unproven party poses an unacceptable risk of material prejudice to Oxford, jeopardizing the stability, reputation, and performance of assets in which it has invested heavily.³²

19. Oxford's contractual remedies are insufficient to address the irreparable harm that would result from an assignment to an unqualified assignee, particularly where that assignee lacks the financial wherewithal to satisfy basic requirements for any lease arrangement. Oxford's current retail composition across its portfolio reflects decades of strategic planning, investment, and brand development. Oxford's ability to attract and retain the calibre of tenants that define its retail offerings is directly tied to these long-term investments.³³

(v) Allegations as to Oxford's Motives in Refusing Consent are Unfounded

20. Anchor tenant consent rights in Oxford Leases in respect of future redevelopment of the lands surrounding Oxford's shopping centres have no bearing on Oxford's opposition to the APA. The existence of these consent rights cannot be weaponized to ascribe bad faith on the part of landlords opposing an assignment on overwhelmingly strong, good faith, evidentiary grounds. This is especially the case for the Oxford Leases, where redevelopment plans are made decades in the future, do not impact the shopping centres themselves, and do not have any of the necessary approvals in place to go forward in any event. Oxford's prudent and ordinary steps as a landowner do not support unfounded allegations of opportunistic motives.

³¹ Main Corrado Affidavit, para 119, MR Tab 2.

³² Main Corrado Affidavit, para 119, MR Tab 2.

³³ Main Corrado Affidavit, para 117, MR Tab 2.

21. The Applicants' attempt to ascribe ulterior motives to Oxford relating to master plans for future redevelopment that would require HBC approval is unfounded and misinformed.³⁴ HBC's own evidence makes this clear. The reference to an application at Exhibit "D" to the Reply Affidavit of Franco Perugini includes the statement: "Hillcrest Mall will not be impacted by this development".³⁵ On cross-examination, Ms. Corrado confirmed that Oxford has master plans at many of their mall locations, which are routine, long-term planning documents prepared by private landowners, including landlords, and are typically done when municipalities update their official plans. Master plans are the equivalent for private landowners as an official plan for a municipality. They represent a 20 to 30-year land-use vision, not active projects.³⁶

22. Ms. Corrado also confirmed on cross-examination that there are no approvals in place to advance any redevelopment at Hillcrest Mall, nor has ownership approval within Oxford been contemplated or sought, which is an essential prerequisite before any steps can be taken towards future redevelopment.³⁷ Similarly, the master plan referenced by HBC in respect of any potential future redevelopment of Upper Canada Mall and presented to Ms. Corrado on her cross-examination, has a timeline stated on the document to be more than "30+ years".³⁸

23. HBC did not cross-examine Oxford's representative on: (i) its reasons for not submitting a bid in the LMP; or (ii) not issuing Notices of Default to HBC for its failure to comply with maintenance and repair obligations. Having not put those questions to Oxford, HBC now seeks

³⁴ Affidavit of Franco Perugini sworn August 12, 2025, paras 11-12 [**Perugini Reply Affidavit**], Reply Record of the Applicants dated August 12, 2025, Tab 1; Factum of the Applicants dated August 21, 2025 at paras 126-132 [**HBC Factum**].

³⁵ Perugini Reply Affidavit, Exhibit "D", Reply Record of the Applicants dated August 12, 2025, Tab 1.

³⁶ Cross-examination of Nadia Corrado dated August 18, 2025, pg 36 ll 1-15 [**Corrado Cross**], TB Tab M.

³⁷ Corrado Cross, pg 33 ll 23-25, pg 34 ll 1, TB Tab M.

³⁸ Perugini Reply Affidavit, Exhibit "E", page 12 of "Master Plan Concept" under "Timing", Reply Record of the Applicants dated August 12, 2025, Tab 1.

to improperly attribute an ulterior motive to those decisions, suggesting Oxford was taking a “gamble” that the Oxford Leases would be disclaimed and is now holding PurchaserCo to a higher standard in complying with the Oxford Lease obligations in furtherance of that goal. That Oxford continued to work with Canada’s oldest company, notwithstanding its failure to maintain the premises as required under the Oxford Leases, is the opposite of opportunistic behaviour. It is also not comparable to PurchaserCo’s fundamental failure to recognize the Oxford Lease obligations and its total lack of experience as a retailer. The obligation to repair and maintain the leased premises under the Oxford Leases was known to, and acknowledged by HBC,³⁹ and each of the Oxford Leases expressly provides that any failure by Oxford to enforce any default or non-performance does not constitute a waiver.⁴⁰

24. HBC’s allegations of “ulterior motives” are undermined by HBC’s failure to call out other parties who similarly did not submit any bid in the LMP. HBC apparently attributes no motive: (i) to its own “insiders” who, after publicly announcing that they would do so, declined to participate in the SISP or LMP or make any offer;⁴¹ or (ii) to Pathlight, who did not submit a credit bid or participate / support any other prospective bidder.⁴²

B. Landlords’ Refusal to Consent to Assignment is Reasonable

25. The Opposing Landlords’ refusal to consent to an assignment of HBC’s leasehold interests to PurchaserCo and their objections to the proposed Assignment Order is commercially reasonable, having regard to the material lack of consultation, information, and disclosure they

³⁹ Perugini Cross, pg 87, Q318, TB Tab D.

⁴⁰ Upper Canada Lease, s. 19.02; Southcentre Lease, s. 20.02; Hillcrest Lease, s. 24.03.

⁴¹ Fifth Report of the Monitor dated June 19, 2025, para 4.1(c)(iii).

⁴² Lease Monetization Order at para 6 of Schedule “A”; Third Report of the Monitor dated May 9, 2025, paras 5.6-5.7; Perugini Cross, pg 104, Q385, TB Tab D.

have faced. HBC's and Pathlight's attempt to impose a forced assignment on the Opposing Landlords is not.

26. The Lease Monetization Order was the product of extensive negotiations with the landlord group. The Opposing Landlords negotiated for and obtained express consultation rights in respect of their own leases.⁴³ The Opposing Landlords proceeded in the good faith expectation that HBC and its advisors, and the Monitor, would respect the terms of the Lease Monetization Order and engage with them on any bid relating to their leases. None of the Opposing Landlords participated as bidders in the LMP, eliminating any perceived conflict or impediment to consultation.⁴⁴ Those consultations did not occur.⁴⁵

27. Throughout this proceeding, Oxford and other Opposing Landlords have made reasonable and good faith requests for information at every stage of the process, in order to evaluate the appropriateness and ability of PurchaserCo to assume the leases.⁴⁶ The Applicants have shown a persistent disregard for requests for information, and there can be no serious suggestion that adequate information has been provided to the Opposing Landlords. Between May 22, 2025 and July 4, 2025, Oxford or its counsel made repeated requests for updates, information, and disclosure that went unanswered or unfulfilled.⁴⁷ On July 18, 2025, CF's

⁴³ LMP, s. 37, attached at Schedule "A" to the Lease Monetization Order.

⁴⁴ Perugini Affidavit, para 32, in the Motion Record of the Applicants dated July 29, 2025, Tab 2.

⁴⁵ Main Corrado Affidavit at paras 82 – 86, MR Tab 2; Affidavit of Rory MacLeod sworn August 9, 2025 at paras 45-46 [**MacLeod Affidavit**], Responding Motion Record of The Cadillac Fairview Corporation, Tab 1; Affidavit of Theresa Warnaar sworn August 9, 2025 at para 37 [**Warnaar Affidavit**], Responding Motion Record of KingSett, Tab 1; Affidavit of Jay Camacho sworn August 9, 2025, para 16, Responding Motion Record of QuadReal Property Group, Tab 1.

⁴⁶ See, for example, Main Corrado Affidavit, paras 15 – 18, Exhibits "E", "F", and "G", MR Tab 2.

⁴⁷ By way of example, requests for information were sent by Oxford on May 22 and 23, 2025 (Main Corrado Affidavit at paras 82, 86, Exhibits "M" and "P", MR Tab 2); May 28, 2025 (Main Corrado Affidavit, para 88 and Exhibit "E", MR Tab 2); May 29-30, 2025 (Main Corrado Affidavit, paras 89 – 90, Exhibit "Q", MR Tab 2); June 6, 2025 (Main Corrado Affidavit, paras 97, 99 and Exhibit "S", MR Tab 2); June 11, 2025 (Main Corrado

counsel, on behalf of the Opposing Landlords, necessary requested documents and information and expressed the Opposing Landlords' collective frustration at the need for a further document request.⁴⁸ No response was received to these information requests.

28. The lack of consultation and disclosure is particularly troubling given the stark inconsistency between PurchaserCo's professed commitment to "comply with the leases" and Ms. Liu's repeated public statements describing a business model that is fundamentally inconsistent with the use provisions of the leases and an anchor tenant department store. For example, she has: (i) promoted concession-style retail formats, including on social media posts dated April 3, April 17, and as recently as June 14;⁴⁹ (ii) emphasized her intention to feature supermarkets and restaurants, first on social media on April 3, and later in public statements reported by *CBC News* on June 17 and July 7, the *Toronto Star* on July 19, and the *Financial Post* on July 20;⁵⁰ (iii) highlighted plans for interactive entertainment uses, such as rock-climbing walls, cosplay events, and virtual reality attractions, among others, in posts on RedNote on June 14, again in an interview with *CBC News* on July 7, and in public statements reported on by the *Toronto Star* on July 19;⁵¹ and (iv) promoted the development of a 30,000 square foot children's play area, as reported across multiple outlets, including *CBC News* on

Affidavit, para 102 and Exhibit "F", MR Tab 2); July 4, 2025 (Main Corrado Affidavit, para 18, Exhibit "G", MR Tab 2).

⁴⁸ Main Corrado Affidavit, para 103 and Exhibit "U", MR Tab 2

⁴⁹ Original copies of these social media posts are found at Exhibits "E", "G", and "I", and certified translations are found at Exhibits "F", "H", and "J" of the Longmore Affidavit, MR Tab 4.

⁵⁰ An original copy of the April 3 social media post and a certified translation are found at Exhibits "E" and "F" of the Longmore Affidavit, MR Tab 4. Original copies of the media posts are at Exhibits "M", "R", "U", and "V" to the Longmore Affidavit, MR Tab 4.

⁵¹ A copy of the June 14 RedNote post and a certified translation are found at Exhibits "I" and "J" of the Longmore Affidavit, MR Tab 4. Original copies of the media posts are at Exhibits "R" and "U" to the Longmore Affidavit, MR Tab 4.

June 17 and July 7, *Retail Insider* on June 18, the *Toronto Star* on June 19 and July 19, and the *Financial Post* on July 20.⁵²

29. PurchaserCo's refusal to provide information, particularly when contrasted with Ms. Liu's repeated public statements, leave no doubt as to PurchaserCo's true intentions. Ms. Liu's vision is to create "a mall within an anchor space," with separate vendors, rather than a single, integrated department store.⁵³ PurchaserCo cannot and will not comply with the use clauses.⁵⁴

30. This CCAA proceeding has been plagued by a general lack of transparency. This includes concerns arising from the relationship between Pathlight and Reflect and its effect on aspects of this proceeding. The extent of the relationship between Reflect and Pathlight was not disclosed at the time the Initial Order was sought, and was only later referenced as obiter in an engagement letter⁵⁵ included in a 460 page motion record when court approval of Reflect's engagement by HBC was sought.⁵⁶ In fact, since Reflect's founding in 2023, Pathlight has been Reflect's largest customer,⁵⁷ and at Pathlight's request, Reflect resigned from its existing mandate as *Pathlight's* advisor in respect of HBC to assume the role of *HBC's* financial advisor in this proceeding, three weeks prior to the CCAA filing.⁵⁸ With Reflect's assistance,⁵⁹ HBC

⁵² Longmore Affidavit, Exhibits "M", "N", "P", "R", "U", and "V", MR Tab 4.

⁵³ Main Corrado Affidavit, para 66, MR Tab 2.

⁵⁴ Perugini Affidavit, para 91, in the Motion Record of the Applicants dated July 29, 2025, Tab 2.

⁵⁵ See Undertakings, Refusals, and Under Advisements on Cross-Examination of Adam Zalev on August 14, 2025 and provided by HBC on August 24, 2025, response to Refusal Q 48-50. This refers to general language in the engagement letter "...to the extent Reflect has an engagement mandate with Pathlight in respect of [HBC]... prior to or upon execution of this engagement contract, such mandate shall be terminated."

⁵⁶ The First Report of the Monitor dated March 16, 2025 includes two sentences referring to Reflect's prior role as financial advisor to Pathlight until three weeks prior to the CCAA filing, when Reflect became HBC's financial advisor.

⁵⁷ Cross-examination of Adam Zalev dated August 14, 2025, pg 17, q 21 [**Zalev Cross**], TB Tab A.

⁵⁸ Zalev Cross, pg 19, q 31 – 33, TB Tab A.

⁵⁹ Transcript of the cross-examination of Michael Culhane dated August 14, 2025, pg 16, QQ 46-47 [**Culhane Cross**], TB Tab C.

believes Pathlight is likely the fulcrum creditor in this proceeding despite ongoing uncertainties regarding the pension surplus that make that conclusion far from clear.⁶⁰

31. Pathlight is the driving force behind this assignment motion and, as confirmed by HBC's representative on cross-examination, Pathlight is the only stakeholder that wanted this forced assignment motion to be brought,⁶¹ notwithstanding that it is opposed by other secured creditors and not supported by the Monitor. Reflect's relationship with Pathlight appears to also be reflected in HBC's consistent willingness to advance Pathlight's interests, including proceeding with a decision on July 8, 2025 to seek approval of the APA over the opposition of the FILO Agent and in the absence of support of the Monitor.⁶²

32. Since the APA was publicly announced on May 23, 2025, counsel for Opposing Landlords repeatedly appeared in Court seeking updates on a potential forced assignment. The letter delivered by HBC's counsel to PurchaserCo on July 5, 2025 (the "**July 5 Letter**") advised in unequivocal terms that HBC believed PurchaserCo was in breach of the APA. The July 5 Letter was not disclosed to Opposing Landlords until the end of July, and even then, only as a result of learning of it through Ms. Liu's improper communication to the Court.⁶³ HBC's failure to disclose a material issue (PurchaserCo's breaches of the APA and potential termination) underscores concerns over a lack of transparency in this proceeding.

33. The purchase price for the Related Party Transaction with PurchaserCo for HBC leases in three malls was reduced from a final bid price of \$14 million to \$6 million, without any

⁶⁰ Culhane Cross, pg 40, Q 121, TB Tab C.

⁶¹ Perugini Cross, pg 188 Q 733, TB Tab D.

⁶² Perugini Affidavit, para 16, in the Motion Record of the Applicants dated July 29, 2025, Tab 2.

⁶³ Main Corrado Affidavit, Exhibit "V", MR Tab 2.

disclosure to Opposing Landlords or the Court, even in the Confidential Appendix that was filed.⁶⁴

34. Despite Opposing Landlords' repeated requests, material information regarding PurchaserCo and Ms. Liu only came to light on cross-examination, including that: (i) Ms. Liu is not the sole owner of the three Central Walk malls despite her representations otherwise;⁶⁵ (ii) each of the three malls is significantly encumbered with mortgages in favour of third parties;⁶⁶ and (iii) the malls that Ms. Liu cites as evidence of her financial wherewithal have not been operationally profitable.⁶⁷

C. Absence of Commercial Credibility and Inappropriate Conduct

35. On June 2, 2025, representatives of Oxford and its counsel met with Ms. Liu and her representatives, counsel for the Monitor, and counsel for HBC.⁶⁸ The meeting exposed a troubling lack of financial transparency, commercial sophistication, and basic preparedness. No financial statements, proof of funding, or evidence of capital readiness were provided, and the response to basic diligence questions were inadequate.⁶⁹ Ms. Liu indicated that she had a business plan but refused to disclose it unless Oxford first committed to support the proposed transaction.⁷⁰ Such behaviour is not consistent with a credible commercial party.

⁶⁴ Assignment and Assumption of Leases Agreement dated May 23, 2025, Exhibit "B" to the Affidavit of Michael Culhane sworn June 16, 2025; Cross-examination of Ruby Liu dated August 15, 2025, Exhibit 25 [**Liu Cross**], TB Tab H; Confidential Appendix "A" to the Monitor's Fifth Report.

⁶⁵ Liu Cross, pg 22 ll 4-16, pg 63 ll 18-25, TB Tab H.

⁶⁶ Liu Cross, pg 24-29; 35-38; 43, 49, 53-56, TB Tab H.

⁶⁷ Liu Cross, pg 29 ll 25, pg 30 ll 1-15; pg 45 ll 12-25, pg 46, TB Tab H.

⁶⁸ Main Corrado Affidavit at para 92, MR Tab 2.

⁶⁹ Main Corrado Affidavit at paras 92 – 97, MR Tab 2.

⁷⁰ Main Corrado Affidavit at para 92, MR Tab 2.

36. Other Opposing Landlords who met with Ms. Liu and her advisors at that time had a near-identical experience.⁷¹ The uncontroverted evidence of the Opposing Landlords is that no meaningful information was provided, and these meetings only heightened their concerns as to the appropriateness of PurchaserCo as a proposed assignee.⁷²

37. Limited information was received with respect to PurchaserCo’s purported business plan and financial wherewithal. In total, it comprised: (i) a May 28, 2025 letter from Reflect (the “**Reflect Letter**”); (ii) a June 6, 2025 letter from PurchaserCo’s then counsel (the “**June 6 Letter**”);⁷³ and (iii) a business plan filed with the Applicants’ motion record seeking a forced assignment of the leases (the “**July Business Plan**”).

38. Although HBC asserts that there is meaningful progression from the Reflect Letter to the June 6 Letter and to the July Business Plan, all the information suffers from the same material inadequacy. They are each characterized by, among other things: (i) vague and unsubstantiated assertions about PurchaserCo’s management team that has been subject to significant shifts;⁷⁴ (ii) an improper conflation of Central Walk’s experience and financial wherewithal, with that of PurchaserCo; (iii) an absence of detail as to how PurchaserCo intends

⁷¹ MacLeod Affidavit at paras 52-57, Responding Motion Record of The Cadillac Fairview Corporation, Tab 1; Warnaar Affidavit at paras 40 – 45, Responding Motion Record of KingSett, Tab 1; Affidavit of Ruby Paola sworn August 8, 2025 at paras 67-68 [**Paola Affidavit**], Responding Motion Record of Ivanhoe Cambridge, Tab 1; Affidavit of David Wyatt sworn August 8, 2025 at paras 69-70 [**Wyatt Affidavit**], Responding Motion Record of Morguard Investments Limited, Tab 1; Affidavit of Patrick Sullivan sworn August 9, 2025 at paras 13-18 [**Sullivan Affidavit**], Responding Motion Record of Primaris Management Inc, Tab 1; Affidavit of Alan Marcovitz sworn August 8, 2025 at paras 36-38 [**Marcovitz Affidavit**], Responding Motion Record of Westcliff Management Ltd., Tab 1.

⁷² *Ibid.*

⁷³ Which Ms. Liu purported to distance herself from on cross-examination: Liu Cross, pg 104 ll 9-25, pg 105, TB Tab H.

⁷⁴ See, for example: June 6 letter from Miller Thomson LLP, Main Corrado Affidavit, Exhibit “T”, MR Tab 2; June 26, 2025 letter from Wayne Drummond to Linda Qin and Larry Ellis, Ruby Liu Answers to Undertakings and Under Advisements, Undertaking 10 [**Drummond Letter**].

to comply with the provisions of the leases; (iv) only cursory reference to PurchaserCo's financial capacity; (v) attempts to amend or ignore several material terms of the Oxford Leases; (vi) understated capital requirements to bring the premises into good repair; (vii) the absence of merchandising commitments and third-party vendor agreements; and (viii) unrealistic timelines.⁷⁵

39. Contrary to the Applicants' submission,⁷⁶ the Opposing Landlords are not seeking to impose new or enhanced financial covenants beyond those contemplated under the Leases. Rather, they are insisting on the type of assurances that landlords require in comparable circumstances, and that the leases specifically require as part of the analysis for any assignment. Those lease terms include an analysis by reference to audited financial statements, borrowing rates, existing retail operations and other measures of financial and operational stability.⁷⁷

40. Oxford and other landlords required full guarantees and indemnities for lease obligations from both Nordstrom and Target upon their entry into the Canadian market, notwithstanding the considerable strength and brand recognition of those retailers in the United States.⁷⁸ An untested assignee with no experience or existing retail operations should not get a financial covenant "free ride" with leases in some of Canada's most valuable retail real estate. Nor should it be able to circumvent the clear disclosure and financial due diligence requirements of the leases, particularly while suggesting at the same time that the leases will be complied with.

⁷⁵ See, for example, Main Corrado Affidavit at paras 19-22, 87, 100-101, 108, MR Tab 2.

⁷⁶ HBC Factum at para 174.

⁷⁷ See, for example, Upper Canada Lease, s. 18.00(5); Hillcrest Lease, s. 7.02(2); Fairview Mall Lease, s. 21.00(9); Sherway Gardens Lease, s. 21.00(8)(iii); Bayshore Lease, s. 26(3)(c).

⁷⁸ Main Corrado Affidavit, para 109, MR Tab 2.

41. Given Ms. Liu’s erratic and deeply concerning conduct throughout this proceeding, Oxford opposes being forced into a long-term contractual relationship with entities in which Ms. Liu is a principal. The July 5 Letter delivered by HBC’s counsel to PurchaserCo illustrates the challenges in obtaining basic information from Ms. Liu. It confirms that, as early as May 27, 2025, HBC and its advisors had provided PurchaserCo with a comprehensive list of information landlords needed to assess a prospective lease assignment (i.e. the very details Opposing Landlords have consistently sought throughout the proceeding).⁷⁹ The July 5 Letter, supported by the Monitor, Pathlight, and the FILO Agent,⁸⁰ unequivocally confirmed that Ms. Liu had failed to take even the most basic steps to supply “critical” and “standard” information in any lease assignment.⁸¹ The alignment of every major stakeholder on these fundamental deficiencies should have been a wake-up call that PurchaserCo is not a counterparty that should be forced onto Opposing Landlords. Apparently, it was not.

42. On July 9 and 10, 2025, against the advice she received, Ms. Liu and PurchaserCo’s CEO Linda Qin attempted to improperly influence the outcome of this motion by communicating directly with the presiding judge (the “**Improper Letters**”).⁸² Coming just days after the July 5 Letter, this extraordinary conduct underscores PurchaserCo’s unsuitability as a long-term contractual counterparty and is consistent with a broader pattern of concern.⁸³

⁷⁹ See, for example, Main Corrado Affidavit, paras 15-18, 82, 86, 88-90, 97, 99, 102-103 and Exhibits “E”, “F”, “G”, “M”, “P”, “Q”, “S”, “U” MR Tab 2; MacLeod Affidavit, paras 39-42, 45 and Exhibit “I”, Responding Motion Record of The Cadillac Fairview Corporation, Tab 1; Warnaar Affidavit at para 39, Responding Motion Record of KingSett, Tab 1; Wyatt Affidavit, para 73 and Exhibit “O”, Responding Motion Record of Morguard Investments Limited, Tab 1.

⁸⁰ Eighth Report, s. 3.11.

⁸¹ July 5 Letter, Exhibit “V” to the Main Corrado Affidavit, MR Tab 2.

⁸² Improper Letters, Exhibit “V” to the Main Corrado Affidavit, MR Tab 2; Liu Cross, pg 118 ll 11-19, TB Tab H.

⁸³ Ms. Liu further asserted that she had written to the Prime Minister and sought to sway public opinion through the initiation of a public petition. See: Longmore Affidavit, Exhibits “R”, “S”, MR Tab 4.

43. The Improper Letters reveal Ms. Liu's calculated practice of tailoring her statements to secure support, regardless of the truth. Her description of Wayne Drummond, the former President of HBC, is illustrative. In the June 6 Letter sent by PurchaserCo's former counsel, Mr. Drummond is held out as an essential member of the PurchaserCo team.⁸⁴ In the Improper Letters, Ms. Liu characterizes Mr. Drummond as a "performer," and she suggests that she had been misled by her advisors.⁸⁵ The record tells a different story. Responses to Refusals on Ms. Liu's cross-examination reveal correspondence between Mr. Drummond and PurchaserCo's CEO, Linda Qin, confirming that Mr. Drummond was engaged only for a limited purpose as a figurehead in landlord meetings, with no contract or substantive role.⁸⁶ When Mr. Drummond declined to participate in a media interview or endorse representations dictated to him by Ms. Qin, PurchaserCo abruptly cut ties with him.⁸⁷ He issued a cease-and-desist letter, stating that PurchaserCo's public claims about his role were "false and misleading" and demanding that PurchaserCo "take immediate action to correct the public record."⁸⁸ If any such correction was made, it was not disclosed to any Opposing Landlords for whom Mr. Drummond had been held out by PurchaserCo as "essential".

44. The Improper Letters are also emblematic of Ms. Liu's shifting and inconsistent positions, which further undermines PurchaserCo's credibility. Ms. Liu describes an intention to renegotiate the Leases following an assignment and insinuates that she was pressured into

⁸⁴ June 6 Letter, attached at Exhibit "T" to the Main Corrado Affidavit, MR Tab 2.

⁸⁵ June 10 email to Justice Osborne, attached at Exhibit "V" to the Main Corrado Affidavit, MR Tab 2.

⁸⁶ Text message exchange between Mr. Drummond and Ms. Qin between May 31 and June 4, 2025, Ruby Liu Answers to Undertakings and Under Advisements, Undertaking 10.

⁸⁷ Text message exchange between Mr. Drummond and Ms. Qin on June 17, 2025, Ruby Liu Answers to Undertakings and Under Advisements, Undertaking 10.

⁸⁸ Drummond Letter, Ruby Liu Answers to Undertakings and Under Advisements, Undertaking 10.

engaging KPMG.⁸⁹ This again reflects a disturbing pattern of behaviour that is inconsistent with her position that PurchaserCo will comply with the terms of the leases.

45. In her affidavits sworn in respect of this motion, Ms. Liu identified J2 Retail Management (“J2”) as PurchaserCo’s supplier and source of merchandising, and represented that they could supply merchandise within the time frame contemplated by her business plan.⁹⁰ Yet on cross-examination, Ms. Liu admitted that J2 cannot supply merchandise for 18 months and will not be used.⁹¹ She also sought one-line acknowledgments from HBC executives to “insert their names into an organizational chart”, without ever discussing terms of any genuine employment offer.

D. Absence of Good Faith Efforts to Obtain Landlord Consent

46. The APA required PurchaserCo to “promptly” use its “commercially reasonable efforts” to obtain landlord waivers and consents. In HBC’s own words, PurchaserCo “failed and/or refused to take the most basic and necessary steps to advance its bid” and “failed to use commercial reasonable efforts” to obtain consent.⁹²

47. Opposing Landlords were given none of the information they reasonably required to assess PurchaserCo as an assignee.⁹³ None of the information that Oberfeld described as

⁸⁹ July 10, 2025 email from Linda Qin to Justice Osborne, attached at Exhibit “V” to the Main Corrado Affidavit, MR Tab 2.

⁹⁰ Affidavit of Ruby Liu sworn July 29, 2025, para 45, Supporting Motion Record of Ruby Liu Investment Corp, Tab 1; Affidavit of Ruby Liu sworn August 12, 2025, paras 14-15, Reply Motion Record of Ruby Liu Investment Corp, Tab 1.

⁹¹ Liu Cross, pg 155 ll 8-20, TB Tab H.

⁹² July 5 Letter, Exhibit “V” to the Main Corrado Affidavit, MR Tab 2.

⁹³ MacLeod Affidavit at paras 52-57, Responding Motion Record of The Cadillac Fairview Corporation, Tab 1; Warnaar Affidavit at paras 40 – 45, Responding Motion Record of KingSett, Tab 1; Paola Affidavit at paras 67-68, Responding Motion Record of Ivanhoe Cambridge, Tab 1; Wyatt Affidavit at paras 69-70, Responding Motion Record of Morguard Investments Limited, Tab 1; Sullivan Affidavit at paras 13-18, Responding Motion

“necessary in order for Opposing Landlords to make an educated decision” was provided.⁹⁴ As HBC’s own counsel acknowledged in its July 5 Letter, no “reasonable” or “critical” information was ever delivered.⁹⁵ It was only through the motion materials seeking a forced assignment that Opposing Landlords received, for the first time, any form of business plan or financial forecast (however inadequate).

48. This wholesale failure of engagement, and the absence of good faith efforts to obtain consent, cannot support a forced assignment of anchor tenant leases with decades-long terms, over the strenuous objection of the Opposing Landlords. Section 11.3(3) of the CCAA does not contemplate such an outcome. The extraordinary nature of this proceeding and the relief sought by HBC cannot be overstated.

PART III - STATEMENT OF ISSUES AND LEGAL ARGUMENT

49. The law and legal principles applicable to the extraordinary remedy sought by HBC under s. 11.3(3) of the CCAA on this motion are more fully set out in the Joint Factum of Landlords, which is repeated and relied on by Oxford. The Applicants have failed to meet their onus, PurchaserCo cannot satisfy any element of the applicable test, and the Assignment Order sought by HBC should be denied.

A. The Assignment Order Should Be Denied

50. As outlined more fully in the factum filed by other Opposing Landlords, the financial and operational information provided to the Opposing Landlords has been wholly inadequate,

Record of Primaris Management Inc, Tab 1; Marcovitz Affidavit at paras 36-38, Responding Motion Record of Westcliff Management Ltd., Tab 1.

⁹⁴ Main Corrado Affidavit, Exhibit “Q”, MR Tab 2.

⁹⁵ July 5 Letter, Exhibit “V” to the Main Corrado Affidavit, MR Tab 2.

and numerous requests to HBC and the Monitor for further information have gone unanswered.⁹⁶ PurchaserCo has offered no credible business plan, no demonstrated supplier or vendor relationships, and no indication of how it would secure or manage the broad and diverse merchandising mix necessary to operate a department store in accordance with the leases.⁹⁷ Information it has proffered has been contradictory and subject to sudden changes throughout, and cannot be credibly relied upon.⁹⁸

51. The terms of the APA make clear that PurchaserCo is not seeking to assume the leases as they stand, but rather, to amend them in fundamental respects. Among other things, the APA executed by the parties sought to: (i) secure a rent abatement of up to ten months;⁹⁹ (ii) amend the terms of the Leases governing permitted uses and concessions;¹⁰⁰ (iii) selectively assume only certain obligations under the Leases;¹⁰¹ and (iv) amend the Hillcrest Lease to expunge Oxford's right of surrender (ROFR) as it relates to any future assignment of the lease.¹⁰² This is not an assignment in the ordinary sense; it is an attempt to alter the underlying bargain with the landlords.¹⁰³ Even if certain terms of the APA were subsequently waived by PurchaserCo, the APA reflects the true intention of PurchaserCo behind an assignment of the leases.

⁹⁶ Main Corrado Affidavit, paras 18, 82, 86, 88-90, 97, MR Tab 2.

⁹⁷ *Ibid.*

⁹⁸ See, for example: June 10 email to Justice Osborne, attached at Exhibit "V" to the Main Corrado Affidavit, MR Tab 2.; Drummond Letter, Ruby Liu Answers to Undertakings and Under Advisements, Undertaking 10.

⁹⁹ APA, s. 2.3(1)(f), Perugini Affidavit in the Motion Record of the Applicants dated July 29, 2025, Tab 2.

¹⁰⁰ APA, s. 2.3(1)(d), Perugini Affidavit in the Motion Record of the Applicants dated July 29, 2025, Tab 2.

¹⁰¹ See the definition of "Assumed Liabilities", "Encumbrances", and "Permitted Encumbrances" in the APA. See also, sections 2.1(1), 2.2, and 2.3(1)(c) of the APA, Perugini Affidavit in the Motion Record of the Applicants dated July 29, 2025, Tab 2.

¹⁰² *Ibid.*

¹⁰³ See for example, APA section 2.3(1)(d); section 2.3(1)(f); section 4.4 in conjunction with the definition of "Assignment Order" as it relates to section 2.3(2); and the definitions of "Assumed Liabilities", "Encumbrances", "Permitted Encumbrances" when read together with sections 2.1(1), 2.2 and 2.3(1)(c), Perugini Affidavit in the Motion Record of the Applicants dated July 29, 2025, Tab 2.

52. CCAA courts generally favour outcomes that promote fairness among stakeholders.¹⁰⁴

The proposed assignment is inherently unfair and inequitable to the Opposing Landlords. It is a long-standing principle that CCAA courts will interfere with contractual rights sparingly, and only to the extent strictly necessary to further the reorganization process.¹⁰⁵ Contractual counterparties in a forced assignment situation are placed in an inherently vulnerable and disadvantaged position.¹⁰⁶ That vulnerability has been exacerbated by the absence of meaningful consultation during the LMP, the failure to provide information in response to reasonable requests and the broader lack of disclosure.

53. The APA is also manifestly unfair to other stakeholders. Co-tenants and other stakeholders rely on the stability and quality of the retail environment at Oxford's shopping centres. The introduction of an unknown operator with an unproven retail track record presents the following risks, among others: (i) other tenants rely on a stable tenant mix to sustain reciprocal foot traffic, sales, and brand strength. Introducing an untested operator disrupts this commercial ecosystem;¹⁰⁷ (ii) an unknown operator with an unproven retail concept risks reputational harm to Oxford and its co-tenants whose brands rely on alignment with established, reputable neighbours;¹⁰⁸ and (iii) the introduction of unvetted retail offerings exposes co-tenants to potential customer loss, brand misalignment, and competitive disadvantage.

¹⁰⁴ *Donnelly* at [para 53](#).

¹⁰⁵ *Nexient Learning Inc. (Re)*, 2009 CanLII 72037 (ON SC) at [para 59](#); *Veris Gold Corp. (Re)*, 2015 BCSC 1204 at [para 54](#).

¹⁰⁶ *Dundee Oil and Gas Limited (Re)*, 2018 ONSC 3678 at [para 27](#).

¹⁰⁷ Main Corrado Affidavit, para 78, MR Tab 2..

¹⁰⁸ Main Corrado Affidavit, para 71, MR Tab 2..

B. Conduct and Good Faith Matter

54. Section 11.3 of the CCAA does not limit this Court to a closed set of considerations, and it is both proper and necessary to consider additional relevant factors.¹⁰⁹ In so doing, this Court must be guided by the baseline principles of appropriateness and fairness to stakeholders that guide all CCAA proceedings.¹¹⁰

55. Section 18.6 of the CCAA imposes a statutory duty of good faith on all stakeholders in a CCAA proceeding. PurchaserCo has clearly demonstrated that it falls short of that standard.

56. The failure of HBC and its advisors to proactively engage with Opposing Landlords through the LMP with respect to any bid on their leases despite the clear requirement in the LMP Order to do so, also falls short of their obligation as Applicants in a CCAA proceeding. The initial failure of HBC to engage with its landlords, respond to reasonable requests for information, keep landlords apprised as material developments occurred in relation to the APA and PurchaserCo - all could have been addressed. Instead, HBC chose to “double down” on its prior shortcomings and follow the directions of one party: Pathlight.

57. Even in circumstances when HBC learned that it was dealing with a counterparty to the APA that engaged in improper communications with the Court with the stated intention of influencing the outcome of this motion,¹¹¹ and was publicly making what HBC’s former President referred to as “false and misleading statements,” HBC has proceeded in its attempts to force that counterparty upon Opposing Landlords. When all stakeholders other than Pathlight believed that the APA should be terminated, and despite the Monitor’s views expressed three

¹⁰⁹ *Dundee* at [para 22](#); *Donnelly* at [para 52](#).

¹¹⁰ *Century Services Inc. v Canada (Attorney General)*, 2010 SCC 60 at [para 70](#); *Donnelly* at [para 53](#).

¹¹¹ *Liu Cross*, pg 118 ll 11-19, TB Tab H.

different times in this proceeding, HBC nonetheless followed Pathlight's direction and forged ahead with this motion despite the truly extraordinary costs to all parties of doing so. These are not the *indicia* of acting in good faith.

PART IV - RELIEF REQUESTED

58. The extraordinary remedy of forcing an assignment under s. 11.3(3) of the CCAA is not appropriate on the facts of this case.¹¹² For all the foregoing reasons, this Court should not approve the proposed Assignment Order, and should grant costs in favour of the Opposing Landlords.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 25th day of August, 2025.

Thornton Grout Finnigan LLP

THORNTON GROUT FINNIGAN LLP

100 Wellington Street West
Suite 3200, TD West Tower
Toronto ON M5K 1K7

D.J. Miller (LSO# 34393P)

Email: djmiller@tgf.ca

Tel.: (416) 304-0559

Andrew Nesbitt (LSO# 905140)

Email: anesbitt@tgf.ca

Tel.: (416) 307-2413

Lawyers for Oxford Properties Group

¹¹² See, for example: *Zayo Inc. v Primus Telecommunications Canada Inc.*, 2016 ONSC 5251 at [para 38](#); *Veris Gold* at [para 58](#); *Donnelly* at [para 56](#), [82](#); *In the Matter of a Plan of Arrangement of UrtheCast Corp.*, 2021 BCSC 1819 at [para 66](#).

**SCHEDULE “A”
LIST OF AUTHORITIES**

1. *Donnelly Holdings Ltd.*, 2024 BCSC 275
2. *Nexient Learning Inc. (Re)*, 2009 CanLII 72037 (ON SC)
3. *Veris Gold Corp. (Re)*, 2015 BCSC 1204
4. *Dundee Oil and Gas Limited (Re)*, 2018 ONSC 3678
5. *Century Services Inc. v Canada (Attorney General)*, 2010 SCC 60
6. *Zayo Inc. v Primus Telecommunications Canada Inc.*, 2016 ONSC 5251
7. *In the Matter of a Plan of Arrangement of UrtheCast Corp.*, 2021 BCSC 1819

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: August 25, 2025



A handwritten signature in blue ink, appearing to read 'A. Hewitt', is written over a horizontal line.

SCHEDULE “B” RELEVANT STATUTES

Companies’ Creditors Arrangement Act, RSC 1985, c C-36.

Assignment of agreements

11.3 (1) On application by a debtor company and on notice to every party to an agreement and the monitor, the court may make an order assigning the rights and obligations of the company under the agreement to any person who is specified by the court and agrees to the assignment.

Exceptions

(2) Subsection (1) does not apply in respect of rights and obligations that are not assignable by reason of their nature or that arise under

- (a)** an agreement entered into on or after the day on which proceedings commence under this Act;
- (b)** an eligible financial contract; or
- (c)** a collective agreement.

Factors to be considered

(3) In deciding whether to make the order, the court is to consider, among other things,

- (a)** whether the monitor approved the proposed assignment;
- (b)** whether the person to whom the rights and obligations are to be assigned would be able to perform the obligations; and
- (c)** whether it would be appropriate to assign the rights and obligations to that person.

Restriction

(4) The court may not make the order unless it is satisfied that all monetary defaults in relation to the agreement — other than those arising by reason only of the company’s insolvency, the commencement of proceedings under this Act or the company’s failure to perform a non-monetary obligation — will be remedied on or before the day fixed by the court.

General

Duty of Good Faith

Good faith

18.6 (1) Any interested person in any proceedings under this Act shall act in good faith with respect to those proceedings.

Good faith — powers of court

(2) If the court is satisfied that an interested person fails to act in good faith, on application by an interested person, the court may make any order that it considers appropriate in the circumstances.

**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
HUDSON'S BAY COMPANY ULC / COMPAGNIE DE LA BAIE D'HUDSON SRI et al.**

Court File No.: CV-25-00738613-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

FACTUM OF
OXFORD PROPERTIES GROUP

THORNTON GROUT FINNIGAN LLP

100 Wellington Street West
Suite 3200, TD West Tower
Toronto ON M5K 1K7

D.J. Miller (LSO# 34393P)

Email: djmiller@tgf.ca

Tel.: (416) 304-0559

Andrew Nesbitt (LSO# 905140)

Email: anesbitt@tgf.ca

Tel.: (416) 307-2413

Lawyers for Oxford Properties Group, *et al.*