

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

**APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY*
ACT, R.S.C. 1985, C.B-3, AS AMENDED, SECTION 68 OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990 C. C. 30, AND UNDER SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, C. C. 43**

**FACTUM OF THE CONSTRUCTION RECEIVER
(RE: SUBSTITUTED SERVICE AND APPROVAL OF LIEN SETTLEMENTS,
PURCHASE PRICE ADJUSTMENTS & FEES AND ACTIVITIES)
(Returnable March 26, 2019)**

March 25, 2019

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Canada Inc., in its capacity as both Receiver and
Manager, and Construction Lien Trustee of the
assets, undertakings and property of Urbancorp
(Leslieville) Developments Inc., Urbancorp
(Riverdale) Developments Inc., and Urbancorp
(The Beach) Developments Inc.

TO: MASTER SERVICE LIST

ONTARIO
SUPERIOR COURT OF JUSTICE
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URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.

Respondents

FACTUM OF
THE CONSTRUCTION RECEIVER

(Re: Substituted Service and Approval of Lien Settlements, Purchase Price Adjustments &
Fees and Activities)
(Returnable March 26, 2019)

PART I - OVERVIEW

1. On May 31, 2016, the Ontario Superior Court of Justice (the “**Court**”) granted an order (the “**Appointment Order**”) appointing Alvarez & Marsal Canada Inc. as receiver and manager (in such capacity, the “**Receiver**”), pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended, and as construction lien trustee (in such capacity, the “**Construction Lien Trustee**”, and together with the Receiver, the “**Construction Receiver**”), pursuant to section 68 of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (the “**CLA**”), of all of the assets, undertakings, and property acquired for, or used in relation to the business including all proceeds thereof, of Urbancorp (Leslieville) Developments Inc. (“**UC Leslieville**”), Urbancorp (Riverdale) Developments Inc. and Urbancorp (The Beach) Developments Inc. (collectively, the “**Debtors**”) (such proceedings, the “**Receivership Proceedings**”).

2. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Eighth Report of the Construction Receiver dated March 18, 2019 (the “**Eighth Report**”).

3. In this motion, the Construction Receiver seeks orders, among other things:

Lien Claims and Holdback Settlements

- (a) approving the settlements reached between the lien Vetting Committee and Lido Construction Inc. in respect of CLA holdback entitlements for the Leslieville Project and Beach Project (the “**Holdback Settlement**”);
- (b) authorizing and directing the Construction Receiver to pay the applicable Holdback Settlement in respect of the Leslieville Project and the Beach Project from the holdback reserves currently maintained by the Construction Receiver and releasing the remainder of such holdback reserves for distribution to creditors in accordance with the distribution waterfall (the “**Distribution Waterfall**”) set out in Paragraph 55 of the settlement approval order (re: Leslieville Project) granted by Mr. Justice Newbould dated May 2, 2017, as amended by the order of Mr. Justice Newbould dated May 11, 2017 (the “**Settlement Approval Order**”);
- (c) approving the amount of Lien Claimant entitlements, net of holdback settlements already paid, for the purposes of the Construction Receiver calculating *pari passu* distributions to such Lien Claimants, if any;

Leslieville Purchase Price Adjustments

- (d) granting substituted service on unrepresented Leslieville Purchasers (the “**Unrepresented Purchasers**”) by email to the last known email address of such Leslieville Purchaser;
- (e) authorizing the Construction Receiver to disclose certain contact information of Unrepresented Purchasers;
- (f) approving a protocol and schedule for the resolution of the pending Shibley Righton Motion (as defined below), regarding a dispute over the purchase price adjustment made on closing with respect to a parkland levy (the “**Park Levy**”);
- (g) declaring that the Leslieville Purchase Price Adjustments (defined below) calculated and charged by the Construction Receiver in connection with the closing of the Leslieville Units (excluding the Park Levy) are accurate and binding as between the Construction Receiver and purchasers;

Activity and Fee Approval

- (h) approving the activities of the Construction Receiver described in the Seventh Report and the Eighth Report;
- (i) approving the Interim R&D Statement; and
- (j) approving the fees and disbursements of the Construction Receiver and its counsel for the nine (9) month period of May 1, 2018 through to and including January 31, 2019 (the “**Fee Period**”).

PART II - FACTS

4. The facts relevant to this motion are set out in greater detail in the Eighth Report and the Supplement to the Eighth Report of the Construction Receiver, dated March 18, 2019 (the “**Supplemental Report**”). The facts set out in this Factum are limited to only those facts relevant to the issues, discussed herein, such issues being:

- (a) Email service on Unrepresented Purchasers and disclosure of contact information of Unrepresented Purchasers to interested parties for the purpose of effecting service on such Unrepresented Purchasers;
- (b) Approval the Leslieville Purchase Price Adjustments (other than the Park Levy);
and
- (c) Approval of the fees and disbursements of the Receiver and its counsel incurred during the Fee Period.

5. The Eighth Report discusses the proposed treatment of certain cash collateral that the Construction Receiver proposed to be paid to Tarion, in lieu of payment to Travelers, as well as a proposed process for dealing with Tarion warranty claims going forward. Following the delivery of the Eighth Report, the Construction Receiver has decided to defer this relief, and will no longer be seeking such relief in connection with this motion.

Leslieville Purchase Price Adjustments

6. The sale of all 55 Leslieville Units was completed between October 18 and 25, 2018. On closing, seven purchase price closing adjustments were made to the purchase price of each unit, in accordance with the terms of the applicable agreements of purchase and sale: the Park Levy, a

utility installation levy (the “**Utility Levy**”), a Tarion enrollment fee, an Ontario Law Society Fee, an administrative fee, a status certificate charge and title insurance premiums (collectively, the “**Leslieville Purchase Price Adjustments**”).

Supplemental Report at paras 5 and 6.

7. On closing, several Leslieville Purchasers raised objections about the Park Levy and Utility Levy as purchase price adjustments, but ultimately closed and paid all adjustments required by the Construction Receiver. Shibley Righton, on behalf of forty-six Leslieville Purchasers has objected to the Park Levy and on March 18, 2019, filed a motion to formally challenge it (the “**Shibley Righton Motion**”).

Supplemental Report at paras 8 and 11.

8. The Construction Receiver believes that all of the Leslieville Purchase Price Adjustments were correctly charged; however, it is currently holding \$700,000 in reserve, representing the aggregate Park Levy, plus a reserve for interest and costs (the “**Park Levy Reserve**”) and \$525,000 representing the aggregate Utility Levy, plus a reserve for interest and costs (the “**Utility Reserve**”), pending further order of this Court.

Supplemental Report at para 12.

9. The Construction Receiver is seeking the Court’s advice and direction regarding the Leslieville Purchase Price Adjustments, in order to eliminate possible contingent claims from purchasers. Final resolution of the Leslieville Purchase Price Adjustments is necessary to enable the Construction Receiver to release the Park Levy Reserve and the Utility Reserve and distribute such funds in accordance with the Distribution Waterfall, or as otherwise ordered by the Court.

Supplemental Report at para 39.

10. Given the pending Shibley Righton Motion, the Construction Receiver is not proposing to have the Park Levy adjudicated at this time; however, to ensure that the matter is resolved expeditiously, it is working with Shibley Righton and Terra Firma to develop a dispute resolution timeline, and may seek Court approval of same if such a timeline is agreed to by the return of the Construction Receiver's motion.

Supplemental Report at para 46.

11. The Construction Receiver is of the view that it is appropriate at this time for the Court to approve the Leslieville Purchase Price Adjustments (other than the Park Levy) as charged.

Supplemental Report at para 49.

Notice to Unrepresented Purchasers

12. In order to finally adjudicate the Leslieville Purchase Price Adjustments, the Construction Receiver will need to effect service on the Leslieville Purchasers who are not represented Shibley Righton. There are a total of thirty five Leslieville Purchasers that are not represented by counsel.

Supplemental Report at paras 40 and 41.

13. It is not practical in the context of these proceedings to effect service on the Unrepresented Purchasers by way of an alternative to personal service. The Construction Receiver wishes to regularize service on Unrepresented Purchasers by obtaining the Court's approval to serve Unrepresented Purchasers by email. The Construction Receiver is seeking this authorization *nunc*

pro tunc, which would in effect validate the Construction Receiver's service of this motion on Unrepresented Purchasers.

14. As a consequence of this, the Construction Receiver also requires authorization from the Court to disclose the names and e-mail addresses (if necessary) to interested parties who request such information in order to effect service in these proceedings.

Supplemental Report at para 43.

15. This Court granted an order in August 2016 in these proceedings in respect of other unrepresented purchasers on substantially the same terms as the order being requested now in respect of the Unrepresented Purchasers.

Supplemental Report at para 45 and Appendix "G".

Activity and Fee Approval

16. The activities of the Construction Receiver are outlined in the Seventh and Eighth Report, and include, *inter alia*, (i) implementing the Settlement, (ii) taking conservatory and security measures, (iii) undertaking asset review, analysis and realizations, (iv) closing the sale of each of the 55 Leslieville Units, and (v) performing court/administrative and regulatory tasks.

Eighth Report at para 81.

17. As part of this motion, the Receiver is seeking approval of its fees and disbursements and those of its counsel in connection with the performance of their duties in the Receivership Proceedings in the amounts and for the time period set out in the Eighth Report.

Eighth Report at para 86.

PART III - ISSUES

18. This factum addresses the following issues:
- (a) Should the Court authorize email service on the Unrepresented Purchasers *nunc pro tunc*?
 - (b) Should this Court authorize the Construction Receiver to disclose the contact information of Unrepresented Purchasers to interested parties for the purpose of effecting service on such Unrepresented Purchasers?
 - (c) Should the Court approve the Leslieville Purchase Price Adjustments (other than the Park Levy)?
 - (d) Should the Court approve the fees and disbursements of the Construction Receiver and its counsel incurred during the Fee Period?
19. The Construction Receivers submits that, for the reasons set out below, the answer to each of these questions should be yes.

PART IV – LAW AND ARGUMENT**A. The Court should authorize service on the Unrepresented Purchasers by email**

20. Where it appears to the Court that it is impractical for any reason to effect prompt service of any document required to be served personally or by an alternative to personal service under the *Rules of Civil Procedure*, the Court may make an order for substituted service.

Rules of Civil Procedure, R.R.O.,1990, Reg. 194 [*Rules*], Rule 16.04.

21. As described above, in order to finally adjudicate the Leslieville Purchase Price Adjustments, the Construction Receiver will need to effect service on the Unrepresented Purchasers.

22. It is not practical in the context of these proceedings to effect service on the Unrepresented Purchasers by way of personal service or an alternative to personal service: there are 35 individual Unrepresented Purchasers and effecting service on each pursuant to conventional service techniques would be expensive and unduly time consuming. The Construction Receiver believes that the proposed order authorizing service on the Unrepresented Purchasers by email is appropriate and necessary to resolve the issues of the Leslieville Purchase Price Adjustments.

Rules, Rule 16.06.1(2), Supplemental Report at paras 43 and 44.

23. The Unrepresented Purchasers and their email addresses are known to the Construction Receiver based on the records of Real Estate Counsel generated during the closing of the sale of the Leslieville Units.

Supplemental Report at paras 41 and 43.

24. Provided this Court sees fit to authorize substituted service by email, disclosure of the Unrepresented Purchaser's contact information to interested parties who request such information in order to effect service in these proceedings is necessary to facilitate such other interested parties effecting service on the Unrepresented Purchasers. Given that the contact information that the Construction Receiver has for each of the Unrepresented Purchasers appears to be a personal email address, the Construction Receiver is conscious of possible concerns the Unrepresented Purchasers may have about such contact information being published.

25. The same relief regarding disclosure and substituted service that is being sought at this time was granted by the Court in these proceedings in 2016 in respect of certain unrepresented purchasers. The Construction Receiver has sought to keep the form and substance of such relief as close as possible to the 2016 order.

B. The Court should approve the Leslieville Purchase Price Adjustments (other than the Park Levy)

26. It is a fundamental principle of contractual interpretation that when interpreting a contract, the court aims to determine the intentions of the parties in accordance with the language used in the written document and presumes that the parties have intended what they have said.

Salah v Timothy's Coffees of the World Inc. (2010) 74 B.L.R. (4th) 161 [ONCA] Construction Receiver's Book of Authorities ("**Construction Receiver's BOA**"), Tab 1 at para 16; *Nortel Networks Corp, Re*, 2015 ONSC 2987 Construction Receiver's BOA, Tab 2 at para 52.

27. It is well established that contracts should be interpreted so as to accord with sound commercial principles and good business sense and avoid commercial absurdity. The Ontario Court of Appeal has indicated that this general principle is applicable to agreements of purchase and sale in the real estate context.

Beatty v Wei, 2018 ONCA 479 Construction Receiver's BOA, Tab 3 at para 36, citing *Weyerhaeuser Company Limited Ontario (Attorney General)*, 2017 ONCA 1007 Construction Receiver's BOA, Tab 4 at para 65.

28. The Leslieville Purchase Price Adjustments are clearly outlined in each APS as follows and include charges for all the Leslieville Purchase Price Adjustments¹:

- (a) Utility Levy - Section 7(d)(v): the cost of utility meter installations, water and sewer service connection charges, hydro and gas meter or sub-meter installation, and hydro and gas installation and connection or energization charges for the Condominium and/or the Unit, the Purchaser's portion of such installation and/or connection or energization charges and costs to be calculated by dividing the total amount of such charges and costs by the number of residential dwelling units in the registered Condominium and by charging the Purchaser in the statement of adjustments with that portion of the charges and costs. A letter from the Vendor's or the Vendor's Representative's engineers specifying the said charges and costs shall be final and binding on the Purchaser;
- (b) Tarion enrolment fee - section 7(d)(iv): the cost of the Tarion enrolment fee for the Unit (together with any provincial or federal taxes eligible with respect thereto);
- (c) Ontario Law Society Fee - section 7(d)(vi): the charge imposed upon the Vendor or its solicitors by the Law Society of Upper Canada upon registration of a Transfer/Deed of Land or Charge/Mortgage of Land or any other instrument;
- (d) Administrative Fee - section 7(d)(vii): a sum of Fifty Dollars (\$50.00) for the cheque tendered pursuant to Paragraph 1(b) of this Agreement and for any cheque tendered for any other monies paid on account of the Purchase Price up to but not

¹ These sections refer to the Opt-In Leslieville Purchaser APSs. Provisions of the New Leslieville Purchaser APSs are identical, and included in the Supplemental Report.

including the Title Transfer Date representing reasonable reimbursement to the Vendor of the costs incurred or to be incurred by the Vendor in fulfilment of the requirements of subsection 81(6) of the Act;

- (e) Status certificate charge - section 7(d)(ix): the cost of providing a status certificate in the maximum amount allowed pursuant to the Act; and
- (f) Title insurance premiums - section 7(d)(x): the Vendor's Solicitor may arrange for the project to be enrolled with a title insurer or insurers acceptable to the Vendor (the "**Title Insurer**") in order to centralize underwriting for the project and avoid unnecessary duplication of costs for purchasers and their solicitors. In the event that the Purchaser elects to obtain title insurance through the Title Insurer, the Purchaser and the Purchaser's solicitor shall not be required to perform some or all of the following due diligence thereby saving the Purchaser significant transaction costs: title search and review of title search preparation of requisition letter; prepare, set out and review responses to clearance letters; execution searches against the Vendor and corporate status searches. As a result of the foregoing and regardless of whether the Purchaser obtains title insurance through the Title Insurer, the Purchaser agrees to pay to the Vendor or its solicitors on the Title Transfer Date an administration fee of two hundred dollars plus applicable taxes for enrolling the project with the Title Insurer and for preparing and delivering to the Purchaser's solicitor and Title Insurer a title advice statement.

Supplemental Report at paras 16 and 33 and Appendix "B".

29. Of all of the Leslieville Purchase Price Adjustments, only the Utility Levy and the Park Levy were objected to by Leslieville Purchasers. The Park Levy is the subject of the Shibley Righton Motion and will be addressed by the Construction Receiver at a later date if it cannot be resolved.

30. The Utility Levy was calculated by the Construction Receiver's third-party construction consultant, Altus Group. The adjustment is clearly chargeable under the applicable APSs, as excerpted above. The amounts charged represent costs incurred by UC Leslieville either directly or through the Construction Receiver.

31. If the utility connection costs of the Leslieville Project are not borne by the Leslieville Purchasers as provided for in their APS, these costs will be borne by other UC Leslieville creditors. It is unfair for other UC Leslieville creditors to bear these costs when each Leslieville Purchaser agreed to pay such costs in their applicable agreements of purchase and sale, and such Leslieville Purchasers enjoy the benefit of the connected utilities.

32. Since closing, there has been no formal objection to the Utility Levy or to any of the other Leslieville Purchase Price Adjustments (including by Shibley Righton). Accordingly, the Construction Receiver is of the view that it is appropriate at this time for the Court to approve the Leslieville Purchase Price Adjustments (other than the Park Levy) as charged.

C. The Court should approve the fees and disbursements of the Construction Receiver and its counsel incurred during the Fee Period

33. Pursuant to the Appointment Order, the fees and disbursements of the Construction Receiver and its legal counsel are authorized to be paid on a periodic basis subject to any final approval as ordered by the Court.

Appointment Order at para 19.

34. The accounts of the Construction Receiver, its Independent Counsel and the Construction Receiver's Counsel meet the technical requirements established by case law:

- (a) the accounts disclose in detail the name of each person who rendered services, the rate charged, the total charges for each of the categories of services rendered and, the date on which the services were rendered, and the time expended each day;
- (b) the accounts are in a form that can be easily understood by those affected by the receivership or by the judicial officer required to assess the accounts; and
- (c) the accounts are verified by affidavits;

Confectionately Yours Inc., Re, 2002 CarswellOnt 3002 (C.A.) [*Confectionately Yours*] at paras 37-38, Construction Receiver's BOA, Tab 5.

35. The general standard of review for a Court in reviewing the accounts of a court-appointed receiver is "whether the amount claims for remuneration and disbursements incurred in carrying out the receivership are 'fair and reasonable'."

Confectionately Yours at para 42, Construction Receiver's BOA, Tab 5.

36. It is not necessary for the Court to examine "dockets, hours, explanations or disbursements line by line". Rather, a court can consider all the relevant factors, and...award costs (or fees) in a more holistic manner." This approach has been affirmed by the Ontario Court of Appeal, which has stated that "the focus of the fair and reasonable assessment should be on what was accomplished, and not on how much time it took."

Bank of Nova Scotia v Diemer, 2014 ONSC 365 at para 19 [*Diemer - ONSC*], Construction Receiver's BOA, Tab 6; *Bank of Nova Scotia v Diemer*, 2014 ONCA 851 at para 45 [*Diemer - ONCA*], Construction Receiver's BOA, Tab 7.

37. In *Belyea v Federal Business Development Bank*, Stratton JA set out a non-exhaustive list of factors to be considered in determining whether a receiver's fees are fair and reasonable. These factors have been endorsed by Ontario appellate courts:

- (a) the nature and extent of the value of the assets handled;
- (b) the complications and difficulties encountered;
- (c) the degree of assistance provided by the company, its officers or employees;
- (d) the time spent;
- (e) the receiver's knowledge, experience and skill;
- (f) diligence and thoroughness displayed by the receiver;
- (g) the responsibilities assumed;
- (h) results of the receiver's efforts; and
- (i) the cost of comparable services.

Belyea v Federal Business Development Bank 44 N.B.R. (2d) 248 (C.A.) at para 9, Construction Receiver's BOA, Tab 8; *Diemer - ONCA* at para 33, Construction Receiver's BOA, Tab 7 at para 33; *Confectionately Yours* at para 42, Construction Receiver's BOA, Tab 5.

38. The Receivership Proceedings have been complex. As highlighted in the Eighth Report, Supplemental Report and prior court reports, the Construction Receiver has, among other things:

- (a) Closed sale transactions on all 55 Leslieville Units;
- (b) Conducted asset review, analysis and realizations including the sale of the geothermal unit for \$800,000, inclusive of HST;
- (c) Implemented the Settlement;
- (d) Reviewed construction lien claims, in consultation with the Vetting Committee, to determine a process for settling such claims;
- (e) Settled all holdback claims for the Leslieville Project and the Beach Project with the respective lien claimants and sought and obtained Court approval for all but one such settlement;²
- (f) Continued to implement conservatory and security measures;
- (g) Coordinated with numerous creditors and other stakeholders regarding numerous open issues;
- (h) Engaged in court administration including attending Court for various matters in respect of the Receivership Proceedings and responding to creditor inquiries regarding the status of the Receivership Proceedings; and

² Approval of the final settlement is being sought in the within motion.

- (i) Carried out regulatory activities including discussing with the CRA concerning post-filing HST refunds and preparing and filing HST returns.

Eighth Report paras 6-9 and 81.

39. This list of activities is not exhaustive but is indicative of the complexity of the Construction Receiver's mandate. The Construction Receiver has acted in good faith and in the interest of creditors. Over the course of these Receivership Proceedings, the Construction Receiver has exercised the reasonable care, supervision and control that an ordinary person would have given to the Debtors if they were his or her own companies.

BT-PR Realty Holdings Inc. v. Coopers & Lybrand, 1997 CarswellOnt 1246 (Sup. Ct. (Commercial List)) at para 22, Construction Receiver's BOA, Tab 9.

40. The fees and disbursements of the Construction Receiver, Independent Counsel and the Construction Receiver's Counsel reflect either the firms' standard billing rates or a discount on such rates and were validly incurred in accordance with the provisions of the Appointment Order. In light of these circumstances, as set out in greater detail in the Eighth Report and the Supplemental Report the Court should approve the payment of the fees and disbursements incurred by the Construction Receiver, Independent Counsel and the Construction Receiver's Counsel.

41. The work done by the Construction Receiver's Counsel and Independent Counsel was in connection with different aspects of the Receivership Proceedings and was not duplicative.

Eighth Report at para 91.


42. All fees and disbursements have been reported to secured creditors on an ongoing basis in monthly updates. No objections during the relevant periods have been received.

Eighth Report at para 92.

PART V – CONCLUSION

43. For the reasons set forth herein and in the Eighth Report and the Supplemental Report, the Construction Receiver respectfully requests the granting of the Order in the forms contained in the Construction Receiver's Motion Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 25th day of March, 2019.



CHRIS BURR

SCHEDULE "A"
LIST OF AUTHORITIES

Tab	Description
1.	<i>Salah v Timothy's Coffees of the World Inc.</i> (2010) 74 B.L.R. (4 th) 161
2.	<i>Nortel Networks Corp, Re</i> , 2015 ONSC 2987
3.	<i>Beatty v Wei</i> , 2018 ONCA 479
4.	<i>Weyerhaeuser Company Limited Ontario (Attorney General)</i> , 2017 ONCA 1007
5.	<i>Confectionately Yours Inc., Re</i> , 2002 CarswellOnt 3002 (C.A.)
6.	<i>Bank of Nova Scotia v Diemer</i> , 2014 ONSC 365
7.	<i>Bank of Nova Scotia v Diemer</i> , 2014 ONCA 851
8.	<i>Belyea v Federal Business Development Bank</i> 44 N.B.R. (2d) 248 (C.A.)
9.	<i>BT-PR Realty Holdings Inc. v. Coopers & Lybrand</i> , 1997 CarswellOnt 1246

SCHEDULE "B"

Rules of Civil Procedure, R.R.O. 1990, Regulation 194

SUBSTITUTED SERVICE OR DISPENSING WITH SERVICE

Where Order May be Made

16.04 (1) Where it appears to the court that it is impractical for any reason to effect prompt service of an originating process or any other document required to be served personally or by an alternative to personal service under these rules, the court may make an order for substituted service or, where necessary in the interest of justice, may dispense with service. R.R.O. 1990, Reg. 194, r. 16.04 (1).

Effective Date of Service

(2) In an order for substituted service, the court shall specify when service in accordance with the order is effective. R.R.O. 1990, Reg. 194, r. 16.04 (2).

SERVICE BY EMAIL

Required Information

16.06.1 (1) The e-mail message to which a document served under subclause 16.01 (4) (b) (iv) or clause 16.05 (1) (f) is attached shall include,

- (a) the sender's name, address, telephone number, fax number, if any, and e-mail address;
- (b) the date and time of transmission; and
- (c) the name and telephone number of a person to contact in the event of a transmission problem. O. Reg. 170/14, s. 6.

Order for Service by E-mail

(2) If parties do not consent to the service of a document by e-mail, the court may, on motion, make an order directing that the document be served by e-mail, on such terms as are just. O. Reg. 170/14, s. 6.

CANADIAN IMPERIAL BANK OF COMMERCE
Applicant

v.

URBANCORP (LESLIEVILLE) DEVELOPMENTS INC. et al.
Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

FACTUM
(Re: Substituted Service & Approval of Lien
Settlements, Purchase Price Adjustments & Fees
and Activities)

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Canada Inc., in its capacity as both Receiver and
Manager, and Construction Lien Trustee of the
assets, undertakings and property of Urbancorp
(Leslieville) Developments Inc., Urbancorp
(Riverdale) Developments Inc., and Urbancorp
(The Beach) Developments Inc.