

**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**

**NOTICE OF MOTION**

Terra Firma Capital Corporation (“**Terra Firma**”) will make a Motion to a judge of the Commercial List via Zoom videoconference due to the COV ID-19 crisis on August 19, 2020 at 10:00 am or as soon after that time as the motion may be heard . The Zoom videoconference details are set out in Schedule “A”.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard:

- in writing under subrule 37.12.1(1) because it is (*insert one of* on consent, unopposed *or* made without notice);
  
- in writing as an opposed Motion under subrule 37.12.1(4);

orally.

**THE MOTION IS FOR:**

1. An Order that Alvarez and Marsal Canada Inc. in its capacity as the court appointed receiver and construction lien trustee of the Respondents (the “**Construction Receiver**”) be directed to distribute to Terra Firma the Park Levy Reserve as defined in the Tenth Report of the Construction Receiver dated August 6, 2020 (the :”**Tenth Report**”); and
2. Such further and other relief as this Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**

1. The Construction Receiver collected adjustments on the sale of condominium units at the Leslieville development that had been undertaken by Urbancorp (Leslieville Developments Inc. and was completed by the Construction Receiver;
2. No court proceedings have been brought in respect of the adjustments that comprise the Park Levy Reserve, despite ample notice to the affected parties;
3. Pursuant to the existing Orders in this Proceeding, Terra Firma is the next ranking stakeholder to receive distributions from the estate of the Respondents, and the Construction Receiver’s analysis has concluded that there is no possibility that the subsequent ranking stakeholders will receive any distributions under the most optimistic scenario;
4. Upon discharge of the Construction Receiver, all potential claims against it, including in respect of the Park Levy Reserve, will be extinguished, meaning that whatever funds the Construction Receiver has on hand should be distributed to Terra Firma as further partial payment of the waterfall distributions previously Ordered in this proceeding; and

5. Such further and other grounds as counsel may advise and this Court accepts.

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

1. The Tenth Report of the Construction Receiver; and
2. Such further and other materials counsel may advise and this Court may permit.

August 7, 2020

**GOLDMAN SLOAN NASH & HABER LLP**  
Barristers & Solicitors  
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**R. Brendan Bissell**  
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Solicitors for Terra Firma Capital Corporation

**To: The Service list**

**MASTER SERVICE LIST**

As of 13 June, 2019

Court File No. CV-16-11409-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**B E T W E E N:**

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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**

<b>TO:</b>	<p><b>GOWLING WLG (CANADA) LLP</b> 1 First Canadian Place Suite 1600, 100 King Street West Toronto, ON M5X 1G5</p> <p><b>Attention: Clifton P. Prophet</b> Tel: (416) 862-3509 Fax: (416) 862-7661 Email: <a href="mailto:clifton.prophet@gowlingwlg.com">clifton.prophet@gowlingwlg.com</a></p> <p><b>Attention: Frank Lamie</b> Tel: (416) 862-3609 Fax: (416) 862-7661 Email: <a href="mailto:frank.lamie@gowlingwlg.com">frank.lamie@gowlingwlg.com</a></p> <p><i>Lawyers for the Applicants, Canadian Imperial Bank of Commerce in its capacity as Administrative Agent and Lender</i></p>
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<p><b>AND TO:</b></p>	<p><b>ALVAREZ &amp; MARSAL CANADA INC.</b>          Royal Bank Plaza, South Tower          200 Bay Street, Suite 2900, P.O. Box 22          Toronto, ON M5J 2J1</p> <p><b>Attention: Doug McIntosh</b>          Tel: (416) 847-5150          Fax: (416) 847-5201          Email: <a href="mailto:dmcintosh@alvarezandmarsal.com">dmcintosh@alvarezandmarsal.com</a></p> <p><b>Attention: Tony Zaspalis</b>          Tel: (416) 847-5171          Fax: (416) 847-5201          Email: <a href="mailto:tzaspalis@alvarezandmarsal.com">tzaspalis@alvarezandmarsal.com</a></p> <p><b>Attention: Ryan Gruneir</b>          Tel: (416) 847-5151          Fax: (416) 847-5201          Email: <a href="mailto:rgruneir@alvarezandmarsal.com">rgruneir@alvarezandmarsal.com</a></p> <p><i>Court Appointed Receiver and Construction Lien Trustee of the Respondents</i></p>
<p><b>AND TO:</b></p>	<p><b>BLAKE, CASSELS &amp; GRAYDON LLP</b>          199 Bay Street          Suite 4000, Commerce Court West          Toronto ON M5L 1A9</p> <p><b>Attention: Pamela L.J. Huff</b>          Tel: (416) 863-2958          Fax: (416) 863-2653          Email: <a href="mailto:pamela.huff@blakes.com">pamela.huff@blakes.com</a></p> <p><b>Attention: Milly Chow</b>          Tel: (416) 863-2594          Fax: (416) 863-2653          Email: <a href="mailto:milly.chow@blakes.com">milly.chow@blakes.com</a></p> <p><b>Attention: Chris Burr</b>          Tel: (416) 863-3261          Fax: (416) 863-2653          Email: <a href="mailto:chris.burr@blakes.com">chris.burr@blakes.com</a></p> <p><i>Lawyers for the Court Appointed Receiver and Construction Lien Trustee,          Alvarez &amp; Marsal Canada Inc.</i></p>

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<p><b>AND TO:</b></p>	<p><b>DAVIES WARD PHILLIPS &amp; VINEBERG LLP</b>  155 Wellington Street West  Toronto, ON M5V 3J7</p> <p><b>Attention: Robin B. Schwill</b>  Tel: (416) 863-5502 / (416) 367-7460  Fax: (416) 863-0900  Email: <a href="mailto:rschwill@dwpv.com">rschwill@dwpv.com</a></p> <p><i>Lawyers for the Monitor of the Urbancorp CCAA Entities</i></p>
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<b>AND TO:</b>	<p><b>CRAFT DEVELOPMENT CORPORATION</b></p> <p><b>Attention: Peter Griffis</b>  Email: <a href="mailto:p.griffis@craftgrp.com">p.griffis@craftgrp.com</a></p>
<b>AND TO:</b>	<p><b>TSCC NO. 2669</b>  c/o FirstService Residential Ontario  2645 Skymark Avenue, Suite 101  Mississauga, ON L4W 4H2</p> <p><b>Attention: Mr. Ted Sablatnig / Mr. Julian McNabb</b>  Email: <a href="mailto:ted.sablatnig@fsresidential.com">ted.sablatnig@fsresidential.com</a> / <a href="mailto:julian.mcnabb@fsresidential.com">julian.mcnabb@fsresidential.com</a></p>
<b>AND TO:</b>	<p><b>PAUL MARCACCIO</b></p> <p><b>Attention: Paul Marcaccio</b>  Email: <a href="mailto:ptm@rogers.com">ptm@rogers.com</a></p>
<b>CONSTRUCTION LIEN CLAIMANTS:</b>	
<b>AND TO:</b>	<p><b>DELZOTTO, ZORZI LLP</b>  4810 Dufferin Street, Suite D  Concord, ON L4K 4L6</p> <p><b>Attention: Robert Calderwood</b>  Tel: (416) 665-5555  Fax: (416) 665-9653  Email: <a href="mailto:rcalderwood@dzlaw.com">rcalderwood@dzlaw.com</a></p> <p><i>Lawyers for Furkin Construction Inc.</i></p>

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As of 13 June 2019

Court File No. CV-16-11409-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**B E T W E E N:**

**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**

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## Schedule "A"

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BETWEEN  
CANADIAN IMPERIAL BANK OF COMMERCE  
Applicant

- and -

Court File No. CV-16-11409-00CL  
URBANCORP (LESLIEVILLE) DEVELOPMENTS INC. et al.  
Respondents

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

**Proceedings commenced at Toronto**

**NOTICE OF MOTION**

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