

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) WEDNESDAY, THE 27<sup>th</sup>  
 )  
MR. JUSTICE MYERS ) DAY OF SEPTEMBER, 2017  
 )



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

**ORDER**  
**(Re: Limited Lift Stay)**

**THIS MOTION** made by Alvarez & Marsal Canada Inc., in its capacity 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 (“**BIA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended, and in its capacity as construction lien trustee (in such capacity, the “**Construction Lien Trustee**”), pursuant to section 68 of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (“**CLA**”) (the Receiver, together with the Construction Lien Trustee, the “**Construction Receiver**”), of all of the assets, undertakings, and property acquired for, or used in relation to the business, including all proceeds thereof (the “**Property**”) of Urbancorp (Leslieville) Developments Inc. (“**UC Leslieville**”), and Urbancorp (The Beach) Developments Inc. (“**UC Beach**”, together UC Leslieville, the “**Debtors**”), for an

order temporarily lifting the stay of proceedings for the limited purpose of setting down certain claims in the Lien Proceedings (defined below) was heard this day at 330 University Avenue Toronto, Ontario.

**ON READING** the Notice of Motion and the Orders of the Honourable Mr. Justice Newbould granted in these proceedings on May 2, 2017 (the “**Beach Project Order**” and the “**Leslieville Settlement Approval Order**”, respectively), and on hearing submissions from counsel to the Construction Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of Ana Brito sworn September 25, 2017, filed, and on being advised by counsel to the Construction Receiver that this order is unopposed.

#### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion is abridged and validated, such that this motion is properly returnable today.

#### **DEFINITIONS**

2. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meaning given to them in the Leslieville Settlement Approval Order.

#### **LIMITED LIFT STAY**


3. **THIS COURT ORDERS** that to avoid the adverse implications of the two-year limitation period under the CLA, if applicable, the stay of proceedings herein be and is hereby lifted such that:

- (a) the lien proceedings listed on **Schedule “A”** hereto (the “**Leslieville Lien Proceedings**”) are hereby deemed to have been set down for trial, provided that nothing herein derogates from the dismissal of the claims with respect to the Mortgagee Actions upon the establishment of the Holdback Reserve in accordance with Leslieville Settlement Approval Order; and

- (b) the lien proceedings listed on **Schedule “B”** hereto (the “**Beach Lien Proceedings**”) are hereby deemed to have been set down for trial, other than the claims with respect to Mortgagee Actions (as defined in the Beach Project Order) which have been dismissed as the Beach Holdback Reserve (as defined in the Beach Project Order) has been established in accordance with the Beach Project Order,

in each case, solely to comply with section 37 of the CLA and in accordance with the provisions of section 60(1) of the CLA.

4. **THIS COURT ORDERS** that the trial of each of the Leslieville Lien Proceedings and the Beach Lien Proceedings (collectively, the “**Lien Proceedings**”) shall be listed for trial in Toronto, Ontario but shall not be called for trial and no further steps shall be taken in the Lien Proceedings without further order of the Court.
5. **THIS COURT ORDERS** that a Trial Record need not be filed in the Lien Proceedings until so ordered by the Court or as agreed by counsel for the parties.
6. **THIS COURT ORDERS** that the Lien Proceedings are hereby set down for trial without prejudice to all parties’ rights. This Order is not, and shall not be deemed to be, an acknowledgement of any merits or substance of the Lien Proceedings, and no party to the Lien Proceedings shall be deemed by virtue of this Order to have made any admission, acknowledgement or acquiescence of or to any liability in the Lien Proceedings. All rights, remedies and defences of the parties are expressly reserved.



---

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

SEP 27 2017

PER / PAR: 

**SCHEDULE "A"****LESLIEVILLE LIEN PROCEEDINGS**

	<b>Plaintiff</b>	<b>Defendants</b>	<b>Court File No.</b>
1.	207875 Ontario Limited	Urbancorp (Leslieville) Developments Inc., Urbancorp Construction Company Inc., Terra Firma Capital Corporation, Canadian Imperial Bank of Commerce, Travelers Insurance Company of Canada	CV-16-553611
2.	Alpa Stairs and Railings Inc.	Urbancorp (Leslieville) Developments Inc., Urbancorp (The Beach) Developments Inc., Travelers Guarantee Company of Canada, Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-15-537937
3.	Commercial Two Construction Inc.	Urbancorp (Leslieville) Developments Inc., Urbancorp Inc., Travelers Guarantee Company of Canada, Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-16-552495
4.	Emergency Propane Services Inc.	Urbancorp (Leslieville) Developments Inc., Urbancorp Construction Company Inc., Terra Firma Capital Corporation, Canadian Imperial Bank of Commerce, Travelers Insurance Company of Canada	CV-16-553614
5.	EXP Services Inc.	Urbancorp (Leslieville) Developments Inc., Urbancorp Inc., Travelers Guarantee Company of Canada, Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-16-545215

	<b>Plaintiff</b>	<b>Defendants</b>	<b>Court File No.</b>
6.	Lido Construction Inc.	Urbancorp (Leslieville) Developments Inc., Urbancorp Inc., Travelers Guarantee Company of Canada, Canadian Imperial Bank of Commerce, Terra Firma Capital Corporation	CV-16-554573
7.	MDF Mechanical Limited	Urbancorp (Leslieville) Developments Inc., Travelers Guarantee Company of Canada also known as Travelers Insurance Company of Canada, Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-16-551542
8.	NG Marin Inc.	Urbancorp (Leslieville) Developments Inc., Travelers Guarantee Company of Canada, Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-16-552136
9.	Orin Contractors Corp.	Urbancorp (Leslieville) Developments Inc., Travelers Guarantee Company of Canada, Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-15-543587
10.	Roni Excavating Limited	Urbancorp (Leslieville) Developments Inc., Travelers Guarantee Company of Canada, Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-15-543574
11.	Silvio Construction Co. Ltd.	Urbancorp (Leslieville) Developments Inc., Urbancorp Toronto Management Inc., Travelers Guarantee Company of Canada, Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-16-549968

	<b>Plaintiff</b>	<b>Defendants</b>	<b>Court File No.</b>
12.	Sterling Tile & Carpet	Urbancorp (Leslieville) Developments Inc., Urbancorp Inc., Urbancorp Financial Inc., Urbancorp Construction Company, Canadian Imperial Bank of Commerce, Travelers Insurance Company of Canada and Terra Firma Capital Corporation	CV-16-546232
13.	Uptown Hardware Limited	Urbancorp (Leslieville) Developments Inc., Travelers Guarantee Company of Canada, Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-16-551471

## SCHEDULE "B"

### BEACH LIEN PROCEEDINGS

	<b>Plaintiff</b>	<b>Defendants</b>	<b>Court File No.</b>
1.	207875 Ontario Limited	Urbancorp (The Beach) Developments Inc., Urbancorp (Leslieville) Developments Inc., Urbancorp Construction Company Inc., Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-16-554931
2.	Alpa Stairs and Railings Inc.	Urbancorp (Leslieville) Developments Inc., Urbancorp (The Beach) Developments Inc., Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-15-537936
3.	Furkin Construction Inc.	Urbancorp (Leslieville) Developments Inc., Urbancorp (The Beach) Developments Inc., Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-15-543051
4.	Lido Construction Inc.	Urbancorp (Leslieville) Developments Inc., Urbancorp Inc., Canadian Imperial Bank of Commerce, and Terra Firma Capital Corporation	CV-16-556542
5.	NG Marin Inc.	Urbancorp (Leslieville) Developments Inc., Urbancorp (The Beach) Developments Inc., Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-16-552135

	<b>Plaintiff</b>	<b>Defendants</b>	<b>Court File No.</b>
6.	Orin Contractors Corp.	Urbancorp (Leslieville) Developments Inc., Urbancorp (The Beach) Developments Inc., Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-15-543581
7.	Roni Excavating Limited	Urbancorp (Leslieville) Developments Inc., Urbancorp (The Beach) Developments Inc., Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-15-543577
8.	Silvio Construction Co. Ltd.	Urbancorp (Leslieville) Developments Inc., Urbancorp (The Beach) Developments Inc., Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-16-549973
9.	Uptown Hardware Limited	Urbancorp (Leslieville) Developments Inc., Canadian Imperial Bank of Commerce and Terra Firma Capital Corporation	CV-16-551477



**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

**ORDER**  
**(RE: LIMITED LIFT STAY)**

**BLAKE, CASSELS & GRAYDON LLP**  
199 Bay Street  
Suite 4000, Commerce Court West  
Toronto, Ontario M5L 1A9

**Pamela L.J. Huff** - LSUC#: 27344V  
Tel: 416-863-2958  
Fax: 416-863-2653  
Email: [pamela.huff@blakes.com](mailto:pamela.huff@blakes.com)

**Kelly Peters** – LSUC#: 59914W  
Tel: 416-863-4271  
Fax: 416-863-2653  
Email: [kelly.peters@blakes.com](mailto:kelly.peters@blakes.com)

Independent Counsel for Alvarez & Marsal 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.