

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) TUESDAY, THE 26<sup>th</sup>  
RSJ MORAWETZ ) DAY OF MARCH, 2019

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: SUBSTITUTED SERVICE AND APPROVAL OF LIEN SETTLEMENTS &**  
**PURCHASE PRICE ADJUSTMENTS)**

**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, 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 (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**”), Urbancorp (Riverdale) Developments Inc. and Urbancorp (The Beach) Developments Inc. (“**UC Beach**”), for an order granting certain approvals as set out herein, was heard this day in Toronto, Ontario.

**ON READING** the Notice of Motion dated March 18, 2019, the Seventh Report of the Construction Receiver dated October 5, 2018 (the “**Seventh Report**”), the Eighth Report of the Construction Receiver dated March 18, 2019 (the “**Eighth Report**”), the Supplement to the Eighth Report of the Construction Receiver dated March 18, 2019 (the “**Supplemental Report**”), and on hearing the submissions of counsel for the Construction Receiver and the counsel on the counsel slip, attached, no one appearing for any other person on the service list, although properly served with the Construction Receiver’s Motion Record as appears from the affidavit of service of Caitlin McIntyre sworn March 20, 2019, filed,

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

## **APPROVAL OF LIEN SETTLEMENTS AND DISTRIBUTIONS**

### *Leslieville Project Lien Settlement*

2. **THIS COURT ORDERS** that the lien settlement amount agreed to by the Vetting Committee (as defined in the Eighth Report) and Lido Construction Inc. (“**Lido**”) against the Respondent UC Leslieville’s construction project located in the Leslieville neighbourhood of Toronto, as set out in Paragraph 24 of the Eighth Report, is hereby approved. The Respondent UC Leslieville’s construction project located in Leslieville, Toronto shall be referred to as the “**Leslieville Project**” for the purposes of this Order.

3. **THIS COURT ORDERS** that the Construction Receiver is hereby authorized and directed to distribute, without further order of the Court, the amount of \$58,691.18 to Lido from the \$200,000 holdback reserve established by the Construction Receiver in respect of the Leslieville Project (the “**Leslieville Holdback Reserve**”) in accordance with Paragraph 57 of the Order of Mr. Justice Newbould (Settlement Approval Order: RE: Leslieville Project), dated May 2, 2017 (as amended, the “**Settlement Approval Order**”) and Paragraph 3 of the Order of Mr. Justice Penny (RE: Approving Lien Settlements, etc.), dated October 11, 2018 (the “**October 11 Order**”).

4. **THIS COURT ORDERS** that following the distribution provided for in Paragraph 3 hereof, the Construction Receiver shall be under no further obligation to maintain the Leslieville Holdback Reserve, and any amounts remaining after the distribution provided for in Paragraph 3 hereof shall be distributed by the Construction Receiver in accordance with Paragraph 55 of the Settlement Approval Order.

*Beach Project Lien Settlement*

5. **THIS COURT ORDERS** that the lien settlement amount agreed to by the Vetting Committee (as defined in the Eighth Report) and Lido against the Respondent UC Beach's construction project located in The Beach neighbourhood of Toronto, as set out in Paragraph 24 of the Eighth Report, is hereby approved. The Respondent UC Beach's construction project located in The Beach, Toronto shall be referred to as the "**Beach Project**" for the purposes of this Order.

6. **THIS COURT ORDERS** that the Construction Receiver is hereby authorized and directed to distribute, without further order of the Court, the amount of \$71,811.32 to Lido from the \$120,000 holdback reserve established by the Construction Receiver in respect of the Beach Project (the "**Beach Holdback Reserve**") in accordance with Paragraph 5 of the October 11 Order.

7. **THIS COURT ORDERS** that following the distributions provided for in Paragraph 6 hereof, the Construction Receiver shall be under no further obligation to maintain the Beach Holdback Reserve, and any amounts remaining after the distribution provided for in Paragraph 6 hereof shall be distributed by the Construction Receiver in accordance with Paragraph 55 of the Settlement Approval Order.

**APPROVAL OF LIEN CLAIMANTS BALANCE CLAIMS**

8. **THIS COURT ORDERS AND DECLARES** that the Lien Claimants Balance Claims (as defined in the Settlement Approval Order) for each Lien Claimant (as defined in the Settlement Approval Order) shall be in the amount set out in paragraph 32 and Appendix "A" of the Eighth Report.

## **DISCLOSURE AND SERVICE ON UNREPRESENTED LESLIEVILLE PURCHASERS**

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection Act and Electronic Documents Act*, if applicable, the Construction Receiver is hereby authorized to disclose the contact information of purchasers of units of the Leslieville Project in respect of whom a Notice of Appearance or Notice of Change of Lawyer has not been filed in these proceedings (the “**Unrepresented Purchasers**”), including names, last known e-mail addresses, alternative e-mail addresses provided to the Construction Receiver or its counsel, and mailing addresses (if necessary), to any interested party who may request such information from the Construction Receiver for the purposes of serving materials in these proceedings.

10. **THIS COURT ORDERS** that service on each of the Unrepresented Purchasers of any court material in this proceeding by way of e-mail to the last known email address for each such Unrepresented Purchaser based on the records of the Construction Receiver’s counsel, Miller Thomson LLP, or to an alternative e-mail address provided by an Unrepresented Purchaser to the Construction Receiver in writing, shall be good and sufficient service of such court material on each such Unrepresented Purchaser.

11. **THIS COURT ORDERS** that email service in accordance with paragraph 10 above shall be effective immediately upon delivery of such email, or, if delivered after 5:00 p.m. Toronto time, shall be effective the next business day thereafter.

12. **THIS COURT ORDERS** that any Unrepresented Purchaser who does not wish to be subject to paragraphs 9 through 11 of this Order may advise the Construction Receiver in writing (either directly by such Unrepresented Purchaser or through counsel) of the name and contact information of its counsel, following receipt of which counsel information by the Construction Receiver, service of any court material in this proceeding may be made on such Unrepresented Purchaser by duly serving such Unrepresented Purchaser’s counsel.

## **APPROVAL OF INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS**

13. **THIS COURT ORDERS** that the Construction Receiver’s Interim R&D Statement (as defined in the Eighth Report) is hereby approved.

**ACTIVITY APPROVAL**

14. **THIS COURT ORDERS** that the activities and conduct of the Construction Receiver occurring prior to the date hereof in relation to the Respondents and these proceedings, as are further particularized in the Seventh Report and Eighth Report, are hereby ratified and approved, provided, however, that only the Construction Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

**MICELLANEOUS**

15. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or the United States to give effect to this Order and to assist the Construction Receiver and its agents, in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Construction Receiver and its agents, as may be necessary or desirable to give effect to this Order or to assist the Construction Receiver and its agents, in carrying out the terms of this Order.



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**CM CHIBA, Registrar  
Superior Court of Justice**

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

MAR 27 2019

PER / PAR: *A.E.*

**330 UNIVERSITY AVE. 330 AVE. UNIVERSITY  
7TH FLOOR 7E ÉTAGE  
TORONTO, ONTARIO TORONTO, ONTARIO  
M5G 1R7 M5G 1R7**

**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: SUBSTITUTED SERVICE AND  
APPROVAL OF LIEN SETTLEMENTS  
& PURCHASE PRICE ADJUSTMENTS)**

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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.