

**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**

**SUPPLEMENT TO THE TENTH REPORT  
OF  
ALVAREZ & MARSAL CANADA INC.,  
AS RECEIVER AND MANAGER AND CONSTRUCTION LIEN TRUSTEE  
OF THE ASSETS, UNDERTAKINGS AND PROPERTY OF URBANCORP  
(LESLIEVILLE) DEVELOPMENTS INC., URBANCORP (RIVERDALE)  
DEVELOPMENTS INC., & URBANCORP (THE BEACH) DEVELOPMENTS INC.**

**August 18, 2020**

## 1.0 INTRODUCTION

1. The Construction Receiver has filed the Tenth Report of the Construction Receiver, dated August 6, 2020 (the “**Tenth Report**”) in connection with its motion returnable on August 19, 2020. This supplement to the Tenth Report is the “**Supplemental Report**” described in paragraph 29 of the Tenth Report, and is being provided to update the Court on matters relating to the Unrepresented Purchasers.
2. This Supplemental Report should be read in conjunction with, and subsequent to reading Part 3 of, the Tenth Report. Capitalized terms used in the Supplemental Report not otherwise defined herein shall have the meaning given to them in the Tenth Report.

## 2.0 COMMUNICATIONS WITH UNREPRESENTED LESLIEVILLE UNIT PURCHASERS

### *Notice to Unrepresented Purchasers*

3. On August 6, 2020, pursuant to the terms of the Substituted Service Order, the Construction Receiver sent a letter in the form attached to the Tenth Report as Appendix “B”, to the Unrepresented Purchasers, together with a copy of the Tenth Report. Where the Construction Receiver had email addresses for the real estate counsel used by each Unrepresented Purchaser in connection with the purchase of the units, such real estate counsel were also emailed with the letter and Tenth Report.
4. On August 6, 2020, the Unrepresented Purchasers (and their real estate counsel, where possible) were also served by email with a copy of the Construction Receiver’s Motion Record dated August 6, 2020 and a link to a share file containing all documents related to the Construction Receiver’s motion.
5. Unrepresented Purchasers were asked in the letter sent to them that if they intended to make a claim for refund of the Park Levy paid by them in connection with the closing of their Urbancorp Leslieville unit, they should notify the Construction Receiver by no later than Monday, August 17, 2020 (the “**Notice Deadline**”). Unrepresented Purchasers were also invited to formally respond by filing materials with the Court.

### *Communications with Unrepresented Purchasers*

6. Following service of the Tenth Report, the Construction Receiver’s counsel:
  - a. received one email bounce-back in respect of which alternative contact information has not been located. The Unrepresented Purchaser in respect

of which the bounce-back was received had a cap on her purchase price adjustments and did not pay a park levy.

- b. was contacted by one former employer of an Unrepresented Purchaser, which former employer was receiving emails sent to the business email account of the Unrepresented Purchaser who formerly worked there. On August 6, 2020, the former employer provided updated contact information for the Unrepresented Purchaser, and all materials were then sent to this alternative address.
- c. was contacted by real estate counsel to one Unrepresented Purchaser enquiring as to why he was being contacted. The Construction Receiver's counsel explained why he was contacted and advised of which Unrepresented Purchaser he was being served in respect of.
- d. was contacted by one Unrepresented Purchaser inquiring about the purpose of the Construction Receiver's motion, who was advised that he had a cap on his purchase price adjustments and did not pay a park levy.
- e. was contacted by one Unrepresented Purchaser who was advised by the Construction Receiver's counsel that she did not have a cap on purchase price adjustments. This Unrepresented Purchaser advised on August 8, 2020 as follows:

Thanks for your email. With respect to the Park Levy refund, as the original purchaser and owner of unit [redacted], I'd like to make the following points:

1. While I did receive various notices relating to various legal proceedings to date, I have not had real estate legal representation since November, 2019, when the attorney who handled the Curzon purchase for me (John Bucknam) passed away, and due to the complications of the past few months I am only now getting up to speed with the notices that have been sent over that time.
2. It seems to me that if the Superior Court and Court of Appeal have decided that refund payments to the Certain Curzon Purchasers were warranted, then we unrepresented purchasers who signed similar legal documents (and had negotiated no caps) should be entitled to receive similar pro-rated refunds.
3. I consequently ask that the Construction Receiver consider this an official request for a refund of the Park Levy reserve, and that my comments be included in any official records.



Thank you again for welcoming my comments. Will you please let me know that you received this communication and keep me informed of any developments?

The Construction Receiver's counsel advised that this Supplemental Report would be provided to the Court advising of her formal request for a refund, and she was encouraged to attend the Construction Receiver's motion on August 19. The Zoom dial-in coordinates in the Construction Receiver's notice of motion were included in the Construction Receiver's counsel's response to the Unrepresented Purchaser.

7. The Park Levy paid by the Unrepresented Purchaser referred to in subparagraph 6(e) was \$15,209.21 (\$13,459.48 levy plus HST of \$1,749.73).
8. No other correspondence has been received from Unrepresented Purchasers or their real estate counsel as of the Notice Deadline.

### **3.0 TERRA FIRMA MOTION**

9. On August 7, 2020, Terra Firma served a notice of motion on the service list and on the Unrepresented Purchasers seeking an order directing the Construction Receiver to pay the Park Levy Reserve to Terra Firma.
10. There is accordingly a formal motion outstanding by Terra Firma seeking the Park Levy Reserve, an informal request by one Unrepresented Purchaser for the refund from the Park Levy Reserve in the amount of \$15,209.21, and no response from any other Unrepresented Purchaser who paid a park levy, despite their having been on notice of the dispute over the park levy for over 16 months (since April 6, 2019).
11. In the Construction Receiver's view, the distinction between the Certain Curzon Purchasers who received a refund of their park levy and the Unrepresented Purchaser who has now requested a refund is that the former sought to proactively enforce their claim, while the latter has raised her claim only after the issue has been adjudicated. The balance of the Unrepresented Purchasers who paid a park levy have taken no action whatsoever, despite having more than 16 months to do so and being given a clear deadline by which to make a claim.
12. As stated above, the Construction Receiver has advised the Unrepresented Purchaser who has requested a refund that she should attend the hearing on August 19, 2020, given the motion by Terra Firma, and she has been provided with updated Zoom link coordinates.

### **4.0 REVISED MOTION ZOOM COORDINATES**

13. On August 18, 2020, the Construction Receiver was contacted by the Court to advise that the hearing would proceed by way of the Superior Court Zoom link.

The Construction Receiver will update all stakeholders by email, including a hyperlink for the updated hearing.

14. The updated Zoom link for the Construction Receiver's motion at 10 am on Wednesday, August 19, 2020 is:

Weblink: <https://ca01web.zoom.us/j/63404394702?pwd=aVlwZ0dGQUFhN05tdXN5U3lxbzAvUT09>

Meeting ID: 634 0439 4702

Passcode: 867684

One tap mobile

+16473744685,,63404394702#,,,,,0#,,867684# Canada

+17789072071,,63404394702#,,,,,0#,,867684# Canada

Dial by your location

+1 647 374 4685 Canada

+1 778 907 2071 Canada

+1 204 272 7920 Canada

+1 438 809 7799 Canada

+1 587 328 1099 Canada

855 703 8985 Canada Toll-free

Meeting ID: 634 0439 4702

Passcode: 867684

Join by SIP: 63404394702@zoomcrc.com

Join by H.323

69.174.57.160 (Canada)

162.255.37.11

162.255.36.11

221.122.88.195

115.114.131.7

213.19.144.110

103.122.166.55

209.9.211.110

64.211.144.160

Meeting ID: 634 0439 4702

Passcode: 867684

\* \* \* \* \*

All of which is respectfully submitted, this 18<sup>th</sup> day of August 2020.

**ALVAREZ & MARSAL CANADA INC. SOLELY IN ITS CAPACITY AS RECEIVER  
AND MANAGER AND CONSTRUCTION LIEN TRUSTEE OF THE ASSETS,  
UNDERTAKINGS AND PROPERTY OF URBANCORP (LESLIEVILLE)  
DEVELOPMENTS INC., URBANCORP (RIVERDALE) DEVELOPMENTS INC., &  
URBANCORP (THE BEACH) DEVELOPMENTS INC. AND NOT ITS PERSONAL OR  
CORPORATE CAPACITY**

Per:

  
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Douglas R. McIntosh  
President