

Monteyne, Jules

From: Koehnen, Mr. Justice Markus (SCJ) [REDACTED]
Sent: Tuesday, August 3, 2021 6:23 PM
To: Thompson, Nancy; Huff, Pam; Shalviri, Aryo; Monteyne, Jules; Jorgensen, Maia; Bourikas, George; nbrearton@kpmg.ca; Forbes, Katherine J; Evan Cobb; Flinn, Jeff; Baron, Jacob; asraya.dunham@aig.com
Cc: JUS-G-MAG-CSD-Toronto-SCJ Commercial List; Burr, Chris
Subject: Re: In the Matter of the Receivership Proceedings of Victoria Avenue North Holdings Inc. et al - CV-21-00665375-00CL
Attachments: Victoria Avenue 20210803.pdf

External Email | Courrier électronique externe

Email Endorsement

1. The applicants seek to appoint a receiver over the corporate respondent.
- 2.
3. The corporate respondent owes the applicant over \$22 million and is in arrears. A forbearance period was granted and extended numerous times to no avail.
3. On June 25, 2021, the respondent's parent made a voluntary assignment into bankruptcy.
- 4.
5. No one opposes the receivership as such.
- 6.
7. Mr. Waldman seeks an adjournment of today's hearing. He acts for 5 of 71 investors in the respondent. They had prior counsel but have recently retained him. He would like time to review matters and get a sense of what position he would take. I am disinclined to grant the adjournment. There is simply no doubt that a Receiver is required, whatever the position of Mr. Waldman's clients might be. The applicant is a mortgage lender who has the right to appoint a receiver if the mortgage is in default. There is no doubt that the mortgage is in serious default. Given the bankruptcy of the respondent's parent, some orderly management of the respondent is needed.
- 8.
9. It strikes me that the real issue relates to the terms of the receivership. The applicants propose that the receiver be empowered to borrow \$500,000 from the applicants at a rate of interest of 8.95% (compared to 4% on the existing mortgage) and that the Receiver have up to 6 months to get court approval for a sales process. This is referred to as an initial loan.
- 10.
11. Six months strikes me as too long a period, especially in circumstances where the applicants are benefitting from any delay. The applicants submit that they did not intend to take 6 months but wanted the leeway to do so should they need it.
- 12.
13. It strikes me that 3 months is more than enough time for a receiver to assess the properties and determine what to do with them. I therefore grant the receivership but require the Receiver to return to court in 90 days or less to approve a sales process or approve whatever other steps the Receiver proposes with respect to the properties.
- 14.

15. I note that the Receiver owes obligations to the court and is obliged to return to court in less than 90 days if it is able to come to a determination of how to proceed before 90 days have expired.
- 16.
17. If the Receiver cannot obtain a court appointment within a reasonable amount of time to satisfy its needs, counsel can email me directly and I will provide time outside of the ordinary hearing day to address issues in a timely manner.
- 18.
19. I attach a signed order reflecting the foregoing.

Justice Markus Koehnen

Ontario Superior Court of Justice

361 University Ave.

Toronto, Ont.

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