



SUPERIOR COURT OF JUSTICE

ENDORSEMENT

COURT FILE NO.: CV-21-00665128-00CL DATE: August 1, 2023

NO. ON LIST: 10

TITLE OF PROCEEDING: DUCA FINANCIAL SERVICES CREDIT UNION LTD , BAYVIEW CREEK (CIM) LP, CIM INVESTMENTS DEVELOPMENT INC, CIM BAYVIEW CREEK INC

BEFORE: **Mr. Justice Penny**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Roger Jaipargas, Borden Ladner Gervais LLP	Counsel for msi Spergel Inc.	rjaipargas@blg.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Sanea Tanvir, McCarthy Tetrault LLP	Counsel for Fengate Capital Management Ltd	stanvir@mccarthy.ca
Rory McGovern, Rory McGovern PC	Counsel to Cardinal Advisory Limited	rory@rorymccgovernpc.com
Tim Dunn, Minden Gross LLP	Counsel to Sunny Communities (Bayview Creek Inc.)	tdunn@mindengross.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
John Birch,	Counsel for Grant Thornton Limited (Proposal Trustee)	jbirch@cassels.com

Ping Tan	for the Third Mortgagee	
Carlton Thorne Observer	Town of Richmond Hill	Carlton.thorne@richmondhill.ca

ENDORSEMENT

- [1] This is a motion for a sale approval and AVO together with certain collateral relief.
- [2] The Receiver was appointed receiver over all the assets and property of the debtor by order of this court. The mandate of the Receiver is to preserve and realize on the assets for the benefit of all stakeholders. Significant efforts were made to market the assets and to realize the best value available.
- [3] I am satisfied the *Sound Air* criteria have been met. The process was fair and reasonable and the transaction sought to be approved represents the best available recovery for stakeholders. The Receiver and the principal secured creditor, Fengate, both support the sale. There is no opposition.
- [4] Certain priorities from prior insolvency proceedings had to be accommodated. This accommodation is appropriate in the circumstances.
- [5] The sealing order relates to the value of the property and the transaction. It is necessary, in the public interest, to preserve the ability of the Receiver to maximize value in future in the event this deal does not close. The sealing order requested is suitably tailored to the requirements of the situation, in accordance with *Sherman Estate v. Donovan*.
- [6] I also find that the ancillary relief sought, including the proposed distributions, is appropriate in the circumstances.
- [7] Orders to issue in the form signed by me this day.



Penny J.

