



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

COURT FILE NO.: CV-25-00745177-00CL

DATE: August 8, 2025

NO. ON LIST: 2

TITLE OF PROCEEDING: MATANDA HOMES LTD. v. 1656977 ONTARIO INC.

BEFORE: JUSTICE DIETRICH, J.

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party:**

Name of Person Appearing	Name of Party	Contact Info
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**For Defendant, Respondent, Responding Party:**

Name of Person Appearing	Name of Party	Contact Info
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**Other:**

Name of Person Appearing	Name of Party	Contact Info

**ENDORSEMENT OF JUSTICE J. DIETRICH:**

**Introduction**

- [1] Matanda Homes Limited (the "**Matanda**"), seeks an order appointing BDO Canada Limited ("**BDO**") as receiver over the assets of the respondent, 1656977 Ontario Inc. (the "**Debtor**") including the real property municipally known as 598-600 Yonge Street, Toronto, Ontario, M4Y 1Z3 (the "**Yonge Street Property**").

- [2] The hearing of Matanda's receivership application was scheduled by endorsement of Justice Steele dated June 25, 2025. That endorsement also provided that any responding material was to be filed by July 11, 2025. Counsel for the Debtor appeared at that case conference.
- [3] A responding affidavit was delivered on July 11, 2025. A further affidavit was delivered this morning shortly before the commencement of the hearing. No factum was filed by the Debtor.
- [4] Defined terms used but not otherwise defined herein have the meaning provided to them in the factum of Matanda filed for use on this hearing.

### **Adjournment Request**

- [5] Counsel for the Debtor requested an adjournment of one month at the start of the hearing. The request was based on the Affidavit of Thi Mai Le which was delivered this morning (August 8, 2025). That affidavit attached a commitment letter (the “**Refinancing Commitment Letter**”) for a potential refinancing that was dated today. However, the Refinancing Commitment Letter, on its face is subject to a number of conditions precedent –these include an appraisal showing the Yonge Street Property’s value of at least \$11 million, a satisfactory Phase I Environmental Assessment and evidence that property taxes are current. I am not persuaded on the record before me that it is at all certain that these conditions can be satisfied.
- [6] Along with the conditional nature of the Refinancing Commitment Lender, Matanda takes the position that the amount proposed to be advanced (being a Loan Amount of \$6,750,000) is not sufficient to repay Matanda in full and satisfy outstanding property taxes. I note that Counsel for the Debtor indicated that certain fees charged by Matanda are being disputed (but there is no dispute that \$6.2 million has been advanced and has not been repaid) and as such the payout amount is ‘close’.
- [7] In any event, Matanda also objects to the adjournment as Matanda has received no payments on the Loan since February of 2025 (approximately 6 months ago) and despite issuing notices attorning rent for the Yonge Street Property in April of 2025 – no rent has been paid to Matanda and no explanation has been provided by the Debtor as to what is happening with the rent being collected from the tenants in the meantime.
- [8] As I advised during the hearing, I am satisfied that the hearing of the receivership application should be heard today and declined to grant the requested adjournment.
- [9] The granting of the receivership order itself does not put an end to the Debtor’s right to redeem. I accept that as costs continue to accrue, including the costs of the Receiver, the right to redeem becomes more difficult to exercise, as the amount to be satisfied will increase. I also accept that at some point, as a receiver takes steps to deal with and sell the

property the right to redeem becomes no longer exercisable. However, that time is not today. If the Debtor's refinancing efforts bear fruit, as the Debtor claims will happen by the end of the month, then the Debtor may be entitled to exercise its right to redeem – the appointment of a receiver does not, in and of itself, do away with that right.

## **Background**

### The Parties and the Yonge Street Property

- [10] Matanda is a company that is in the business of development and building, real estate rental and leasing, and property management.
- [11] The Debtor is an Ontario business corporation that has its registered head office located in Oakville, Ontario. The Debtor's directors and officers are two individuals named Thi Mai Hoa Le and Thi Mai Huong Le.
- [12] The Debtor is the registered owner of the Yonge Street Property. The Yonge Street Property is a three-floor, mixed-use building that contains commercial units on the ground floor and residential units on the upper floors.
- [13] There are tenants in the Yonge Street Property. The rent roll provided when the Loan was extended showed four commercial tenants and nine residential tenants at the Yonge Street Property, however, recent inspections indicate a reduced number of tenants. Matanda's current belief is that there are three commercial tenants at the Yonge Street Property.

### The Loan

- [14] Pursuant to a Commitment Letter on May 5, 202, Matanda agreed to provide the Debtor with a term loan in the amount of \$6,200,000, for the purpose of refinancing the Yonge Street Property to repay the then existing 1st and 2nd mortgages thereon (the “**Loan**”).
- [15] The Loan is secured by, among other things, a first-ranking collateral mortgage granted by the Respondent in favour of Matanda for the sum of \$6,200,000.00 registered against title to the Yonge Street Property on May 31, 2023 (the “**Mortgage**”), and a General Assignment of Rents dated March 27, 2023.
- [16] The original term of the Loan was 12 months and the Debtor was to make monthly interest-only payments. Pursuant to a Renewal Letter dated June 27, 2024, the Loan and the Mortgage was renewed for a further 12 months. The terms of the Mortgage provide for the appointment of a receiver in the event of default of the Respondent's obligations to Matanda.

## Other Creditors

- [17] Along with the security registered in favour of Matanda, a Charge registered in favour of Quoc Tien Lam, Thao Thu Thi Nguyen, and New Canadian Capital Inc., in the amount of \$400,000.00 was registered on title to the Yonge Street Property on October 25, 2024, (the “**Second Mortgage**”) along with a corresponding Notice of Assignment in Rents.
- [18] Property tax arrears of \$152,076.51 are also owing on the Yonge Street Property.

## Default

- [19] A number of Defaults under the Loan and Mortgage have occurred. The Debtor failed to make its monthly payments on the Loan from March 2025 forward. As noted above, it has also failed to maintain municipal taxes current. The Debtor has also failed to attorn any rents that it has collected from the tenants to Matanda, despite being provided notice on April 22, 2025, requiring such. The registration of the Second Mortgage also amounted to a default under the Loan.
- [20] On February 28, 2025, Matanda made demand upon the Respondent (the “**Demand**”) and declared the entire balance of the Loan to be immediately due and payable. On March 13, 2025, Matanda, also delivered a Notice of Intention to Enforce Security pursuant to section 244(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”).
- [21] On March 13, 2025, Matanda also served on the Respondent (and other relevant parties) a Notice of Sale Under Mortgage.
- [22] Ray Abraham sworn a supplementary affidavit in support of the Receivership application on August 5, 2025. The supplementary Abraham affidavit responds to material filed by the Debtor on July 11, 2025, which indicated that the Debtor was attempting to refinance the debt owed to Matanda. Despite Matanda following up with counsel to the Debtor requesting further information regarding the status of that refinancing process, no supporting documentation has been provided prior to this affidavit of Thi Mai Le referred to above which delivered shortly before today’s hearing began.
- [23] Rather, on July 24, 2025, Mr. Abraham's daughter was advised that only approximately \$5 million in replacement financing was potentially available, but Matanda would need to subordinate its remaining debt as part of that potential refinancing. Matanda was not agreeable to that suggestion. The Debtor’s evidence of today is that given the uncertainty with the refinancing referred to in the July 11, 2025 material, further efforts to obtain financing were made which resulted in the Refinancing Commitment Letter of today as discussed above.

## Issue

[24] The only issue to be determined today, is whether it is just or convenient to appoint a receiver over the assets, properties and undertakings of the Debtor and if so whether the terms of the requested order are appropriate.

## Analysis

[25] The test for the appointment of a receiver under s. 243 of the BIA or s. 101 of the *Courts of Justice Act* is whether it is just or convenient.

[26] In determining whether it is just or convenient to appoint a receiver the court must have regard to all of the circumstances of the case particularly the nature of the property and the rights and interests of all parties in relation to the property: see *Bank of Nova Scotia v Freure Village of Clair Creek*, [1996] OJ No 5088 at para 10. While the appointment of a receiver is generally an extraordinary equitable remedy, where the rights of the secured creditor include, pursuant to the terms of its security, the right to seek the appointment of a receiver, the burden on the applicant is lessened: see *Bank of Montreal v. Sherco Properties Inc.* 2013 ONSC 7023 at para 41 and 42.

[27] Although the presence of a contractual entitlement to appoint a receiver is not a determinative factor, here, where the right to appoint a receiver is provided under a mortgage, the remedy becomes less extraordinary see para 44 of *BCIMC Construction Fund Corporation et al. v. The Clover on Young Inc.*, 2020 ONSC 1953.

[28] As summarized by Justice Osborne in *Canadian Western Bank v. 2563773 Ontario Inc.*, 2023 ONSC 4766, paras. 9 to 11, a number of factors have historically been taken into account in the determination of whether it is appropriate to appoint a receiver. The factors are not a checklist, but rather a collection of considerations to be viewed holistically, they include:

- a. whether irreparable harm might be caused if no order is made, although as stated above, it is not essential for a creditor to establish irreparable harm if a receiver is not appointed where the appointment is authorized by the security documentation;
- b. the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of assets while litigation takes place;
- c. the nature of the property;
- d. the apprehended or actual waste of the debtor's assets;
- e. the preservation and protection of the property pending judicial resolution;
- f. the balance of convenience to the parties;
- g. the fact that the creditor has a right to appointment under the loan documentation;

- h. the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulties with the debtor;
- i. the principle that the appointment of a receiver should be granted cautiously;
- j. the consideration of whether a court appointment is necessary to enable the receiver to carry out its duties efficiently;
- k. the effect of the order upon the parties;
- l. the conduct of the parties;
- m. the length of time that a receiver may be in place;
- n. the cost to the parties;
- o. the likelihood of maximizing return to the parties; and
- p. the goal of facilitating the duties of the receiver.

[29] In this case, it is just and convenient to appoint a receiver.

[30] The Debtor owes in excess of \$6.2 million to Matanda. Although the Debtor indicated it may dispute certain of the fees charged by Matanda, there is no dispute that \$6.2 million was advance and has not been repaid.

[31] Matanda has not acted in a precipitous manner. No payments have been received since February of 2025.

[32] Under the terms of the Mortgage, Matanda is entitled to apply to the Court for the appointment of a receiver upon default.

[33] Matanda has demanded repayment of the total indebtedness and issued the 244 BIA Notice. The notice period under the 244 BIA Notices has since elapsed.

[34] Despite sending notice attorning rents from the Yonge Street Property, Matanda has received no such funds.

[35] Significant municipal taxes are outstanding.

[36] Although the Debtor as, on a number of occasions represented to Matanda that it will be repaid from anticipated refinancings, that has not occurred. As noted above, the latest Refinancing Commitment Letter provided today is conditional and there is no certainty those conditions will be satisfied.

[37] Matanda has, understandably lost all confidence in the Debtor and its ability to repay the Loan.

[38] A Court-supervised process will provide best protect the interests of Matanda and other stakeholders, including subsequent charge holders and tenants.

[39] BDO is qualified to act as receiver and has consented to do so.

[40] As noted above and discussed during today's hearing, the appointment of BDO as receiver does not put an end to the Debtor's right to redeem. The Receiver is expected to provide reasonable cooperation to the Debtor with respect to refinancing efforts as it would in the normal course.

[41] The terms of the proposed receivership order, as amended during today's hearing, are appropriate and consistent with the Model Order of the Commercial List. The proposed Order does provide the Receiver with the authority to engage Matanda as property manager of the Yonge Street Property and the authority to engage a Listing Agent. Those provisions are permissive and not prescriptive.

[42] The limited sealing order being sought is necessary to preserve the Receiver's ability to maximize the value of the Yonge Street Property. I am satisfied that the requested sealing order for the confidential appendices to the Abraham Affidavit (being a copy of an appraisal of the Yonge Street Property from 2023 and listing agreement proposals) meet the test in *Sherman Estate v. Donovan* 2021 SCC 25 at para 38 and that disclosure of this information would pose a risk to the public interest in enabling stakeholders of a company in receivership to maximize the realization of assets. I direct counsel for the receiver to file a hard copy of the confidential appendices with the Commercial List Office in a sealed envelope with a copy of the relevant order and this endorsement.

## **Disposition**

[43] Accordingly, I grant the receivership order in the form signed by me today.

August 8, 2025

  
Justice J. Dietrich