

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

**PRUDENT EXCELLENCE MORTGAGE INVESTMENT
CORPORATION**

Applicant

-and-

TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) 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

**MOTION RECORD OF THE RECEIVER,
BDO CANADA LIMITED**

September 8, 2022

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TAB 1

Court File No.: CV-22-00677227-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

**PRUDENT EXCELLENCE MORTGAGE INVESTMENT
CORPORATION**

Applicant

-and-

TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) 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

NOTICE OF MOTION

BDO Canada Limited ("**BDO**"), in its capacity as the Court-appointed receiver (the "**Receiver**") of the Property municipally known as 2362 Line 8, Bradford West Gwillimbury, Ontario (the "**Property**") will make a motion to a Judge presiding over the Ontario Superior Court of Justice (Commercial List) on September 14, 2022, at 11.00 am., or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference, details of which are to be provided by the Court.

THE MOTION IS FOR:

1. An Order, substantially in the form attached hereto as Tab 3 of the Motion Record, for the

following relief:

- (a) if necessary, the abridgement of the time for service of the Notice of Motion and Motion Record herein and dispensing of service thereof;
- (b) the approval of the sale transaction contemplated by an accepted offer between the Receiver and 2792523 Ontario Inc. (in Trust) (the "**Purchaser**") made as of July 27, 2022 (the "**Sale Agreement**"), in respect of the sale of the Property (the "**Transaction**"); and
- (c) vesting in the Purchaser, Triumph Development HK Bradford Twin Regency Inc.'s ("**Triumph**") right, title and interest in and to the Property.

2. An Order, substantially in the form attached hereto as Tab 3 of the Motion Record, for the following relief:

- (a) the approval of the Receiver's activities described in the First Report of the Receiver dated September 8, 2022 (the "**First Receiver's Report**");
- (b) an Order sealing the Confidential Supplemental Report;
- (c) the approval of the Receiver's fees and disbursements and those of its counsel as set forth in the First Receiver's Report;
- (d) the approval of the proposed distributions as set out in paragraph 53 of the First Receiver's Report (the "**Proposed Distributions**"); and
- (e) such further and other relief as required in the circumstances and this Honorable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. Pursuant to the terms of the Order of Justice Conway dated March 1, 2022 (the "**Receivership Order**"), BDO was appointed as Receiver over the Property pursuant to section 243 of the *Bankruptcy and Insolvency Act* ("**BIA**") and section 101 of the *Courts of Justice Act* ("**CJA**").

2. The Property forms a residential condominium development site in Bradford West

Gwillimbury, Ontario. The Property is owned by Triumph.

3. Pursuant to the Receivership Order, the Receiver was authorized and directed to market and sell the Property, including advertising and soliciting offers in respect of the Property and negotiating such terms and conditions of sale as the Receiver determined to be appropriate.

The Approval of the Transaction

4. As a result of a robust sales process, the Receiver received an offer to purchase the Property from the Purchaser at arm's length which the Receiver has accepted subject to the approval of this Honorable Court.

5. The Receiver recommends the approval of the Sale Agreement for, *inter alia*, the following reasons:

- (a) the Property has been fully exposed to the market;
- (b) it is the Receiver's view that the purchase price under the Sale Agreement is commercially reasonable and represents the maximum possible price in these circumstances;
- (c) the proposed purchase price under the Sale Agreement is greater than the appraised value of the Property; and
- (d) the first mortgagees on the Property, Leni Vander Kooij and Peter Vander Kooij (collectively, "**Vander Kooij**"), and the second mortgagee on the Property, Prudent Excellence Mortgage Investment Corporation ("**Prudent**") support the Transaction.

6. For the additional reasons set out in the First Receiver's Report, the Receiver recommends that the acceptance of the Sale Agreement be approved as it represents the best recovery possible in the circumstances.

Sealing of the Confidential Supplemental Report

7. The Receiver is requesting that the Court seal the Confidential Supplemental Report pending the completion of the Transaction or further order of this Honourable Court.

8. The Confidential Supplemental Report should be sealed as its contents contain commercially sensitive financial information which could have a negative impact on the market for the Property should the sale of the Property to the Purchaser not close.

9. The salutary effects of sealing the Confidential Supplemental Report outweighs any deleterious effects.

The Proposed Distributions

10. The Receiver's independent counsel has provided to the Receiver a security opinion regarding the security of the following mortgagees with registered security against the Property (the "**Mortgagees**"):

- (a) Leni Vander Kooij and Peter Vander Kooij (collectively, "**Vander Kooij**"); and
- (b) Prudent Excellence Mortgage Investment Corp. ("**Prudent**").

11. The Receiver's independent counsel has also provided to the Receiver a security opinion regarding the potential priority of the following construction liens over the Mortgagees (the "**Construction Liens**"):

- (a) lien registered by 10853828 Canada Inc. ("**108 Lien**");
- (b) lien registered by Delbrook Triumphant Builders Inc. ("**Delbrook Lien**"); and
- (c) lien registered by Gerrits Engineering Limited ("**Gerrits Lien**").

12. The Receiver's counsel is of the view that, subject to certain standard assumptions and

qualifications, the Vander Kooij mortgage is valid and enforceable in accordance with its terms and is in first priority. The Receiver's counsel is of the view that the Construction Liens have no priority with respect to the Vander Kooij mortgage.

13. The Receiver's counsel is of the view that, subject to certain standard assumptions and qualifications, the Prudent mortgage is valid and enforceable in accordance with its terms and is in second priority. The Receiver's counsel is of the view that the maximum priority of the Construction Liens over the Prudent mortgage is limited to the deficiency in the holdbacks required to be retained by the Debtor under Part IV of the *Construction Act*, R.S.O. 1990, c. C.30 (the "**Holdback Deficiencies**").

14. The Receiver calculates that the maximum amount of the potential Holdback Deficiencies is less than \$400,000. This position in respect of priority and maximum quantum of the Holdback Deficiencies has been confirmed by counsel for the 108 Lien and the Delbrook Lien claimants.

15. After repayment of the Receiver's Borrowings, payment of commissions, property tax arrears, and payment of the Receiver's fees and expenses to date plus a reserve for the Receiver's anticipated fees and expenses to complete the administration of the receivership (collectively, the "**Priority Payments**"), there will be sufficient funds to fully repay the Vander Kooij and Prudent mortgages, and maintain sufficient funds to repay the Lien Claimants to the extent of the maximum Holdback Deficiencies.

16. Accordingly, the Receiver recommends that the Court authorize the Receiver to make the Proposed Distributions.

Approval of Activities and Fees

17. In the First Receiver's Report, the Receiver has included a detailed description of its

activities, its fees and disbursements, and the fees and disbursements of its lawyers, Robins Appleby LLP.

18. The Receivership Order provides that the Receiver and its legal counsel are entitled to be paid their reasonable fees and disbursements at their standard rates and charges, and are required to pass their accounts from time to time.

19. The Receiver's activities, statement of receipts and disbursements including the fees and disbursements of its legal counsel, Robins Appleby LLP, as set out in the First Receiver's Report are fair and reasonable and should to be approved.

Other Grounds

20. Rules 1.04, 2.03, 3.02 and 37 of the *Rules of Civil Procedure*.

21. Such further and other grounds as the lawyers may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The First Receiver's Report;
- (b) The Confidential Supplemental Report;
- (c) The Affidavit of Irving Marks sworn September 7, 2022 (the "**Robins Appleby LLP Fee Affidavit**");
- (d) The Affidavit of Gary Cerrato sworn September 8, 2022 (the "**BDO Fee Affidavit**"); and
- (e) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

September 8, 2022

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TO: ATTACHED SERVICE LIST

**PRUDENT EXCELLENCE
MORTGAGE INVESTMENT
CORPORATION**

- and -

**TRIUMPH DEVELOPMENT HK
BRADFORD TWIN REGENCY INC.**

Applicant

Respondent

Court File No.: CV-22-00677227-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

APPLICATION UNDER SUBSECTION 243(1) 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

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION

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TAB 2

Court File No. CV-22-00677227-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

**PRUDENT EXCELLENCE MORTGAGE INVESTMENT
CORPORATION**

Applicant

- and -

TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC.

Respondent

**FIRST REPORT OF BDO CANADA LIMITED, IN ITS CAPACITY
AS COURT APPOINTED RECEIVER**

September 8, 2022

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 First and Second Mortgage Payout Statements **D**
 Affidavit of Gary Cerrato sworn September 8, 2022 **E**
 Affidavit of Irving Marks sworn September 7, 2022 **F**

INTRODUCTION AND PURPOSE OF THIS REPORT

Introduction

1. By Order of the Honourable Madam Justice Conway of the Ontario Superior Court of Justice (the “**Court**”) dated March 1, 2022 (the “**Receivership Order**”), BDO Canada Limited (“**BDO**”) was appointed as the Court-appointed receiver (in such capacity, the “**Receiver**”) over the real property owned by Triumph Development HK Bradford Twin Regency Inc. (“**Triumph**” or the “**Debtor**”) municipally known as 2362 Line 8, Bradford West Gwillimbury, ON (the “**Property**”). A copy of the Receivership Order is attached hereto as **Appendix “A”**. The within proceeding is referred to herein as the “**Receivership Proceeding**”.

Purpose of this Report

2. The purpose of the Receiver’s Report to Court dated September 8, 2022 (the “**First Report**”) is to provide information to the Court with respect to:
 - a) background information in respect of the Debtor and the Property;
 - b) the Receiver’s activities since its appointment, for which the Receiver seeks approval;
 - c) the sale process (“**Sale Process**”) conducted by the Receiver with respect to the Property;
 - d) the agreement of purchase sale dated July 27, 2022 (the “**279 APS**”) entered into by 2792523 Ontario Inc. (“**279**” or the “**Purchaser**”) and the Receiver with respect to the Property, subject to the approval of this Court;
 - e) the Receiver’s motion for an Order(s) of this Court:
 - i. approving and authorizing the 279 APS, and approving the transaction set out therein (the “**Transaction**”);
 - ii. vesting the Debtor’s right, title and interest, if any, in and to the Property free and clear of all encumbrances, except any permitted encumbrances, subject to the terms of the 279 APS;
 - iii. sealing the Receiver’s Confidential Supplement to the First Report to Court dated September 8, 2022 (the “**Confidential Supplement**”) including the 279 APS, real estate appraisals and other commercially sensitive information, which will be filed with the Court in support of this motion;
 - iv. approving a distribution of the proceeds of sale from the Property to Peter and Leni Vander Kooij (“collectively, “**Vander Kooij**”) and Prudent Excellence Mortgage

Investment Corporation (“**Prudent**”), the first and second mortgagees respectively, and set out herein;

- v. approving the activities of the Receiver, as described in this First Report; and
 - vi. approving the fees and disbursements of the Receiver and its legal counsel, Robins Appleby LLP (“**Robins Appleby**”) as set out in this First Report, and to authorize the Receiver to pay all approved and unpaid fees and disbursements.
3. This First Report, and other all court materials and orders issued and filed in these receivership proceedings are or will be made available on the Receiver’s case website at: https://www.bdo.ca/en-ca/extranets/triumph_twin_regency/ and will remain available on the website for a period of six (6) months following the Receiver’s discharge.

DISCLAIMER

4. This First Report is prepared solely for the use of the Court for the purpose of assisting it in making a determination whether to: (i) approve and authorize the 279 APS and the Transaction, (ii) vest the Debtor’s right, title and interest, if any, in and to the Property free and clear of all encumbrances, except permitted encumbrances, to the Purchaser (iii) approve a distribution of funds from the proceeds of sale from the Transaction to the first and second mortgagees, (iii) approve the actions and conduct of the Receiver and the accounts of the Receiver and its legal counsel as set out in this First Report, and (iv) approve other ancillary relief being sought.
5. Except as otherwise described in this First Report:
 - a. the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
 - b. the Receiver has not conducted an examination or review of any financial forecast and projections in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
6. Unless otherwise stated, all monetary amounts contained in this First Report are expressed in Canadian dollars.

BACKGROUND

7. The Debtor is a corporation governed by the *Canadian Business Corporations Act* with a registered head office located in Markham, ON. The Debtor was incorporated on June 8, 2017. The Receiver

understands that the Debtor was incorporated for the sole purpose of purchasing and developing the Property.

8. Despite repeated attempts the Receiver has not been able to contact the Debtor's Officers or Directors, Lu Shen, and Jun Chen, to obtain any information with respect to the Property. The Receiver has obtained most of its information about the Property from the first and second mortgagees and from the Project and Construction Managers contracted by the Debtor to manage and complete the proposed development. The Project and Construction Managers are related entities, 10853828 Canada Inc. ("**108 Canada**") and Delbrook Triumphant Builders Inc. ("**Delbrook**"), respectively. 108 Canada and Delbrook have registered construction liens against the Property in respect to which they collectively supplied labour and services with regard to project and construction management and other "soft-costs" and improvements/work completed by sub-contractors to obtain Site Plan Approval ("**SPA**") as discussed below. 108 Canada and Delbrook will be collectively referred to hereinafter for the purposes of the consulting services performed in respect of obtaining SPA for the Debtor as "**Delbrook**".
9. The Debtor's principal asset is an undeveloped parcel of land consisting of approximately 9.45 acres of land fronting onto Line 8 Bradford with a municipal address of 2362 Line 8 Bradford West Gwillimbury, ON. The Property is currently zoned Residential Three Exception Number 3 Holding Five Zone (R3*3(H5)) which is designated "High-Density Residential" with a portion of an Environmental Protection Zone ("**EPZ**") running through the center of the property. The Property is irregular in shape and surrounded by adjoining residential properties. As stated, there is a creek/ravine dividing the property which is designated as EPZ. The southerly portion of the Property has services and is accessible from Line 8 Bradford and can be currently developed. The north side of the Property is not accessible by roadway or services so development on this portion of the Property is to be provided for at a future time when the adjacent lands surrounding the Property are developed.
10. The Property which is currently vacant and unimproved, received Site-Specific Official Plan and Zoning By-law Amendment in 2013 to permit "high-density" residential development to a maximum of 218 dwelling units (the "**Existing Zoning and SPA**"). The Receiver understands that the Property was originally contemplated for the development of two buildings with the EPZ traversing the lands in an east-west direction. The southerly portion of the land comprises a developable area of approximately 2.3 acres or approximately 9,308 square meters, which was contemplated for the development of a 6-storey, 110 dwelling unit building containing a Gross Floor Area of 117,854. The northerly portion of the land, which is currently "land-locked" represents 2.22 developable acres of land that was contemplated for the future development of a 5-storey, 108 dwelling unit building with a Gross Floor Area of 105,303 square feet.

11. The southerly portion of the Property has more recently been contemplated for density intensification to permit the development of a 7-storey, 239 dwelling unit building containing a Gross Floor Area of 223,942 square feet. This falls outside of the as-of-right permissions and has been supported with a new submission for SPA. The SPA process involves review of the proposed detail design of a site by multiple parties (e.g. The Town of Bradford West Gwillimbury (“**Bradford**”), community services, conservation authority, etc.). Many of the architectural drawings and studies to obtain SPA for a larger building with higher density have been completed and were provided to Bradford in a first SPA submission by Delbrook for consideration and approval. The Property remains today pending the final SPA which requires a second and possibly more submissions to Bradford. Final SPA for the 7-storey, 239 dwelling unit building has not been granted.
12. Set out below is a summary of the encumbrances that are registered against the Property:

Chargor	Encumbrance	Amount	Instrument	Registration Date
Vander Kooij, Peter and Leni	Mortgage	\$2,795,000	SC1421256	June 19, 2017
Prudent Excellence Mortgage Investment Corporation	Mortgage	\$800,000	SC1760648	March 5, 2021
Delbrook Triumphant Buildings Inc.	Construction Lien	\$1,404,036	SC1768859	April 6, 2021
10853828 Canada Inc.	Construction Lien	\$1,870,538	SC1768866	April 6, 2021
Gerrits Engineering Limited	Construction Lien	\$16,385	SC1776388	April 30, 2021
Fu, Xiaofeng and Sun, Meng	Mortgage	\$10,000,000	SC1802980	July 12, 2021

13. The charge in favour of Vander Kooij relates to a first ranking vendor-take-back mortgage given by the Debtor when the Property was purchased from the Vander Kooij's in June 2017 and pre-dates any construction lien registrations.
14. The charge in favour of Prudent relates to a second mortgage supporting a loan provided to the Debtor for marketing the development and may be considered construction financing for the purpose of determining priority over registered construction liens. The registration of this mortgage pre-dates any construction lien registrations.
15. The liens of Delbrook and 108 Canada relate to supplied labour and consulting services for project and construction management and other “soft-costs” for improvement/work completed by other sub-contractors towards the new active application for SPA that remain unpaid by the Debtor.

16. The lien of Gerrits Engineering Limited also relates to unpaid “soft-costs” incurred for engineering work for conceptual design and is included in the liens of Delbrook and 108 Canada. The Delbrook, 108 Canada and Gerrits Engineering Limited construction liens will be referred to hereinafter collectively as the “**Construction Liens**” and the parties collectively as the “**Lien Claimants**”.
17. The charge in favour of Fu, Xiaofeng and Sun, Meng appears to “back-stop” personal loans provided to certain owners of the Debtor. Further investigation into the details of the third mortgage remain ongoing by the Receiver.

PROPERTY APPRAISALS

18. The Receiver was provided with two real estate appraisals for the Property from the first and second mortgagees. The real estate appraisals were prepared by James F. H. Barnes dated February 10, 2022 (the “**Barnes Appraisal**”) and another from Colliers International Realty Advisors Inc. dated March 9, 2022 (the “**Colliers Appraisal**”). The real estate appraisals ascribed significantly different appraised values for the Property based on its development potential. The Barnes Appraisal valued the Property with its Existing Zoning and SPA which contemplates the development of two separate buildings on the southerly and northerly portion of the Property consisting of 110 and 108 dwelling units respectively as described in Paragraph 10 herein. The Colliers Appraisal valued the development potential of the north portion of the property similar to the Barnes Appraisal, however, the value ascribed to the development potential on the southerly portion of the Property is based on the new SPA submission for a 7-storey, 239 dwelling unit building. The appraised values for the Property therefore differ by as much as \$3.5 million based on the development potential of the Property. The appraised values for the Property are disclosed in Paragraph 18 of the Confidential Supplement and copies of the Barnes and Colliers Appraisals are attached as Appendix “A” to the Confidential Supplement.

ACTIVITIES OF THE RECEIVER

19. The Receiver’s more salient activities since its appointment include:
- a. attending at the Property and arranging for liability insurance;
 - b. communicating with Bradford with respect to outstanding property taxes levied against the Property;
 - c. holding meetings with Delbrook to obtain information on the active SPA application and to determine which information to include in the virtual data room created by Avison Young (“**AY**”) to support the Sale Process (as outlined below);

- d. reviewing invoicing, contracts and Statements of Claim in support of the Construction Liens;
- e. discussions and communication with Delbrook, 108 Canada and its counsel with regard to the registered construction liens;
- f. reviewing the Receiver's draft Agreement of Purchase and Sale and Confidentiality Agreement to provide to prospective purchasers and to include in AY's virtual data room;
- g. various communications and discussions with AY to thoroughly review and determine what information to include in the virtual data room in support of the Sale Process (as outlined below);
- h. implemented the Sale Process (as outlined below);
- i. communication with AY throughout the Sale Process (as outlined below);
- j. ongoing communications and correspondence with the mortgagees and other stakeholders with regard to the receivership proceeding, claims and progress of the Sale Process;
- k. reviewing offers received with counsel and the first and second mortgagees;
- l. negotiating offers for the Property; and
- m. preparing the First Report and Confidential Supplement.

SALE PROCESS

Review and Summary of the Sale Process

20. Among the powers set out in the Receivership Order, the Receiver is empowered and authorized in Paragraph 3(h) to market the Property, including advertising and soliciting offers in respect of the Property and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate.
21. The Receiver obtained three listing proposals to list the Property for sale from the following real estate brokers:
- i. AY;
 - ii. Colliers; and
 - iii. Re/Max Elite Brokerage.

22. Each of the above listing proposals contained a suggested list price based on a comparable analysis, sale commission structure, proposed marketing efforts and relevant experience. The proposals all contemplated approval of the new SPA submission for a 7-Storey, 239 unit building on the south portion of the Property. A table summarizing the salient details of the listing proposals is attached in the Confidential Supplement as Exhibit "B". AY recommended listing the Property for sale unpriced with a "holdover" date for the receipt of offers.
23. The Receiver selected AY's listing proposal and engaged AY to list the Property for sale unpriced with an offer date of May 18, 2022. The AY team had extensive experience and knowledge with development properties and an established list of developers as clients. Additionally, the AY proposal contained the most robust marketing campaign and the most favorable commission structure if the agent represented both the buyer and the seller. The first and second mortgagees were contacted by the Receiver and supported the Receiver's recommendation to engage AY as the listing agent. The Receiver executed the listing agreement with AY on April 14, 2022.
24. AY had completed its listing landing page, marketing brochure and other marketing materials and listed the Property for sale on MLS on April 18, 2022. The date for the receipt of offers was later extended to June 1, 2022 to give interested parties more time to review the volume of information relating to the new SPA application in AY's virtual data room.
25. By June 1, 2022, AY had received 43 inquiries about the Property and 13 parties had signed Confidentiality Agreements ("**CA's**") and were active in AY's virtual data room.
26. AY presented the Receiver with one offer from a developer, GF2 Real Estate Inc. ("**GF2**"), for consideration on June 1, 2022 (the "**GF2 Offer**"). The GF2 Offer contained a purchase price that was commercially reasonable for the proposed development of a 7-storey, 239 dwelling unit building based on information available to the Receiver. The GF2 Offer included the following terms and conditions:
 - i. A purchase price as disclosed in Paragraph 26 (i) of the Confidential Supplement;
 - ii. initial deposit of 2.5% of the purchase price to be paid within 2 days of acceptance of the offer with a second deposit of 2.5% of the purchase price to be paid 2 day after the buyer waived its conditions;
 - iii. closing following 45 after court approval of the sale transaction;
 - iv. due diligence period of 60 days after acceptance of the offer with the option to extend the due diligence period (as set out in (v) below); and
 - v. conditional on the purchaser, on or before the due diligence date, satisfying itself in its sole and absolute discretion with the title, zoning, economic feasibility, physical

condition of the Property and the building and its inspections, reviews and all investigations of the Property as it deems necessary. In the event the purchaser is required to undertake, in its sole and absolute discretion, additional reports for site plan re-submission, and if the Purchaser has not received the final reports from its consultant(s) on or before the due diligence date, then the Purchaser shall have the right to extend the due diligence date by up to (30) days in the aggregate by giving written notice of such extension to the Receiver no later than 5:00 p.m. on the original due diligence date.

27. The Receiver signed back the GF2 Offer after reducing the closing date to 30 days following court approval of the sale transaction, reducing the due diligence periods down to 45 days with a possible further 45-day extension with increases to the first and second deposits of 3% and 5% of the purchase price, respectively. GF2 agreed to the Receiver's proposed amendments on June 13, 2022. A copy of the final GF2 Offer is included in the Confidential Supplement as Appendix "C".
28. The GF2 Offer was not explicitly contingent on a set number of dwelling units for the development being approved by Bradford. However, GF2 advised that it was going to be completing additional diligence to satisfy itself with regard to any environmental risks, zoning and the overall economic feasibility of the proposed development. The Receiver was advised by AY that GF2 would be contacting Bradford's Planning Department for acknowledgement that an increase in the number of dwelling units from 110 to 239 on the southerly portion of the property could be achieved along with obtaining an understanding of the process and the timelines involved to obtain final SPA.
29. In anticipation of GF2 contacting Bradford to inquire about final SPA for increased density for the proposed development, the Receiver scheduled a meeting with Bradford's Planning Department together with representatives from Delbrook and AY to discuss further steps necessary to obtain final SPA and whether that would require a minor variance to the current Zoning By-law as previously communicated to Delbrook or require an amendment to Bradford's Official Plan. A minor variance to the Zoning By-law would not be complicated and could be achieved in a relatively short period of time, however, an amendment to Bradford's Official Plan would reopen the process again to Town Council and the general public for consideration. An amendment to Bradford's Official Plan would be far more complicated and could take anywhere from 6 to 18 months or longer for a decision to be reached.
30. At the meeting with Bradford's Planning Department, the Receiver learned that it had been over a year since the last SPA submission by Delbrook and since that time there had been significant staff turnover in Bradford's Planning Department which appears to have impacted Bradford's approach

to increasing the density for the proposed development. The Receiver was advised that in addition to SPA:

- i. An increase to the dwelling units on the site could only be achieved through an amendment to Bradford's Official Plan; and
- ii. Based on Bradford's current zoning By-law an R3 zone allows for a minimum lot area of 140 square meters per dwelling unit or if the number of parking spaces provided as underground parking equals the number of apartment dwelling units in an apartment building then the figure is reduced to 70 square meters per dwelling unit. Therefore, based on Bradford's current R3 zoning By-law the maximum number of units that could be constructed on the southerly portion of the Property with 9,308 square meters of land is 133 dwelling units depending upon the number of underground parking spaces. Accordingly, the increase in density intensification would also require a Zoning By-law Amendment.

31. Bradford's Planning Department communicated the same information to GF2 who thereafter terminated the GF2 Offer on July 19, 2022. GF2 did not have the risk tolerance associated with obtaining final approvals for a proposed 7-storey, 239 dwelling unit building nor did they have the tolerance for the lengthy timelines associated with the whole approval process. Given the change in the commercial real estate market with increased interest rates, possible future interest rate increases on the horizon and the increased costs of construction given supply chain issues, the proposed development was not economically feasible with only 218 dwelling units and GF2 elected to terminate the GF2 Offer.
32. Taking into account Bradford's decision on the approvals necessary for density intensification for the Property, all future prospective purchasers would be faced with similar economic factors and associated risks with regard to obtaining approvals necessary to construct a 7-storey, 239 dwelling unit building on the Property. These aforementioned factors significantly reduced the potential value of the Property.
33. Given that the GF2 Offer was conditional, AY continued to market the Property for sale during the conditional period. On July 19, 2022 (the date of termination of the GF2 Offer) AY had received a total of 62 total inquiries and 20 groups had signed CA's many of which accessed AY's virtual data room. Some of the interested parties informed AY that if the conditional offer fell-through to contact them as they were still interested in Property.

34. In the circumstances, and after consultation with the first and second mortgagees, the Receiver instructed AY to contact other interested parties to see if they were interested in making offers for the Property before considering other options.

Proposed Transaction

35. AY provided the Receiver with an unconditional offer for the Property from 279 on July 27, 2022 with a proposed closing date 30 days following court approval of the sale transaction (the "**279 Offer**"). The purchase price contained in the 279 Offer is disclosed in Paragraph 35 of the Confidential Supplement. A deposit of 2.5% of the purchase price would be paid within 2 business days of acceptance of the offer with a further deposit of 5.0% of the purchase price paid within 10 business days of acceptance of the offer.
36. The Receiver signed back the 279 Offer on August 2, 2022 at a purchase price \$1.25 million higher than offered and reduced the proposed time to sale closing to 15 days following court approval of the sale transaction.
37. On August 2, 2022 and while negotiating the 279 APS, AY provided the Receiver with an email communication from a developer that had decided against making a conditional offer for the Property at a purchase as disclosed in Paragraph 37 of the Confidential Supplement. A copy of the entire email communication is attached as Appendix "D" of the Confidential Supplement.
38. On August 3, 2022, the Receiver received a sign-back from 279 with the only change to the Receiver's counter-offer being a reduction of \$750,000 from the Receiver's amended price.
39. While negotiating with 279, another party, Canada Grace Park Ltd. submitted a conditional offer for the Property on August 4, 2022 (the "**Grace Park Offer**") with a purchase price as disclosed in Paragraph 39 of the Confidential Supplement. The offer was conditional until September 7, 2022. The conditions included general due diligence, inspection of the property by qualified engineers and architects, Phase 1 and 2 environmental assessments (if necessary), verifying with Bradford approvals necessary for the intended purpose and use of the property and verifying that the property was satisfactory to the buyer in its unfettered discretion. A copy of the Grace Park Offer is included as Appendix "E" to the Confidential Supplement.
40. After consulting with the various stakeholders with regard to the multiple offers received, on August 5, 2022 the Receiver accepted and executed the 279 APS. The 279 APS has a final purchase price as disclosed in Paragraph 40 of the Confidential Supplement and is expected to close 15 days following court approval of the Transaction. The 279 APS is included as Appendix "F" to the Confidential Supplement.

41. The Receiver's counsel has received significant deposits from 279 representing 7.5% of the final purchase price as set out in the 279 APS.
42. The Receiver is of the view that the Sale Process was conducted in a commercially reasonable manner and the Property was widely exposed to the market. AY listed the property for sale on MLS, marketed the Property on its website, erected a sign on the Property and advertised the development opportunity in the Globe and Mail on May 3 and 5, 2022 and in the Insolvency Insider. Additionally, AY sent 11 separate email blasts to over 4,500 parties each time during the approximately 4 months the Property was listed for sale. As a result of its marketing efforts, AY received a total of 66 total inquiries and 20 groups had signed CA's most of which accessed AY's virtual data room. AY's Final Marketing Progress Report and Tracking Report are included hereto as **Appendix "B"**.
43. The sale price received for the Property, although considerably lower when compared to the GF2 Offer, is consistent with the current zoning and the appraised value for the Property as reported in the Barnes Appraisal (and its underlying development assumptions as discussed in Paragraph 18). The Receiver understands that it is not likely that approvals for the proposed development of a 7-storey, 239 unit dwelling building on the south portion of the Property will ever be attainable, or if achievable, will come at significant cost, time and effort.
44. The first and second mortgagees support the Receiver's recommendation to the Court to accept the 279 APS.
45. Accordingly, for the reasons set out above, the Receiver recommends that the Court approve the 279 APS and authorize the Receiver to close the Transaction as contemplated under the 279 APS.

DISTRIBUTION OF NET SALE PROCEEDS

The Proposed Distributions

46. The Receiver's independent counsel, Robins Appleby, has provided the Receiver with a security opinion, attached hereto as **Appendix "C"**, regarding the security of the following mortgagees with registered security against the Property (the "**Mortgagees**"):
- i. Vander Kooij; and
 - ii. Prudent.
47. Robins Appleby has also provided to the Receiver a security opinion regarding the potential priority of the Construction liens over the Mortgagees.

48. The Receiver's counsel is of the view that, subject to certain standard assumptions and qualifications, the Vander Kooij mortgage is valid and enforceable in accordance with its terms and is in first priority. The Receiver's counsel is of the view that the Construction Liens have no priority with respect to the Vander Kooij mortgage. Moreover, neither Delbrook nor 108 Canada have claimed priority over the Vander Kooij mortgage and have confirmed the priority of the Vander Kooij mortgage.
49. The Receiver's counsel is of the view that, subject to certain standard assumptions and qualifications, the Prudent mortgage is valid and enforceable in accordance with its terms and is in second priority, subject only to the potential priority limited to the deficiency in the holdbacks required to be retained by the Debtor under Part IV of the Construction Act, R.S.O. 1990, c. C.30 (the "**Holdback Deficiencies**").
50. The Receiver calculates that the maximum amount of the potential Holdback Deficiencies is less than \$400,000. This position in respect of priority and maximum quantum of the Holdback Deficiencies has been confirmed by counsel for 108 Canada and Delbrook.
51. After payment of a sales commission, property tax arrears, and payment of the Receiver's fees and expenses to date plus a reserve for the Receiver's anticipated future fees and expenses to complete the administration of the receivership (collectively, the "**Priority Payments**"), there will be sufficient funds to fully repay the Vander Kooij and Prudent mortgages and maintain sufficient funds to repay the Lien Claimants to the extent of the maximum Holdback Deficiencies.
52. The Receiver has received a payout statement dated August 30, 2022 from Vander Kooij totaling \$2,169,436.97, excluding per diem interest of \$383.56 up to the date of repayment. Additionally, the Receiver has received a payout statement from Prudent dated September 7, 2022 totaling \$737,118.21, excluding per diem interest of \$172.60 up to the date of repayment. As at the date of the First Report, the Receiver has requested certain information and supporting documentation in respect \$29,900 included in Prudent's payout statement and will consider making a distribution in respect of those amounts at a later date. The Vander Kooij and Prudent payout statements are attached hereto as **Appendix "D"**.
53. The Receiver therefore recommends making a final distribution to Vander Kooij based on the payout statement provided to the Receiver after being brought current to the date of the proposed distribution. The Receiver also recommends making an interim distribution to Prudent based on the payout statement provided to the Receiver, after being brought current to the date of the proposed distribution, subject to the Receiver withholding \$29,900 that may be part of a potential

further distribution for this amount. The proposed distributions to Vander Kooj and Prudent are referred to herein as the “**Proposed Distributions**”.

54. The Receiver is seeking approval of the Proposed Distribution from the Court so that it can make a final distribution to Vander Kooj and an interim distribution to Prudent, following the receipt of the Transaction sale proceeds. The Receiver considers it prudent to repay the borrowings to these Mortgagees in order eliminate the ongoing interest and other costs being incurred.

SEALING ORDER

55. In the event that the Court does not grant the Approval and Vesting Order or the Transaction does not close, the Receiver is of the view that efforts to re-market the Property would be impaired if the contents of the Confidential Supplement were to be made public at this time. Accordingly, the Receiver believes that it is appropriate for the Confidential Supplement to remain confidential until such time as the Transaction closes. Accordingly, the Receiver requests and order sealing the Confidential Supplement.

FEES AND DISBURSEMENTS

56. Pursuant to the Receivership Order, any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees and disbursements of the Receiver and the fees and disbursements of the Receiver’s legal counsel, constitute part of the “**Receiver’s Charge**”.
57. The Receiver’s fees and disbursements for the period of January 28, 2022 to August 30, 2022 were \$80,447.50 and HST of \$10,275.65, for a total of \$90,723.15, which are described in the Affidavit of Gary Cerrato sworn September 8, 2022, a copy of which is attached hereto as **Appendix “E”**.
58. Robins Appleby’s fees and disbursements for the period of March 4, 2022 to August 30, 2022 were \$45,454.00 plus disbursement of \$585.88 and applicable taxes of \$5,959.40 for an aggregate amount of \$51,999.28, as set out in the affidavit of Irving Marks sworn September 7, 2022, a copy of which is attached hereto as **Appendix “F”**.
59. The Receiver respectfully submits that the Receiver’s fees and disbursements and Robins Appleby’s fees and disbursements are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the Receivership Order.

SUMMARY AND RECOMMENDATIONS

60. Based on the foregoing, the Receiver respectfully requests that this Court grant Order(s):
- a. approving and authorizing the 279 APS and approving the Transaction;

- b. vesting Debtor's right, title and interest, if any, in and to the Property free and clear of all encumbrances, except permitted encumbrances, subject to the terms of the 279 APS;
- c. sealing the Confidential Supplement;
- d. approving the Proposed Distributions to the Mortgagees as set out herein;
- e. approving the activities of the Receiver, as described in this First Report; and
- f. approving the fees and disbursements of the Receiver and its legal counsel, Robins Appleby as set out in this First Report, and to authorize the Receiver to pay all approved and unpaid fees and disbursements.

All of which is respectfully submitted this 8th day of September 2022.

BDO CANADA LIMITED,
in its capacity as the Court-appointed Receiver of
Triumph Development HK Bradford Twin Regency Inc.
Per:



Name: Gary Cerrato, CIRP, LIT
Title: Senior Vice-President

APPENDIX A

Court File No. CV-22-00677227-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM)	TUESDAY, THE 1 ST
)	
JUSTICE CONWAY)	DAY OF MARCH, 2022

B E T W E E N:

**PRUDENT EXCELLENCE MORTGAGE INVESTMENT
CORPORATION**

Applicant

- and -

TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) 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

**ORDER
(appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing BDO Canada Limited as receiver (the "**Receiver**") of the property municipally known as 2362 Line 8, Bradford West Gwillimbury, Ontario and legally described as set out in **Schedule "A"** hereto (the "**Property**") owned by Triumph Development HK Bradford Twin Regency Inc. (the "**Debtor**"), was heard this day via videoconference due to the COVID-19 pandemic.

ON READING the affidavit of Fujia (Frank) Wang sworn February 22, 2022 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant and such other parties listed on the Participant Information Sheet, no one else appearing for the parties listed on the service list although served as appears from the affidavits of service filed with the Court, and on reading the consent of BDO Canada Limited to act as the Receiver,

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO Canada Limited is hereby appointed Receiver of the Property.

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, engaging of independent security personnel, the

taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (d) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor with respect to the Property and to exercise all remedies of the Debtor in collecting such monies;
- (e) to settle, extend or compromise any indebtedness owing to the Debtor with respect to the Property;
- (f) to execute, assign, issue and endorse documents of whatever nature in respect of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (g) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (h) to market the Property, including advertising and soliciting offers in respect of the Property and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (i) to sell, convey, transfer, lease or assign the Property with the approval of this Court, and notice under section 31 of the Ontario *Mortgages Act* shall not be required;
- (j) to apply for any vesting order or other orders necessary to convey the Property to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting the Property;
- (k) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (l) to register a copy of this Order and any other Orders in respect of the Property against title to the Property;
- (m) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof with respect to the Property for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor; and
- (n) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall grant immediate and continued access to the Property to the Receiver.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE PROPERTY

8. **THIS COURT ORDERS** that no Proceeding against or in respect of the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. **THIS COURT ORDERS** that all rights and remedies against the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment with respect to the Property, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

10. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor with respect to the Property, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor with respect to the Property or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor with respect to the Property are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, provided in each case that

the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of the Property, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

14. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal

information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of the Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental

Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

18. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$75,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "B"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

23. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

24. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL <https://www.bdo.ca/en-ca/extranets/triumph/>.

25. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

26. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

27. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

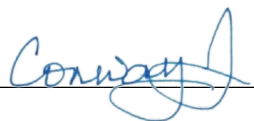
29. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals,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

30. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

31. **THIS COURT ORDERS** that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Applicant from the Debtor's estate with such priority and at such time as this Court may determine.

32. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

33. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this order is effective from the date it is made, and it is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original, signing, entry and filing, as the case may be, when the Court returns to regular operations.



SCHEDULE "A"

Municipal Address: 2362 Line 8, Bradford West Gwillimbury, Ontario

PIN: 58041-0138 (LT)

Property Description: Part Lot 16 Concession 8 West Gwillimbury as in RO261979
Save & Except Parts 1 & 3 51R37039; Town of Bradford West
Gwillimbury

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that BDO CANADA LIMITED, the receiver (the "**Receiver**") of property municipally known as 2362 Line 8, Bradford West Gwillimbury, Ontario (the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 1st day of March, 2022 (the "**Order**") made in an application having Court file number CV-22-00677227-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

BDO CANADA LIMITED, solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

PRUDENT EXCELLENCE MORTGAGE INVESTMENT CORPORATION

-and-

TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC.

Applicant

Respondent

Court File No. CV-22-00677227-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

**ORDER
(appointing Receiver)**

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

Maya Poliak (LSO #54100A)
Tel: (416) 218-1161
E-mail: maya@chaitons.com

Lawyers for the Applicant

APPENDIX B

For Sale

2362 Line 8
Bradford, ON



Progress Report

2362 8th Line
Bradford, ON

Prepared For:



Prepared By:

Ben Sykes, SIOR*
Principal
ben.sykes@avisonyoung.com

Aidan Mallovy*
Vice President
aidan.mallovy@avisonyoung.com

*Sales Representative

Prospects

The following groups have signed the approved Confidentiality Agreement and were granted data room access:

#	First Name	Last Name	Company	Principal/Co-Broker	Accessed Data Room
1	A.	Arklie	Reids Properties	Principal	
	Patrick	Campbell	Avison Young	Co-Broker	
2	Hamid	Jalalvand	Private Buyer	Principal	
3	Tim	Neeb	Private Buyer	Principal	
	Ashley	Polischiuk	Sutton Group Incentive Realty Inc.	Co-Broker	x
4	Jonathan	Basso	Tercot Development Group	Principal	x
5	Annette	Gilgan	Gilbach Real Estate Development	Principal	
	Arik	Auerbach	Gilbach Real Estate Development Group	Principal	
6	Metin	Yenilmez	Private Buyer	Principal	x
	Yusuf	Yenilmez	Private Buyer	Principal	
	Jason	Bailey	Colliers	Co-Broker	
7	Bilal	Khanani	Khanani Developments	Principal	
8	Raza	Datoo	Private Buyer	Principal	x
9	Alnoor	Gulamani	Bayview Investments Limited	Principal	x
10	Ariel	Stern	Lennard Commercial	Co-Broker	
	Matthew	Friberg	Private Buyer	Principal	x
11	Mehak	Chopra	Executive Real Estate Services	Co-Broker	x
	Neeraj	Chopra	Private Buyer	Principal	
12	An	Yang	Terracap	Principal	x
13	Richard	Yip	Trustwell Realty	Co-Broker	x
	Ravi	Prasher	Private Buyer	Principal	
14	Nikki	Chartrand	Harris Clemmens Remax	Co-Broker	x
	Vince	Petrozza	-	Principal	
15	Bruce	Greenberg	Starwood Acquisitions Inc.	Principal	x

Prospects

The following groups have signed the approved Confidentiality Agreement and were granted data room access:

#	First Name	Last Name	Company	Principal/Co-Broker	Accessed Data Room
16	Rob	Kansun	SC Land Inc.	Principal	x
17	Rachel	Kwong	JD Development	Principal	x
	Jason	Qi	JD Development	Principal	
18	Ramtin	Mirtorabi	Right at Home Realty	Co-Broker	x
19	Lina	Prokopchuk	Kettleback Developments	Principal	x
20	Reza	Rivanshokoo	Colliers	Co-Broker	x
	Ted	Zhou	Evertrust Development Group	Principal	x
21	Kettanan	Santan	Santan Development Ltd.	Principal	


Contacted Developers

Our marketing and outreach efforts have ensured the below developers have been contacted:


Tridel	Hullmark	Greenpark
Manulife	BentallGreenOak	Fiera
Minto	Sorbara	Metrus
Menkes	Choice REIT	Tribute Communities
Cadillac Fairview	Blackwood Partners	Vandyk
Longo	Emery	Stafford
Slate	Starlight Investments	Streetcar
Broccolini	Allied REIT	Tas Designbuild
Marling Spring	Winzen	Lanterra Developments
Loblaw	CentreCourt Developments	Great Gulf
KingSett	Quadreal	Fernbrook Homes
Morguard	Panattoni	Daniels
Oxford	Concert	Cresford
Forgestone	RioCan	Carttera
Triovest	FirstGulf	Cityzen
Canadian Urban	Killam Apartment REIT	Conservatory Group
Canderel	Remington Group	Aspen Ridge
Dream	Dundee	Alterra
Summit	Pinnacle International	
Fengate	Fieldgate	
SmartCentres	Brookfield	

Email Marketing Statistics

For Sale Email Sent on		April 27, 2022 at 4:00 pm	
Total People Contacted		4,638	
Opened the Email	1,106		23.9%
Clicked Through to Content	473		10.2%
Downloaded the Brochure	113		2.4%
For Sale Email #2 Sent on		May 4, 2022 at 10:00 am	
Total People Contacted		4,619	
Opened the Email	928		20.1%
Clicked Through to Content	300		6.5%
Downloaded the Brochure	60		1.3%
Broker Email Blast Sent on		May 9, 2022 at 9:00 am	
Total People Contacted		195	
Opened the Email	51		26.2%
Clicked Through to Content	8		3.9%
Downloaded the Brochure	2		1%
For Sale Email #3 Sent on		May 11, 2022 at 10:15 am	
Total People Contacted		4,608	
Opened the Email	885		19.2%
Clicked Through to Content	313		6.8%
Downloaded the Brochure	60		1.3%
For Sale Email #4 Sent on		May 18, 2022 at 9:45 am	
Total People Contacted		4,561	
Opened the Email	892		19.6%
Clicked Through to Content	160		3.5%
Downloaded the Brochure	31		0.7%
For Sale Email #5 Sent on		May 26, 2022 at 3:30 pm	
Total People Contacted		4,568	
Opened the Email	1,504		19.7%
Clicked Through to Content	42		0.8%
Downloaded the Brochure	35		0.7%



**Residential Development Land
For Sale**
2362 8th Line, Bradford, ON



9.45 ACRES | RESIDENTIAL LAND

Property Highlights

- Residential development land for sale with SPA process underway for a 239 unit development
- Proposed development has a GFA of 223,942 sf over 7 storeys
- Excess land provides opportunity for further development down the road
- The site is 9.45 acres with 5.5 acres zoned T5/R3
- Offers to be reviewed by the vendor as of May 18, 2022



Download Brochure

Property Website

For more information, please contact:

Aidan Malloy
Sales Representative, Vice President
+1 905 283 2396
aidan.malloy@avisonyoung.com

Ben Sykes, SIOR
Sales Representative, Principal
+1 416 903 5340
ben.sykes@avisonyoung.com

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Industry Average Opens	23.9%
Avison Young Average Opens	19.3%

Email Marketing Statistics

For Sale Email #6 Sent on June 8, 2022 at 12:00 pm

Total People Contacted	4,572	
Opened the Email	909	19.9%
Clicked Through to Content	75	1.6%
Downloaded the Brochure	54	1.2%

For Sale Email #7 Sent on June 22, 2022 at 10:00 am

Total People Contacted	4,566	
Opened the Email	919	20.2%
Clicked Through to Content	56	1.2%
Downloaded the Brochure	46	1.0%

For Sale Email #8 Sent on July 6, 2022 at 9:45 am


Total People Contacted	4,580	
Opened the Email	889	19.4%
Clicked Through to Content	63	1.4%
Downloaded the Brochure	50	1.1%

For Sale Email #9 Sent on July 20, 2022 at 9:30 am


Total People Contacted	4,563	
Opened the Email	870	19.1%
Clicked Through to Content	59	1.3%
Downloaded the Brochure	43	0.9%

For Sale Email #10 Sent on August 3, 2022 at 9:30 am

Total People Contacted	4,557	
Opened the Email	838	18.4%
Clicked Through to Content	61	1.3%
Downloaded the Brochure	42	0.9%



**Residential Development Land
For Sale**
2362 8th Line, Bradford, ON



9.45 ACRES | RESIDENTIAL LAND

Property Highlights

- Residential development land for sale with SPA process underway for a 239 unit development
- Proposed development has a GFA of 223,942 sf over 7 storeys
- Excess land provides opportunity for further development down the road
- The site is 9.45 acres with 5.5 acres zoned T5/R3
- Offers to be reviewed by the vendor as of May 18, 2022



[Download Brochure](#)

[Property Website](#)

For more information, please contact:

Aidan Malloy
Sales Representative, Vice President
+1 905 283 2396
aidan.malloy@avisonyoung.com

Ben Sykes, SIOR
Sales Representative, Principal
+1 416 903 5340
ben.sykes@avisonyoung.com

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Industry Average Opens

Avison Young Average Opens

23.9%

19.3%

Globe & Mail Ad

On Site Signage

The following ad was published in the Globe & Mail on May 3, 2022 & May 5, 2022.

The following signage was erected on site.

Insolvency Insider

Property Brochure

The following was published in the Insolvency Insider newsletter on May 9, 2022.

----- Original Message -----
 On Monday, May 2nd, 2022 at 4:14 PM, Malloy, Aidan (Avison Young - CA) <aidan.malloy@avisonyoung.com> wrote:

Hi Henry,

My partner Ben Sykes and I are listing 9.45 acres on behalf of the BDO as a part of the receivership proceedings related to Triumph Development HK Bradford Twin Regency Inc. I believe you exchanged emails with Josie Paris from BDO earlier today regarding including a mention of the sale of the land at 2362 Line 8 in Bradford in one of the next editions of Insolvency Insider. They have approved the below write-up:

- BDO Canada Limited solely in its capacity as court-appointed receiver over the real property owned by Triumph Development HK Bradford Twin Regency Inc. (the "Vendor") has retained Avison Young Commercial Real Estate Services, LP as its exclusive broker to solicit offers for the land located at 2362 Line 8, Bradford (the "Property"). The Property is a 9.45 acre residential development site with the Site Plan Approval process underway for a proposed 7 storey, 239 residential unit development with a GFA of 223,942 sq ft. The bid date is May 18th, 2022 at 5:00 pm EST. Further details can be found [HERE](#). For a copy of the marketing package and confidentiality agreement, please contact Ben Sykes (ben.sykes@avisonyoung.com or 416-900-5340) or Aidan Malloy (aidan.malloy@avisonyoung.com or 647-502-8335).

Please let me know if we need to provide you with anything else.

Bid Date Reminder

The following was sent to all inquiries on May 30, 2022.

Kumornik, Jessica (Avison Young - CA)

From: Kumornik, Jessica (Avison Young - CA)
Sent: May 30, 2022 9:09 AM
Cc: Sykes, Ben (Avison Young - CA); Malloy, Aidan (Avison Young - CA); Kaczynska, Emily (Avison Young - CA)
Subject: 2362 8th Line Bradford Bid Date Reminder

Hello,

This is a reminder that the offer submission date for the land located 2362 Line 8, Bradford is Wednesday, June 1st at 5:00 pm. The Vendor's standard purchase agreement is included in the data room and we ask that all submissions are made on this form.

Please reach out to Ben Sykes or Aidan Malloy with any further questions.

Regards,

Jessica Kumornik
 Client Services Coordinator
 +1 9052832323
jessica.kumornik@avisonyoung.com | avisonyoung.com
 77 City Centre Drive, Suite 301, Mississauga, ON L5B 1M5


Avison Young Commercial Real Estate Services, LP, Brokerage | [Legal Disclosure](#)

MLS

Toronto Real Estate Board posted on April 14, 2022.

Prepared by: ANATASIA BEMAUL, Administrator
 AVISON YOUNG COMMERCIAL REAL ESTATE SERVICES, LP, BROKERAGE
 77 City Centre Dr Suite 301, Mississauga, ON L5B1M5 905-712-2100

Printed on 08/18/2022 11:43:12 AM

	2362 8th Line Bradford West Gwillimbury Ontario L3Z 3G3 Bradford West Gwillimbury Bradford Simcoe SPIS: N For: Sale Taxes: \$6,334.60 / 2022 / Annual Last Status: Sc Legal: Pt Lot 16 Con 8 West Gwillimbury* DOM: 126		List: \$1.00 For Sale
	Land Designated Residential Occup: Vacant Freestanding: Y SPIS: N Com Cndo Fee: Dir/Cross St: Yonge Street / 8th Line	Lse Term Mnths: / Holdover: 30 Franchise:	
MLS#: N5580617 Sellers: Bdo Canada Limited Solely In Its Capacity As Court-Appointed Receiver* Contact After Exp: N Possession Remarks: Tbd PIN#: ARN#:			
Total Area: 9.45 Acres Ofc/Apt Area: Indust Area: Retail Area: Apx Age: New Volts: Amps: Zoning: T5/R3-3(H5) & Ep Truck Level: Grade Level: Drive-In: Double Man: Clear Height: Sprinklers: Heat: Phys Hdcp-Eqp:	Survey: Lot/Bldg/Unit/Dim: 675 x 627 Feet Lot Lot Irreg: Bay Size: %Bldg: Washrooms: Water: Municipal Water Supply: Sewers: San+Storm Avail A/C: Utilities: A Garage Type: Park Spaces: #Trl Spc: Energy Cert: Cert Level: GreenPIS:	Soil Test: Constr+Envir Out Storage: Rail: Crane: Basement: Elevator: UFFI: Assessment: Chattels: LLBO: Days Open: Hours Open: Employees: Seats: Area Infl:	
Bus/Bldg Name: Actual/Estimated: Taxes: Heat: Insur: Hydro: Mgmt: Water: Maint: Other:	Gross Inc/Sales: -Vacancy Allow: -Operating Exp: =NetIncB4Debt:	For Year: Financial Stmt: Y EstValueInv At Cost: Com Area Upcharge: % Rent:	
Client Remks: Residential Development Land For Sale In Bradford. Initial Application For Site Plan Approval Was Submitted On March 11 2020. The Proposed Development Has A Gfa Of 223,942 Sq Ft Across 7 Storeys Totaling 239 Units. The Plan Includes 257 Underground Parking Spaces Over Two Levels. Data Room Contains Reports And Studies Completed For Initial Spa Along With Comments Received From Township Of Bradford. Site Totals 9.45 Acres Of Land With 5.5 Acres Zoned T5/R3- 3(H5) Residential And The Balance Zoned Ep. Extras: *Legal Description Cont'd:As In Ro261979 Save & Except Pts 1 & 3 51R37039 Town Of Bradford West Gwillimbury *Vendor Name Cont'd:Over The Real Property Owned By Triumph Development Hk Bradford Twin Regency Inc., And Not In Any Other Capacity Brkage Remks: Contact Listing Agent At Aidan.Malloy@Avisonyoung.Com For A Marketing Package And To Receive A Confidentiality Agreement For Access To The Data Room. Interested Buyers And Agents Are Not Permitted To Walk The Property Without Arranging A Tour With The Listing Team			
AVISON YOUNG COMMERCIAL REAL ESTATE SERVICES, LP, BROKERAGE Ph: 905-712-2100 Fax: 905-712-2937 77 City Centre Dr Suite 301 Mississauga L5B1M5 BEN SYKES, Salesperson 905-712-2100 AIDAN MALLOY, Salesperson 905-283-2396 Contract Date: 4/14/2022 Condition: Ad: N Expiry Date: 10/13/2022 Cond Expiry: 9/14/2022 Escape: Last Update: 8/18/2022 CB Comm: 1% Original: \$1.00			

Offers

Offer 1

June 1st 2022 – One offer was received at the end of the “Bid Date Period” from GF2 Real Estate Inc. for \$7.5 million. The offer was countered by the Receiver, which was then countered again by GF2 before it was conditionally accepted on June 14th. The Buyer advised on July 13 that they would not be waiving their conditions and cited recent discussions with the Township of Bradford West-Gwillimbury’s planning department that revealed the SPA process presented more challenges than the buyer expected, in addition to the changing interest rate environment, labour strikes, and construction supply shortages that would render the development unfeasible at the previously agreed upon purchase price.

Offer 2

June 27th 2022 – Offer received from Evertrust Development Group (2792523 Ontario Inc.) for \$4 million with no conditions. The offer was counter countered by the Receiver on August 2nd at \$5.25 million, and then subsequently was countered by the Buyer on August 4th at \$4.5 million which was accepted.

Offer 3

August 3rd 2022 – Offer received from Canada Grace Park Ltd for \$4.5 million with conditions. The Receiver proceeded with the other offer because it was at the same price with no conditions from a buyer that was more familiar with the property.

Ben Sykes, SIOR*
Principal
ben.sykes@avisonyoung.com

Aidan Mallovy*
Vice President
aidan.mallovy@avisonyoung.com

*Sales Representative

Avison Young Commercial Real Estate Services, LP, Brokerage
77 City Centre Drive Suite 301, Mississauga, ON L5B 1M5
Phone: 905 712 2100 Fax: 905 712 2937

Information contained herein was obtained from sources deemed reliable and, while thought to be correct, have not been verified. Avison Young does not guarantee the accuracy or completeness of the information presented, nor assumes any responsibility or liability for any errors or omissions therein.

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Platinum member

TRACKING REPORT - 2362 LINE 8, BRADFORD

No	DATE		CONTACT	COMPANY	EXECUTED CA (Y/N)
Executed CA's:					
1	20-Apr-22		A. Arklie	Reids Properties c/o Avison Young, Pat Campbell	Y
2	25-Apr-22		Hamid Jalalvand	Private Buyer	Y
3	26-Apr-22		Ashley Polischuik	Sutton Group Incentive Realty Inc.	Y
4	28-Apr-22		Jonathan Basso	Tercot Development Group	Y
5	03-May-22		Annette Gilgan	Gilbach Real Estate Development	Y
6	04-May-22		Jason Bailey	Colliers	N
7	05-May-22		Bilal Khanani	Khanani Developments	Y
8	26-Apr-22		Raza Dattoo	International Realty Firm Inc.	Y
9	11-May-22		Alnoor Gulamani	Bayview Investments Ltd.	Y
10	04-May-22		Ariel Stern	Lennard	Y
11	16-May-22		An Yang	Terracap	Y
12	17-May-22		Richard Yip	Trustwell Realty Inc.	Y
13	25-May-22		Kettanan Santan	The Santan Group	Y
14	26-Apr-22		Mehak Chopra	Executive Real Estate Services Ltd.	Y
15	30-May-22		Reza Rivanshokooh	Colliers	Y

TRACKING REPORT - 2362 LINE 8, BRADFORD

No	DATE		CONTACT	COMPANY	EXECUTED CA (Y/N)
Executed CA's:					
16	30-May-22		Nikka Chartrand	Remax	Y
17	02-Jun-22		Lina Prokopchuk	Kettleback Developments	Y
18	08-Jun-22		Bruce Greenberg	Starwood Group Inc.	Y
19	20-Jun-22		Ramtin Mirtorabi	Right at Home Realty	Y
20	23-Jun-22		Rachel Kwong	JD Development	Y
Non-Executed CA's					
21	25-Apr-22		Shirley Ji	Re/Max Elite Real Estate	N
22	25-Apr-22		Ricco Kamoei	Homelife	N
23	26-Apr-22		Sarwar Jafri	High Street Capital Partners	N
24	26-Apr-22		Vishal Member	Re/Max Realty Specialists Inc	N
25	26-Apr-22		Garrett French	Avison Young	N
26	26-Apr-22		Amar Aulakh	Royal Star Realty Inc.	N
27	26-Apr-22		Chris	Unknown	N
28	26-Apr-22		Almutanamya Lilbina	Moonr Canada	N
29	27-Apr-22		Bobby Singh	Avison Young	N
30	27-Apr-22				N
31	28-Apr-22		Tarek Elmasry	Re/Max	N
32	03-May-22		Vincent Macri	Vanguard Realty	N
33	03-May-22		Luke Wilson	MDM Developments	N

TRACKING REPORT - 2362 LINE 8, BRADFORD

No	DATE		CONTACT	COMPANY	EXECUTED CA (Y/N)
Executed CA's:					
34	04-May-22		Kyle Albert	Avison Young	N
35	04-May-22		Rup Lal	Rup Group of Companie	N
36	04-May-22		Paul Amini	Kingsway Real Estate	N
37	04-May-22		Robert DelZotto	Treasure Hill	N
38	04-May-22		Gary Goldman	Stafford	N
39	04-May-22		Nad Ismail	NHL Hotels	N
40	04-May-22		Dan Marinovic	Forest Gate Group	N
41	05-May-22		Neil Musselwhite	Avison Young	N
42	09-May-22		Francis Toma	Zolo	N
43	11-May-22		Samantha Martyniuk	Avison Young	N
44	15-May-22		Mohan Subramaniam	Remax	N
45	16-May-22		Owen Cascagnette	Lee & Associates	N
46	16-May-22		Frank Mondelli	Toronto Capital	N
47	16-May-22		Rahim Vishnu Wallani	Swiftsale	N
48	19-May-22		Elvis Li	Homelife New World Realty	N
49	19-May-22		Helen Yan	Remax Imperial Realty	N
50	21-May-22		Rafid Toma	T&B Real Estate Team	N
51	30-May-22		Asad Mirza	Contact Point 360	N
52	08-Jun-22		Leanne M		N



TRACKING REPORT - 2362 LINE 8, BRADFORD

No	DATE		CONTACT	COMPANY	EXECUTED CA (Y/N)
Executed CA's:					
53	08-Jun-22		Caroline Bruce	Nima Khadem Group	N
54	09-Jun-22		Ealex Tang	Remax	N
55	12-Jun-22		Hadi Homayoon		N
56	13-Jun-22		Masoud Arjmandfar		N
57	17-Jun-22		Archi Patel		N
58	17-Jun-22		Jason Pantalone	National Homes	N
59	27-Jun-22		J Khero		N
60	06-Jul-22		Ari Soberano	Sharno Group	N
61	07-Jul-22		Adrian Sturino		N
62	11-Jul-22		Kausi Vick	Lee & Associates	N
63	13-Jul-22		Jordan Boin	Avison Young	N
64	18-Jul-22		Joel Lawton	Eli Group	N
65	20-Jul-22		Arjang Zandnia	Nahid Corp.	N
66	20-Jul-22		Ellie Dimitrova	CBRE	N

APPENDIX C



File No.: 2200186

September 7, 2022

BDO Canada Limited
20 Wellington Street East, Suite 500
Toronto, ON M53 1C5

Attention: Gary Cerrato

Dear Gary:

Re: TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC. (the "**Debtor**")
2362 8th Line, Bradford, Ontario, legally described as PT LT 16 CON 8 WEST
GWILLIMBURY AS IN RO261979 SAVE & EXCEPT PTS 1 & 3 51R37039; TOWN OF
BRADFORD WEST GWILLIMBURY (the "**Property**") and
BDO Canada Limited as Court appointed Receiver of the Property (the "**Receiver**")

You requested that we review and provide you with our opinion as to the validity, enforceability and priority of certain security interests granted by the Debtor as follows:

1. the Charge/Mortgage charging the Property in favour of Peter Vander Kooij and Leni Vander Kooij (collectively, the "**VTB Lender**") registered as Instrument Number SC1421256 in the Land Registry Office at Simcoe (No. 51) (the "**LRO**") on June 19, 2017 (the "**VTB Mortgage**"); and
2. the Charge/Mortgage charging the Property in favour of Prudent Excellence Mortgage Investment Corporation ("**Prudent**") registered as Instrument Number SC1760648 in the LRO on March 5, 2021 (the "**Prudent Mortgage**").

In forming the opinions expressed below, we have examined the following:

1. a copy of the title abstract for the Property and adjoining lands was obtained from the LRO on August 5, 2022;
2. clear search of Writs of Execution against the Debtor dated August 26, 2022;
3. a corporate profile report for the Debtor dated August 26, 2022 issued by the Ministry of Government and Consumer Services;
4. a certificate of existence for the Debtor dated September 6, 2022;
5. the reporting letter issued by HHL Law Firm LLP to the VTB Lender reporting on the sale of the Property to the Debtor and the registration of the VTB Mortgage, together with all enclosures thereto;

6. the Application Record of Prudent Excellence Mortgage Investment Corporation dated February 22, 2022;
7. other loan documentation as we deemed appropriate to give this opinion;
8. a construction lien registered by Delbrook Triumphant Builders Inc. ("**Delbrook**") as Instrument Number SC1768859 on April 6, 2021, together with related certificate of action registered as Instrument Number SC1783814 on May 20, 2021 (collectively, the "**Delbrook Lien Registrations**");
9. a construction lien registered by 10853828 Canada Inc. ("**108Co**") as Instrument Number SC1768866 on April 6, 2021, together with related certificate of action registered as Instrument Number SC1783823 on May 20, 2021 (collectively, the "**108Co Lien Registrations**"); and
10. a construction lien registered by Gerrits Engineering Limited ("**Gerrits**") as Instrument Number SC1776388 on April 30, 2021, together with related certificate of action registered as Instrument Number SC1791485 on June 11, 2021 (collectively, the "**Gerrits Lien Registrations**").

For the purposes of this opinion, we have summarized some of the key details of the various title registrations in the table attached as Schedule "A". For your benefit, we have excerpted certain sections of the *Construction Act* as Schedule "B".

In expressing our opinions, we have therefore assumed, without further independent verification by us:

- (a) the genuineness of all signatures authorizing the registration of, and the authenticity and completeness of the VTB Mortgage, Prudent Mortgage and any related security pertaining to the Property (collectively, the "**Security**");
- (b) the completeness, truth, accuracy and currency of the indices and filing systems maintained by the public offices and registries where we have searched or enquired or have caused searches or enquiries to be made and upon the information and advice provided to us by appropriate government, regulatory or other like officials with respect to those matters referred to herein;
- (c) the Debtor was, at the time of authorization, execution and delivery of the Security, and is validly constituted and existing under the laws of Ontario, had the corporate power and authority to execute, deliver and perform its obligations under the Security, has taken all necessary corporate action to authorize the execution, delivery and the performance of its obligations under the Security and has duly executed and delivered each of the Security;
- (d) the Security has been unconditionally delivered by the Debtor to each applicable secured party;

- (e) the Debtor is and was indebted to the holders of the Security and received adequate consideration for the grant of the Security;
- (f) there are no agreements, judgments, rulings, instruments, facts or understandings affecting or concerning either of the Security or the principal obligations with respect to which each security has been granted, or statutory or regulatory prohibitions on the execution and delivery of any of the Security or the security interests granted thereunder by the Debtor which were not apparent from a review of each security and which would or might affect the validity or enforceability thereof;
- (g) the holders of the Security did not know and did not have any reason to believe at the time of the creation of the charges and security interests in the collateral described in the Security that the Debtor was in contravention of any agreement by which the Debtor or its property or assets were bound, if there were such a contravention;
- (h) that the execution, delivery and performance of obligations under each of the Security did and do not constitute a preference, fraudulent preference, conveyance, fraudulent conveyance, settlement or reviewable transaction under the relevant provisions of the *Bankruptcy and Insolvency Act*, (Canada) (“**BIA**”) and *Fraudulent Conveyances Act* (Ontario), the *Assignment and Preferences Act* (Ontario) or any other similar legislation;
- (i) the completeness truth accuracy and currency of any mortgage statement upon which you are relying, provided to you by holders of the Security;
- (j) that a final report was obtained at the operative time from a law firm in good standing authorized to practice in the Province of Ontario indicating that each of the Security were valid and enforceable in accordance with their terms, and that such report is true and accurate;
- (k) there are no unregistered agreements affecting the priority of the Security;
- (l) that all realty tax arrears pertaining to the Property, if any, existing at the time of the registration of the Vesting Order, have been repaid in full;
- (m) that consideration payable on account of the purchase of the Property and secured by the VTB Mortgage will be considered to have been advanced for the purposes of the *Construction Act*. We note that the priority of a mortgage to construction liens will depend on whether an advance has been considered to have been made pursuant to the *Construction Act*. The jurisprudence relating to this requirement has considered mortgages securing guarantee obligations and mortgages made as between co-borrowers, but there is currently no recorded jurisprudence which considers whether consideration payable on account of the purchase of a Property and secured a vendor take back mortgage is considered advanced for the purposes of the *Construction Act*. See *Jade-Kennedy Development Corp., Re.*, 2016 ONSC 7125 (Ont. S.C.J.) and *XDG Ltd. v.*

1099606 Ontario Ltd. 2002 CarswellOnt 4535 (Ont. S.C.J.) as examples of this line of jurisprudence;

- (n) for the purposes of Section 78(3) of the *Construction Act*, if the date of the initial supply made pursuant to the first lien was made after the registration of the VTB Mortgage, that the actual value of the Property at the time that the initial supply was made with respect to the first lien was at least equal to the amounts outstanding pursuant to the VTB Mortgage;
- (o) at the time of the registration of the VTB Mortgage, the VTB Lender did not have written notice of a construction lien;
- (p) at the time of the registration of the Prudent Mortgage, Prudent did not have written notice of a construction lien;
- (q) that the VTB Mortgage did not constitute a mortgage taken with the intention to secure the financing of an improvement pursuant to Section 78(2) of the *Construction Act*;
- (r) that the Prudent Mortgage was registered after a supply was made with respect to the first lien (as such term is used in the *Construction Act*);
- (s) no advances were made with respect to the VTB Mortgage or the Prudent Mortgage after the registration of the Delbrook Lien Registrations; and
- (t) DelBrook and 108Co have not claimed priority over the VTB Mortgage and accordingly we have assumed that the VTB Mortgage has full priority over the Delbrook Lien Registrations and the 108Co Lien Registrations.

The priority of the Security as against the Delbrook Lien Registrations, 108Co Lien Registrations and Gerrits Lien Registrations (collectively, the “**Construction Lien Registrations**”) will depend on the actual dates on which funds were advanced and supplies of services or improvements were made by the applicable construction lien claimants. The actual date of supply may be subject to further judicial determinations. In our opinions, where applicable and as expressly set out below, we have considered the impact on priority which may occur as a result of the date of supply occurring on a different date than specified in the Construction Lien Registrations. Based and relying upon the foregoing and subject to the qualifications, exceptions and limitations herein expressed, we are of the opinion that:

1. **VTB Mortgage:** immediately prior to the registration of the Vesting Order, under the laws of the Province of Ontario, the VTB Mortgage constituted a first priority financial charge against title to the Property, subject only to:
 - (a) provided that the initial supply of services made pursuant to the 108Co Lien Registrations are found to have been made prior to the registration of the VTB Mortgage, then with respect to the Gerrits Lien Registrations, the extent of any deficiency in the holdbacks required to be retained by the Debtor under Part IV of the *Construction Act*.

2. **Prudent Mortgage:** immediately prior to the registration of the Vesting Order, under the laws of the Province of Ontario, the Prudent Mortgage constituted a second priority financial charge against title to the Property, subject only to (i) the VTB Mortgage; and (ii) the extent of any deficiency in the holdbacks required to be retained by the Debtor under Part IV of the Construction Act.
3. the Security constitute legal, valid and binding obligations of the Debtor, enforceable against the Debtor in accordance with their terms; and
4. the Security each create valid security interest against the Property under the laws of the Province of Ontario.

Executions

We searched executions against the Debtor filed with the Sheriff of the Municipality of Simcoe and found no registrations in that regard. We have assumed that such search was clear at the time of the registration of and advances pursuant to the Security.

The opinions set forth herein are also subject to the following qualifications and limitations:

1. The enforceability of the Security and the rights and remedies set out therein or any judgment arising out of or in connection therewith may be limited by applicable bankruptcy, insolvency, winding up, reorganization, arrangement, moratorium or other laws affecting creditors' rights generally.
2. The enforceability of any of the Security and the rights and remedies set out therein may be limited by general principles of equity including and without limitation:
 - (a) the enforceability of each of the Security is subject to the discretion of a court of competent jurisdiction to impose restrictions on the rights of creditors to enforce immediate payment of amounts to be payable on demand;
 - (b) the applicable lender will be required to give a reasonable time to the Debtor to meet any demand for payment of its obligations before enforcing security granted to the applicable lender;
 - (c) the ability to recover or claim for certain costs or expenses may be subject to judicial discretion; and
 - (d) the enforceability of the Security is subject to the powers of the court of competent jurisdiction to grant relief from forfeiture, to stay proceedings before it and to stay executions on judgment.
3. A receiver or a receiver and a manager appointed pursuant to the provisions of any of the Security may, for certain purposes, be treated by a court as being the agent of the secured party and not solely the agent of a debtor (and the secured party may not be deemed to be acting as the agent and attorney of the debtor in making such appointment), notwithstanding any agreement to the contrary.

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4. We express no opinion as to the right, title or interest of the Debtor in or to any of the assets, undertakings and properties of the Debtor.
5. We express no opinion on whether any secured party may have a perfected purchase money security interest which may exist in respect of any of the assets, undertakings and properties of the Debtor.
6. We express no opinion as to whether a security interest was created in the following property:
 - (a) property consisting of a receivable, license, approval, privilege, franchise, permit, lease or agreement to the extent that the terms of such property or any applicable law prohibit its assignment or require, as a condition of its assignability, a consent, approval or other authorization or registration which has not been made or given;
 - (b) permits, quotas or licenses which are held by or issued to the Debtor;
 - (c) federal crown debts; and
 - (d) any real property or interest therein.
7. We have made no searches under applicable statutes, including the *Copyright Act* (Canada), the *Patent Act* (Canada) and the *Trade-marks Act* (Canada), to confirm that Centurion has made registrations that may be necessary to perfect its security interests, if any, in intellectual property.
8. We express no opinion as to the application of the *Securities Act* (Ontario).
9. We are solicitors qualified to carry on the practice of law in the province of Ontario and are not qualified to express any opinion as to the laws or any matter governed by the laws of any jurisdiction other than the province of Ontario and the laws of Canada applicable therein.

The opinions expressed herein are provided solely for the benefit of the party to whom it was delivered and may not be relied or used by any other person for any reason whatsoever.

Yours very truly,

ROBINS APPLEBY LLP

Per:



LK

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SCHEDULE "A"
REGISTRATION DETAILS

Instrument Number	Registration Date	Date of Supply (for construction liens only)	Benefitting Party	Registered Amount	Additional Comments
SC1421256	2017/06/19		Peter Vander Kooij and Leni Vander Kooij	\$2,000,000	Principal amount reduced from \$2,795,000 by SC1602179
SC1760648	2021/03/05		Prudent Excellence Mortgage Investment Corporation	\$800,000	Provides for \$600,000 initial advance and subsequent future advance of \$200,000
SC1768859	2021/04/06	2020/03/03 to 2021/04/06	Delbrook Triumphant Builders Inc.	\$1,404,036	
SC1768866	2021/04/06	2017/06/08 to 2021/04/06	10853828 Canada Inc.	\$1,870,538	
SC1776388	2021/04/30	2020/07/29 to 2021/03/16	Gerrits Engineering Limited	\$16,385	
SC1802980	2021/07/12		Xiaofeng Fu and Meng Sun	\$10,000,000	

SCHEDULE "B"
CONSTRUCTION ACT EXCERPTS

Priority over mortgages, etc.

78 (1) Except as provided in this section, the liens arising from an improvement have priority over all conveyances, mortgages or other agreements affecting the owner's interest in the premises. R.S.O. 1990, c. C.30, s. 78 (1); 2017, c. 24, s. 70.

Building mortgage

(2) Where a mortgagee takes a mortgage with the intention to secure the financing of an improvement, the liens arising from the improvement have priority over that mortgage, and any mortgage taken out to repay that mortgage, to the extent of any deficiency in the holdbacks required to be retained by the owner under Part IV, irrespective of when that mortgage, or the mortgage taken out to repay it, is registered. R.S.O. 1990, c. C.30, s. 78 (2).

Prior mortgages, prior advances

(3) Subject to subsection (2), and without limiting the effect of subsection (4), all conveyances, mortgages or other agreements affecting the owner's interest in the premises that were registered prior to the time when the first lien arose in respect of an improvement have priority over the liens arising from the improvement to the extent of the lesser of,

(a) the actual value of the premises at the time when the first lien arose; and

(b) the total of all amounts that prior to that time were,

(i) advanced in the case of a mortgage, and

(ii) advanced or secured in the case of a conveyance or other agreement. R.S.O. 1990, c. C.30, s. 78 (3); 2017, c. 24, s. 70, 71.

Prior mortgages, subsequent advances

(4) Subject to subsection (2), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that was registered prior to the time when the first lien arose in respect of an improvement, has priority, in addition to the priority to which it is entitled under subsection (3), over the liens arising from the improvement, to the extent of any advance made in respect of that conveyance, mortgage or other agreement after the time when the first lien arose, unless,

- (a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or
- (b) prior to the time when the advance was made, the person making the advance had received written notice of a lien. R.S.O. 1990, c. C.30, s. 78 (4); 2017, c. 24, s. 53 (1), 70.

Special priority against subsequent mortgages

(5) Where a mortgage affecting the owner's interest in the premises is registered after the time when the first lien arose in respect of an improvement, the liens arising from the improvement have priority over the mortgage to the extent of any deficiency in the holdbacks required to be retained by the owner under Part IV. R.S.O. 1990, c. C.30, s. 78 (5); 2017, c. 24, s. 70.

General priority against subsequent mortgages

(6) Subject to subsections (2) and (5), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that is registered after the time when the first lien arose in respect to the improvement, has priority over the liens arising from the improvement to the extent of any advance made in respect of that conveyance, mortgage or other agreement, unless,

- (a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or
- (b) prior to the time when the advance was made, the person making the advance had received written notice of a lien. R.S.O. 1990, c. C.30, s. 78 (6); 2017, c. 24, s. 53 (1), 70.

...

APPENDIX D



Patrick Summers
Partner | Civil Law
psummers@chappellpartners.ca

File No. 2231002

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PULSE 
Legal News + Blog

August 30, 2022

VIA EMAIL: lkovac@robapp.lcom

Robins Appleby
Barristers & Solicitors
2600-120 Adelaide Street W.
Toronto, ON M5H 1T1

Attention: Ladislav Kovac

Dear Mr. Kovac:

Re: 2362 8th Line, Bradford

As you are aware, we are counsel for Peter and Leni Vander Kooij with respect to a first mortgage they have on the above-mentioned property. You have recently asked for a payout statement and we provide the following payout information:

Principal amount owing:	\$2,000,000.00
Arrears under the mortgage (12 mths at 7% compounded as per Standard Charge Terms 20033)	\$144,580.16
Legal fees incurred thus far:	\$15,901.81
Payment for appraisal prior to receivership	\$3,955.00
Expected future legal fees	\$5,000.00

The mortgage due date is the 16th of the month and there is a per diem owing of \$383.56, beginning August 16, 2022.

We trust this is the information you are requesting.

Yours Sincerely,
CHAPPELL PARTNERS LLP
Per:

Patrick Summers
PS/mn

Date: September 07, 2022

Attention: Maya

Discharge/Payout Statement

Re:

2nd Mortgage with Prudent Excellence MIC.
For 2362 Line 8 Bradford, ON N3H 3M9

As per request, the following is the payout particulars of September 07, 2022

Principal loan amount as of September 07, 2022	\$600,000.00
Interest from March 3, 2022 to September 07, 2022	\$32,621.40
3 Months' interest	\$15,750.00
Discharge Statement Fee	\$300.00
Appraisal fee	\$6,497.50
Lawyer service charge-Chaitons LLP	\$33,788.23
Lawyer service charge-Steinbergs LLP	\$1,265.91
Lawyer service charge-XS Law Professional Corp.	\$32,745.17
Expense Reimbursement for Administrative Costs of mortgage enforcement	\$14,150.00
Total Balance Due	\$737,118.21
Total payable to Prudent Excellence MIC	\$737,118.21
Per Diem Interest at 10.5% per annum	\$172.60

This statement is subject to all payments due under the mortgage having cleared the bank when due.

*All funds must be paid by certified cheque. Payment must be received by 2:00 p.m. on a banking business day or per diem interest must be added to the next banking business day. There will be a charge of three (3) days' interest should payout of the within Mortgage be received on a Friday later than 2:00 p.m.

This Discharge Statement expires on September 30, 2022, after which a new statement must be ordered and an Additional Statement fee will be charged.

PRUDENT EXCELLENCE

MORTGAGE INVESTMENT CORPORATION

Page 1

Fujia Wang

President of Prudent Excellence Mortgage Investment Corporation

APPENDIX E

Court File No. CV-22-00677227-00CL

**ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

**PRUDENT EXCELLENCE MORTGAGE INVESTMENT
CORPORATION**

Applicant

- and -

TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC.

Respondents

AFFIDAVIT OF GARY CERRATO

I, GARY CERRATO, of the Town of Newmarket, in the Province of Ontario, **MAKE OATH AND SAY** that:

1. I am a Senior Vice President of BDO Canada Limited, and as such have personal knowledge of the matters referred to herein.
2. By Order of the Honourable Madam Justice Conway, dated March 1, 2022 (the “Order”), BDO Canada Limited was appointed as Receiver (the “Receiver”) over the real property owned by Triumph Development HK Bradford Twin Regency Inc.
3. Pursuant to the Order, the Receiver has provided services and incurred disbursements which are more particularly described in the detailed accounts attached hereto and marked as **Exhibit “A”**.

- 4. The time shown in the detailed accounts attached as **Exhibit "A"** are a fair and accurate description of the services provided and the amounts charged by the Receiver, which reflect the Receiver's time as billed at its standard billing rates.
- 5. The Receiver requests that the Court approve its interim accounts for the period from January 28, 2022 to August 30, 2022 in the amount of \$90,723.15, inclusive of HST of \$10,275.65, for the services set out in **Exhibit "A"**.
- 6. This affidavit is sworn in support of the Receiver's motion for, among other things, approval of its fees and disbursements and those of its legal representatives and for no other or improper purpose.

SWORN BEFORE ME at the City of Toronto,)
 in the Province of Ontario, this)
 8th day of September 2022.)

T. Montesano)
 Commissioner for Taking Affidavits, etc)


 Gary Cerrato, CIRP, LIT

Antonio Montesano, a Commissioner, etc.,
 Province of Ontario, for BDO Canada LLP
 and BDO Canada Limited, and
 their subsidiaries, associates and affiliates
 Expires December 21, 2023

This is Exhibit "A" referred to in the affidavit of

Gary Cerrato

Sworn before me this 8th day of September 2022

T. Montesano

A COMMISSIONER FOR TAKING AFFIDAVITS

Antonio Montesano, a Commissioner, etc.,
Province of Ontario, for BDO Canada LLP
and BDO Canada Limited, and
their subsidiaries, associates and affiliates
Expires December 21, 2023



Tel: 416 865 0210
 Fax: 416 865 0904
 www.bdo.ca

BDO Canada Limited
 20 Wellington Street E, Suite 500
 Toronto ON M5E 1C5 Canada

Strictly Private & Confidential

Triumph Development HK Bradford Twin Regency Inc.
 A-10-3000 Highway 7
 Markham, ON
 L3R 4X9

Date	Invoice
September 6, 2022	CINV001

RE: Triumph Development HK Bradford Twin Regency Inc.

TO OUR FEE FOR PROFESSIONAL SERVICES rendered in connection with our engagement as Court Appointed Receiver for the period January 28, 2022 to August 30, 2022 for the above noted entity.

Our Fee		\$ 78,621.00
Disbursements:		
PPSA search	12.50	
Locksmith	410.00	
		<u>422.50</u>
Subtotal		79,043.50
HST - 13.00% (#R101518124)		10,275.65
		<u>89,319.15</u>
Disbursements: Insurance (No HST)		1,404.00
TOTAL		<u><u>\$ 90,723.15</u></u>

Summary of Time Charges:

	Hours	Rate	Amount
G. Cerrato, Partner	100.2	525.00	52,605.00
J. Parisi, Partner	35.0	525.00	18,375.00
M. Litwack, Sr. Manager	15.9	450.00	7,155.00
Administration	1.8	270.00	486.00
Total	<u>152.9</u>		<u>\$ 78,621.00</u>



Tel: 416 865 0210
Fax: 416 865 0904
www.bdo.ca

BDO Canada Limited
20 Wellington Street E, Suite 500
Toronto ON M5E 1C5 Canada

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Staff	Date	Comments	Hours
Cerrato, G	28-Jan-22	Review of documents received from S. Pan.	0.5
Cerrato, G	23-Feb-22	Conference call with J. Parisi and M. Poliak to discuss file.	0.8
Cerrato, G	28-Feb-22	Call with B. Sykes of Avison Young to discuss listing proposal and discuss work completed on property; review of motion materials.	1.7
Litwack, M	1-Mar-22	Discussion with G. Cerrato; Emails re meeting.	0.5
Cerrato, G	1-Mar-22	Call with M. Litwack to discuss engagement; call with B. Sykes of Avison Young to discuss issues with property and listing proposal.	1.7
Litwack, M	2-Mar-22	Call with development team; Call with G. Cerrato.	1.4
Cerrato, G	2-Mar-22	Review of correspondence received; attend call with P. Hancock and Delbrook engineering/development team to discuss status of site plan approval.	1.8
Litwack, M	4-Mar-22	Correspondence re insurance forms; Calls with G. Cerrato; Attended at site to take photos and completed walk around; Requests submitted for creation of BDO Extranet website.	1.8
Parisi, J	4-Mar-22	Review materials provided by lien claimants, call with G. Cerrato re same. Review appraisal report and correspondence with M. Poliak.	2.4
Cerrato, G	4-Mar-22	Review of legal materials provided by lien claimants; review of appraisal report; call with M. Litwack to discuss issues with appraisal.	2.3
Parisi, J	5-Mar-22	Prepare emails to realtors requesting listing proposals.	0.4
Litwack, M	7-Mar-22	Calls with G. Cerrato, J. Parisi and D. Michaud; Meeting with G. Cerrato re appraisals; Emails re insurance and property details.	1.4
Parisi, J	7-Mar-22	Call with D. Michaud regarding receivership. Call with G. Cerrato re same.	0.7
Cerrato, G	7-Mar-22	Follow up call with B. Sykes and his team to discuss SPA issues; conference call with D. Michaud, J. Parisi and M. Litwack to discuss engagement and issues; call with M. Litwack to discuss appraisal and issues.	1.5
Litwack, M	8-Mar-22	Revised NDA for requesting appraisals; Emails with G. Cerrato; Call with D Michaud re NDA; Email to appraiser re NDA; Draft email re books and records; Revision to 245/246 report.	1.3
Cerrato, G	8-Mar-22	Call with B. Sykes to review in detail information obtained from Delbrook and review of SPA information to discuss listing proposal; watch SPA meeting on Youtube.	1.9
Litwack, M	9-Mar-22	Correspondence with listing agents to obtain listing proposals; Obtaining and filing signed NDA's; Finalizing 245/246 report and direction to have report mailed to creditors; Prepared and faxed notice to the OSB.	1.9
Parisi, J	9-Mar-22	Review email from M. Poliak and provide information requested.	0.4

Staff	Date	Comments	Hours
Litwack, M	10-Mar-22	Call from OSB; Email to OSB re court order.	0.2
Parisi, J	11-Mar-22	Review email from F. Wang and various attachments. Review listing proposal from S. Ji.	0.8
Litwack, M	14-Mar-22	Correspondence with listing brokers; Emails re insurance and listing proposals.	0.4
Parisi, J	14-Mar-22	Review appraisal report and respond to F. Wang's email.	0.7
Parisi, J	15-Mar-22	Call with G. Cerrato regarding email from GSNH. Call with Gary regarding 3rd mortgage, insurance and cost to complete the site plan approval.	0.6
Litwack, M	16-Mar-22	Calls and emails with insurance brokers; Call with J. Parisi	0.6
Parisi, J	16-Mar-22	Review emails from D. Michaud to lenders regarding proof of funding. Review listing proposal from Avison & Young.	0.8
Litwack, M	17-Mar-22	Review of and discussions regarding appraisal report.	1.0
Parisi, J	17-Mar-22	Review correspondence from Avison & Young regarding questions on their proposal.	0.2
Litwack, M	18-Mar-22	Emails re insurance; Call and email re site security and fencing.	0.7
Parisi, J	18-Mar-22	Review correspondence regarding insurance policies. Review correspondence regarding no trespassing signs.	0.2
Litwack, M	21-Mar-22	Call with G. Cerrato; Emails re insurance; Call with real estate agent and email regarding sharing project details.	0.4
Cerrato, G	21-Mar-22	Review of correspondence from previous week; detailed review of appraisals; review of SPA documentation and comments; call with M. Litwack to discuss various issues;	2.5
Litwack, M	22-Mar-22	Call from Rocco re site attendance; Emails re listing proposals	0.3
Litwack, M	23-Mar-22	Call with G. Cerrato and J Parisi; Call from Colliers re listing proposal; Preparation of schedule to compare listing proposals.	1.4
Parisi, J	23-Mar-22	Call with G. Cerrato and M. Litwack to discuss listing proposals and various variables in the proposals. Correspondence with F. Wang re listing proposals.	0.6
Cerrato, G	23-Mar-22	Call with J. Parisi and M. Litwack to discuss listing proposals.	0.6
Litwack, M	24-Mar-22	Emails re contacting directors for books and records; Prepared schedule to compare listing proposals and emails re same.	1.3
Parisi, J	24-Mar-22	Review summary of listing proposals. Call with G. Cerrato re same. Email to F. Wang regarding meeting. Email correspondence with 1st secured regarding status of Receivership.	0.4
Cerrato, G	24-Mar-22	Review of listing proposal summary; review of motion record re details of third mortgage holder; call to counsel for 3rd mortgagee to discuss obtaining mortgage advance support; call with B. Sykes to discuss reasoning on his recommendation to list the property unpriced in preparation for meeting with Prudent.	1.7
Litwack, M	25-Mar-22	Call with F Wang to review listing proposals.	0.7

Staff	Date	Comments	Hours
Parisi, J	25-Mar-22	Call with G. Cerrato re listing property.	0.3
Cerrato, G	25-Mar-22	Attend conference call to discuss listing proposals with Prudent together with J. Parisi and M. Litwack; follow up call with J. Parisi.	1.3
Parisi, J	28-Mar-22	Review correspondence from Avison & Young on commission structure, review correspondence to and from Frank Wang.	0.4
Cerrato, G	28-Mar-22	Call with Avison & Young.	0.3
Litwack, M	29-Mar-22	Correspondence re insurance.	0.3
Parisi, J	30-Mar-22	Review correspondence related commissions. Correspondence with M. Poliak re same.	0.2
Cerrato, G	30-Mar-22	Review of correspondence received; review of listing agreement; call with D. Michaud to strategize on sale process and obtaining prior creditor approval.	1.5
Cerrato, G	31-Mar-22	Review of correspondence from P. Hancock re affidavit of documents; review of documents provided.	1.3
Parisi, J	1-Apr-22	Call with M. Poliak re commission structure. Call with Avison & Young regarding listing. Review emails from F. Wang.	0.7
Cerrato, G	1-Apr-22	Call with M. Poliak re listing proposals; review of email from F. Wang; call with Avison Young re listing proposal; call from Avison Young to discuss email from F. Wang and response.	2.1
Cerrato, G	4-Apr-22	Call with Avison Young.	0.5
Parisi, J	5-Apr-22	Call with counsel to Prudent regarding commission structure with the listing agent.	0.6
Litwack, M	6-Apr-22	Call re property appraisals and listing strategy; Call to S Hall (Colliers).	0.3
Cerrato, G	6-Apr-22	Call and correspondence with P. Hancock re lien claimants claim information and documents provided; discussion re funds at City of Bradford; call to City of Bradford re deposit funds; draft email re same.	1.7
Parisi, J	7-Apr-22	Review email from G. Cerrato to mortgage holders regarding go forward plan for sale of property. Attend to call with first mortgagee.	0.8
Cerrato, G	7-Apr-22	Draft emails to mortgagees re sales process and listing agreements; draft email to lien claimants re sales process and listing; call with counsel for the first mortgagee regarding status of sales process and listing.	2.1
Parisi, J	8-Apr-22	Review correspondence related to listing proposal. Review correspondence to lien claimants.	0.6
Parisi, J	11-Apr-22	Call with M. Poliak re next steps.	0.3
Cerrato, G	11-Apr-22	Call with Avison Young re listing; review of listing agreement and execute.	1.5
Cerrato, G	12-Apr-22	Review of SPA information from various sources.	3.0

Staff	Date	Comments	Hours
Cerrato, G	13-Apr-22	Review of SPA information and reports for inclusion in data room; correspondence with P. Hancock re same; review of bank statements received; calls with Avison Young to discuss data room contents.	3.0
Parisi, J	19-Apr-22	Review correspondence from Prudent financial and review response re same.	0.2
Cerrato, G	19-Apr-22	Call with counsel to discuss NDA's and discuss issues with materials in the data room; call with Avison Young to discuss email from F. Wang; prepare responding email to F. Wang; call with City of Bradford to discuss and obtain property tax information; review of MLS Data sheet.	2.5
Parisi, J	21-Apr-22	Call with G. Cerrato to discuss property taxes and bank statements.	0.2
Cerrato, G	21-Apr-22	Review of draft APS terms and conditions; call from Avison Young to discuss various issues.	2.5
Parisi, J	22-Apr-22	Review emails from G. Cerrato re property taxes and CIM.	0.2
Cerrato, G	22-Apr-22	Review of Avison CIM and provide comments; draft email re comments; further review of SPA information and forward to Avison Young.	1.5
Parisi, J	23-Apr-22	Review Avison CIM and provide comments.	0.4
Cerrato, G	25-Apr-22	Conference call with Avison Young and Delbrook to discuss status of SPA and to discuss obtaining most recent plans for the data room.	1.0
Parisi, J	26-Apr-22	Review emails from Prudent Financial and responses.	0.1
Parisi, J	2-May-22	Correspondence with realtor regarding advertising.	0.1
Cerrato, G	3-May-22	Review of sales efforts summary from Avison Young.	0.5
Cerrato, G	4-May-22	Review of tracking report; call with Avison Young; discussion with J. Parisi.	0.8
Cerrato, G	5-May-22	Review of financial information received from P. Hancock re liens; call with P. Hancock to provide update on sale process.	3.0
Parisi, J	6-May-22	Update call with Avison & Young.	0.6
Cerrato, G	9-May-22	Review of sales activity update; call to Avison Young; further review of supplier invoices provided by counsel; review of contracts to reconcile invoicing.	1.7
Parisi, J	10-May-22	Review correspondence from Avison.	0.5
Cerrato, G	10-May-22	Tracking information on bank accounts for Triumph; call with T. Montesano re same; call to A. Zhong at CTBC bank; further review of invoicing.	2.5
Cerrato, G	16-May-22	Review of sales update; review of correspondence received; follow up with CTBC bank re funds.	1.5
Parisi, J	17-May-22	Review correspondence from Eric Golden and respond.	0.4
Parisi, J	18-May-22	Review correspondence from Avison & Young.	0.3

Staff	Date	Comments	Hours
Parisi, J	19-May-22	Review update materials from Avison. Correspondence with S. Pan.	0.4
Parisi, J	20-May-22	Review progress report.	0.4
Cerrato, G	20-May-22	Update call with Avison Young to discuss sale activity.	0.5
Parisi, J	24-May-22	Discussions with G. Cerrato regarding bank statements received and irregularities.	0.3
Cerrato, G	24-May-22	Call with J. Parisi to discuss issues with fraudulent bank statements and review of CTBC responding email.	0.5
Cerrato, G	25-May-22	Review of financial information received from Dellbrook and counsel for the CTBC bank.	1.7
Cerrato, G	26-May-22	Call with D. Michaud to discuss email received from CTBC bank and to discuss status of sale and lien information received.	1.0
Parisi, J	30-May-22	Call with G. Cerrato and Avison regarding sales process. Review update report.	0.6
Cerrato, G	30-May-22	Call with Avison Young to discuss progress of sales efforts; review of updated sales report; respond to email from P. Hancock; review of supplier information.	1.3
Parisi, J	1-Jun-22	Review correspondence from Avison & Young. Review offer received for property.	0.6
Cerrato, G	1-Jun-22	Call with Avison Young re status of offers received; email exchanges with P. Hancock re invoicing and release of Altus Reports; reviewing Delbrook contracts.	2.2
Parisi, J	2-Jun-22	Call with Avison to discuss offer; call with G. Cerrato regarding communication to the 1st and 2nd secured. Call with D. Michaud to go through changes to offer. Review responses to the secured creditors.	2.6
Cerrato, G	2-Jun-22	Call to review APS with Avison Young; Call with D. Michaud to review changes to offer; draft email responses to mortgagees regarding sales process; call with J. Parisi.	3.0
Parisi, J	3-Jun-22	Call with G. Cerrato to discuss communication with P. Hancock.	0.3
Cerrato, G	6-Jun-22	Call with A. Malloy re SPA issues; attend conference call with Delbrook and Avison Young to discuss SPA issues; review of offer; call with Avison Young re offer terms; review of amended terms; sign back offer.	3.0
Cerrato, G	7-Jun-22	Review of correspondence received; respond to email inquiries; call to Bradford re property tax billings.	0.7
Parisi, J	13-Jun-22	Review email from E. Golden regarding litigation, liens and sales process. Respond to same.	0.6
Parisi, J	14-Jun-22	Call with Avison & Young to discuss changes to APA. Review additional changes; additional discussions with Avison.	0.7

Staff	Date	Comments	Hours
Cerrato, G	14-Jun-22	Call with D. Michaud to discuss sign back of offer; call with Avison Young re amended offer; draft email response to mortgagee; review and execute offer.	2.0
Parisi, J	20-Jun-22	Review email from Sharon Pan and review response to same.	0.2
Cerrato, G	21-Jun-22	Follow up with Avison & Young re issues with SPA; draft email responses to P. Summers and S. Pang; call with Parisi re issues; follow up with Avison & Young re outstanding deposit.	1.5
Cerrato, G	23-Jun-22	Call with Town of Bradford planning department together with Avison & Young and Delbrook; follow up call with Aidan re meeting with Bradford.	2.0
Cerrato, G	24-Jun-22	Follow up call with Medhi and Aidan to discuss Medhi's thoughts on the call with Bradford; review of email correspondence.	0.9
Cerrato, G	27-Jun-22	Follow up re outstanding insurance; arrange for payment; review of emails from Medhi.	0.5
Cerrato, G	28-Jun-22	Review of correspondence received.	0.5
Parisi, J	13-Jul-22	Review correspondence from Avison & Young regarding purchaser terminating the agreement.	0.1
Cerrato, G	18-Jul-22	Calls with Avison Young to discuss next steps with property; review of correspondence from F. Wang; research of prior emails from Town of Bradford and F. Wang re zoning and OPA issues; review of correspondence received from lien counsel.	2.7
Parisi, J	19-Jul-22	Review draft correspondence prepared by G. Cerrato and provide comments.	0.4
Cerrato, G	19-Jul-22	Draft email response to mortgagees re terminated offer and reasons for termination; review of zoning by-law; correspondence with Avison Young re marketing update.	1.5
Cerrato, G	20-Jul-22	Call with Maya Poliak; review and sign mutual release and arrange for return of deposit; correspondence with counsel.	1.0
Cerrato, G	21-Jul-22	Respond to calls from various parties that paid \$500 to be on the purchaser list for Triumph.	1.0
Cerrato, G	22-Jul-22	Update call with F. Wang, M. Poliak, Sharon and D. Michaud to discuss termination of APS by buyer and to discuss options moving forward with the property; update call with P. Summers re termination of offer and options moving forward.	1.5
Cerrato, G	26-Jul-22	Call with A. Malloy to discuss next steps with property and marketing of same given the advice received from Town of Bradford re OPA and zoning issues.	1.0
Parisi, J	27-Jul-22	Review correspondence from Aidan regarding offer received and other investor interest.	0.4
Parisi, J	28-Jul-22	Call with D. Michaud re offer. Call to M. Poliak regarding emails from Prudent. Review offer from potential purchaser. Attend meeting with Avison re debrief of offer and potential offers.	2.1

Staff	Date	Comments	Hours
Cerrato, G	28-Jul-22	Update call with J. Parisi and D. Michaud to discuss options with the property; review of offer; conference call with Avison Young to discuss unconditional offer and strategy with sign back.	2.0
Parisi, J	29-Jul-22	Call with G. Cerrato and D. Michaud regarding update call this afternoon including discussion of liens. Call with Prudent and their counsel.	0.9
Cerrato, G	29-Jul-22	Attend conference call with J. Parisi, D. Michaud, F. Wang, Sharon and M. Poliak to discuss offer received and lien review; call with Avison & Young to discuss options with offer.	2.5
Parisi, J	2-Aug-22	Review correspondence from D. Michaud re liens and next steps. Calls with G. Cerrato regarding sign back of agreement and correspondence with F. Wang.	1.3
Cerrato, G	2-Aug-22	Review of correspondence from D. Michaud; forward information on corporate structure; forward lien correspondence to M. Poliak; email updates with first and second mortgagee; call with J. Parisi re sign back; call with Avison Young re offer sign back; Respond to email request from R. Kwong consultant to a prospective purchaser.	2.7
Parisi, J	3-Aug-22	Call from B. Sykes regarding offer sign back. Call with G. Cerrato re same. Call with D. Michaud regarding next steps. Review email from Blaney's regarding validity of liens. Review lien documents with G. Cerrato and D. Michaud. Call with B. Sykes re instructions. Correspondence with various parties regarding sign back.	2.4
Cerrato, G	3-Aug-22	Call with Avison Young re offer; call with J. Parisi re same; conference call with D. Michaud and J. Parisi to discuss offer and liens; correspondence with mortgagees and counsel regarding the sales process and offer; sign back of offer.	3.0
Cerrato, G	4-Aug-22	Review of new offer from Mr. Geng; correspondence with Avison Young re offer.	0.5
Parisi, J	5-Aug-22	Review correspondence from Robins Appleby regarding liens. Call with G. Cerrato regarding next steps and liens.	1.1
Cerrato, G	5-Aug-22	Review of correspondence from counsel regarding liens; call with J. Parisi to discuss next steps.	0.8
Cerrato, G	8-Aug-22	Review of information request from L. Kovac; respond to email inquiry from B. Milburn re closing; review of information.	1.4
Parisi, J	9-Aug-22	Review correspondence from Blaney's regarding status and funds available in estate.	0.1
Parisi, J	10-Aug-22	Call with D. Michaud regarding update on security opinion and court dates. Review and respond to emails from E. Golden re CBTB bank. Call with G. Cerrato regarding liens and the review information regarding history with Wiseway and directors.	1.3
Parisi, J	19-Aug-22	Review email correspondence related to liens.	0.3

Staff	Date	Comments	Hours
Parisi, J	22-Aug-22	Review correspondence from D. Michaud regarding Delbrook wanting to know purchase price. Call with G. Cerrato re various emails related to Delbrook. Review letter from Delbrook.	1.3
Cerrato, G	22-Aug-22	Review of emails from counsel; attend to correspondence received.	0.5
Parisi, J	25-Aug-22	Call with D. Michaud regarding security opinion and priorities. Discussions with G. Cerrato regarding report and priorities.	0.9
Cerrato, G	25-Aug-22	Respond to inquiries; review of correspondence received.	0.4
Parisi, J	26-Aug-22	Review email correspondence from D. Michaud regarding update to lien claimant. Review correspondence regarding Gerrits Engineering invoice.	0.6
Cerrato, G	26-Aug-22	Review of lien information; call with P. Hancock to discuss the invoices of Delbrook and 108; call with J. Parisi re same.	2.3
Cerrato, G	30-Aug-22	Review of CCDC contract and management contract to understand invoices in support of liens; start drafting court report.	1.3

APPENDIX F

Court File No.: CV-22-00677227-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

**PRUDENT EXCELLENCE MORTGAGE INVESTMENT
CORPORATION**

Applicant

-and-

TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) 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

AFFIDAVIT OF IRVING MARKS

I, **IRVING MARKS** of the city of Toronto, in the Province of Ontario **MAKE OATH AND SAY:**

1. I am a partner of the law firm of Robins Appleby LLP ("**Robins**"), the lawyers for BDO Canada Limited (the "**Receiver**"), as the Court-appointed receiver of the properties municipally known as 2362 Line 8, Bradford West Gwillimbury, Ontario (the "**Property**") and, as such, have knowledge of the matters contained in this Affidavit.
2. Pursuant to the Order of Justice Conway dated March 1, 2022, the Receiver was appointed as the Receiver of the Property (the "**Receivership Order**").

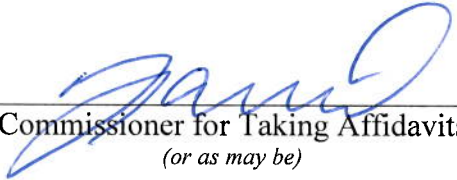
3. This affidavit is made in connection with the Receiver's motion for, *inter alia*, the approval of the fees and disbursements of Robins with respect to legal services rendered as independent counsel to the Receiver in connection with these receivership proceedings from March 4, 2022 up to August 30, 2022 (the "**Billing Period**"). Attached as **Exhibit "A"** is a record of the legal services rendered by Robins to the Receiver and disbursements incurred during this period (the "**Robins Invoices**"). To the best of my knowledge, the Robins Invoices provides a fair and accurate description of the activities undertaken and the services rendered by Robins during this period.

4. Attached as **Exhibit "B"** is a summary of the names, year of call, hourly rates, time expended by the lawyers and other professionals at Robins whose time is reflected in the dockets recorded in Exhibit "A".

5. During the Billing Period, the total fees billed by Robins were \$45,454.00 plus disbursement of \$585.88 and applicable taxes of \$5,959.40 for an aggregate amount of \$51,999.28.

6. I have reviewed the Robins Invoices and consider the time expended for legal fees charged to be fair and reasonable for the services performed. To the best of my knowledge, the rates charges by Robins are comparable to the rates charged for legal services of a similar nature and complexity by other medium sized firms in the Toronto market.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario on the 7th
day of September, 2022.



Commissioner for Taking Affidavits
(or as may be)

JOEY JAMIL



IRVING MARKS

THIS IS **EXHIBIT "A"** REFERRED TO IN
THE AFFIDAVIT OF **IRVING MARKS**
SWORN BEFORE ME THIS 7TH DAY
OF SEPTEMBER, 2022.


A Commissioner, Notary, Etc.

JOEY JAMIL



BDO Canada Limited
500-20 Wellington Street East
Toronto, ON M5E 1C5

DATE: March 31, 2022
CLIENT No.: 7796
FILE No.: 2200186
INVOICE No.: 173667
H.S.T. No.: 12139 1205 RT0001

Attention: Josie Parisi

RE: Receivership - Triumph Development HK Bradford Twin Regency Inc.	
FOR ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including the following:	
04-Mar-22	Review application materials regarding file background;
07-Mar-22	Review application materials; telephone conference with client regarding status of development; review and revise NDA; engage file regarding registration of receivership order;
08-Mar-22	Telephone conference between Dominique Michaud and Michael Litwack; review draft NDA; Prepare and register Application to attach Receiver Order on title with Land Registry Office for the property to 2362 Line 8, Bradford West Gwillimbury, Ontario; Review draft Teraview registration of court order;
15-Mar-22	Email correspondence regarding indebtedness secured by third mortgage; review email correspondence regarding appraisal methodology;
21-Mar-22	Email correspondence regarding status of third mortgage;
23-Mar-22	Email correspondence regarding third mortgage security and payment advances;
29-Mar-22	Email correspondence with Gary Cerrato regarding file update;
30-Mar-22	Telephone conference between Dominique Michaud and Gary Cerrato regarding status of receivership and sales process approval;



OUR FEE	\$3,727.50
DISBURSEMENTS	
<i>* Indicates not subject to H.S.T.</i>	
Real Estate Registrations	*66.30
Law Society Transaction Levy - Real Estate	65.00
Agency Fees	11.05
Total Disbursements	\$142.35
<u>H.S.T. (13%)</u>	
on \$3,727.50 Fees	484.58
on \$76.05 Disbursements	9.89
Total H.S.T.	\$494.47
TOTAL FEES, DISBURSEMENTS and H.S.T.	<u>\$4,364.32</u>
ROBINS APPLEBY LLP	
Per:	
<i>Dom Michaud</i>	
Dominique Michaud	
E. & O.E.	
/WL	

Online bill payment is now available through most major banks. Please use the "Client No." located on this invoice as your online bill payment Account No., save "Robins Appleby LLP" as a "Payee" and proceed to "Pay Bills". If you require assistance, please call our office at 416-868-1080 and a member of the Robins Appleby accounting team would be pleased to help.

Account Due When Rendered. In accordance with section 33 of the *Solicitors Act*, interest will be charged at the rate of **3.00%** per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered.



BDO Canada Limited
500-20 Wellington Street East
Toronto, ON M5E 1C5

DATE: April 29, 2022
CLIENT No.: 7796
FILE No.: 2200186
INVOICE No.: 173997
H.S.T. No.: 12139 1205 RT0001

Attention: Josie Parisi

	RE: Receivership - Triumph Development HK Bradford Twin Regency Inc.	
	FOR ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including the following:	
06-Apr-22	Review loan documents from third mortgagee; email from Dominique Michaud to third mortgagee regarding advance of funds;	
07-Apr-22	Review listing proposals and Receiver's correspondence regarding sales process; email to Gary Cerrato regarding listing proposal;	
08-Apr-22	Review commission agreement and email to client regarding listing agreement;	
12-Apr-22	Engage file regarding form of APA for sales process;	
18-Apr-22	Review NDA and data room; telephone conference between Dominique Michaud and Ladislav Kovac regarding form of APA; Review comments from Josie Parisi;	
19-Apr-22	Review data room and forms of NDA; email to Gary Cerrato regarding disclosure of NDA;	
20-Apr-22	Telephone conference with Josie Parisi with respect to comments on purchase agreement; finalize agreement of purchase and sale;	
	OUR FEE	\$2,530.50
	DISBURSEMENTS	
	<i>* Indicates not subject to H.S.T.</i>	
	Computer Search - Teraview	*9.95
	Law Society Transaction Levy - Real Estate	65.00
	Computer Search - Teraview	23.20
	Total Disbursements	\$98.15



<u>H.S.T. (13%)</u> on \$2,530.50 Fees	328.97
on \$88.20 Disbursements	11.47
Total H.S.T.	\$340.44
TOTAL FEES, DISBURSEMENTS and H.S.T.	<u>\$2,969.09</u>
Outstanding account dated: 31-Mar-22 Ref. No. 173667	4,364.32
TOTAL OUTSTANDING	<u>\$7,333.41</u>
ROBINS APPLEBY LLP Per:	
<i>Dom Michaud</i>	
Dominique Michaud E. & O.E. /WL	

Online bill payment is now available through most major banks. Please use the "Client No." located on this invoice as your online bill payment Account No., save "Robins Appleby LLP" as a "Payee" and proceed to "Pay Bills". If you require assistance, please call our office at 416-868-1080 and a member of the Robins Appleby accounting team would be pleased to help.

Account Due When Rendered. In accordance with section 33 of the *Solicitors Act*, interest will be charged at the rate of **3.00%** per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered.



BDO Canada Limited
500-20 Wellington Street East
Toronto, ON M5E 1C5

DATE: May 31, 2022
CLIENT No.: 7796
FILE No.: 2200186
INVOICE No.: 174230
H.S.T. No.: 12139 1205 RT0001

Attention: Josie Parisi

	RE: Receivership - Triumph Development HK Bradford Twin Regency Inc.	
	FOR ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including the following:	
09-May-22	Review comments on draft purchase agreement; email to Gary Cerrato;	
26-May-22	Telephone conference with Gary Cerrato regarding lien issues;	
30-May-22	Telephone conference between Dominique Michaud and Chad Kopach regarding lien claim issues;	
	OUR FEE	\$1,281.00
	<u>H.S.T. (13%)</u>	
	on \$1,281.00 Fees	166.53
	on \$0.00 Disbursements	0.00
	Total H.S.T.	\$166.53
	TOTAL FEES, DISBURSEMENTS and H.S.T.	<u>\$1,447.53</u>
	Outstanding account dated: 31-Mar-22	Ref. No. 173667
	Outstanding account dated: 29-Apr-22	Ref. No. 173997
		4,364.32
		2,969.09
	TOTAL OUTSTANDING	<u>\$8,780.94</u>
	ROBINS APPLEBY LLP	
	Per:	
	<i>Dom Michaud</i>	
	Dominique Michaud	
	E. & O.E.	
	WL	



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Account Due When Rendered. In accordance with section 33 of the *Solicitors Act*, interest will be charged at the rate of **3.00%** per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered.

[robapp\7276805.1](#)



BDO Canada Limited
500-20 Wellington Street East
Toronto, ON M5E 1C5

DATE: June 30, 2022
CLIENT No.: 7796
FILE No.: 2200186
INVOICE No.: 174475
H.S.T. No.: 12139 1205 RT0001

Attention: Josie Parisi

RE: Receivership - Triumph Development HK Bradford Twin Regency Inc.	
FOR ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including the following:	
02-Jun-22	Review APA; telephone conference between Dominique Michaud and Ladislav Kovac regarding amendments to APA; email to client regarding review of offer to purchase; Conference call regarding sale agreement revisions;
06-Jun-22	Revise agreement of purchase and sale; email to Gary Cerrato; Telephone conference with Gary Cerrato regarding amendments to Agreement of Purchase and Sale;
08-Jun-22	Email correspondence between Dominique Michaud and Chad Kopach regarding lien claims;
14-Jun-22	Review Amended APA and report to client on discussions regarding lien claims and third mortgage;
15-Jun-22	Email correspondence regarding payment of deposit;
20-Jun-22	Email correspondence regarding deposit;
21-Jun-22	Email to Gary Cerrato regarding deposit payment and Approval and Vesting Order; email from Chad Kopach regarding lien case law;
27-Jun-22	Telephone conference with Josie Parisi regarding status of receivership and need for security opinions;



Teams meeting between Ellad Gersh and Dominique Michaud regarding opinion on priority of lien over mortgagee;

OUR FEE **\$3,442.00**

DISBURSEMENTS

** Indicates not subject to H.S.T.*

Corporate Searches *8.00

Corporate Searches 18.15

Total Disbursements **\$26.15**

H.S.T. (13%)

on \$3,442.00 Fees 447.46

on \$18.15 Disbursements 2.36

Total H.S.T. **\$449.82**

TOTAL FEES, DISBURSEMENTS and H.S.T. **\$3,917.97**

Outstanding account dated: 31-Mar-22 | Ref. No. 173667 4,364.32

Outstanding account dated: 29-Apr-22 | Ref. No. 173997 2,969.09

Outstanding account dated: 31-May-22 | Ref. No. 174230 1,447.53

TOTAL OUTSTANDING **\$12,698.91**

ROBINS APPLEBY LLP

Per:

Dom Michaud

Dominique Michaud

E. & O.E.

WL

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Account Due When Rendered. In accordance with section 33 of the *Solicitors Act*, interest will be charged at the rate of **3.00%** per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered.



BDO Canada Limited
500-20 Wellington Street East
Toronto, ON M5E 1C5

DATE: July 29, 2022
CLIENT No.: 7796
FILE No.: 2200186
INVOICE No.: 174868
H.S.T. No.: 12139 1205 RT0001

Attention: Josie Parisi

	RE: Receivership - Triumph Development HK Bradford Twin Regency Inc.	
	FOR ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including the following:	
02-Jun-22	Correspondence with Gary Cerrato with respect to questions and comments from purchasers on agreement of purchase and sale;	
29-Jun-22	Review loan documents for third mortgage and email report to Gary Cerrato;	
30-Jun-22	Review correspondence between secured creditors and receiver concerning validity of lien claimant issue; review preliminary case law and analysis of Chad Kopach;	
11-Jul-22	Commence file review;	
	Review case law relied on by mortgagees regarding discharge of lien where claimant connected to owner;	
12-Jul-22	Engage file regarding lien analysis;	
	Teams meeting between Ellad Gersh and Anisha Samat to provide instructions on legal research and analysis regarding validity of lien claim;	
15-Jul-22	Email correspondence regarding termination of Agreement of Purchase and Sale;	
16-Jul-22	Commence research regarding construction lien issues;	
18-Jul-22	Continue research regarding validity of construction liens;	



19-Jul-22	<p>Engage file regarding revised sale process; email correspondence to Gary Cerrato;</p> <p>Review legal research memorandum prepared by Anisha Samat; Teams meeting between Ellad Gersh and Anisha Samat to discuss legal research and analysis on validity of construction liens;</p> <p>Finalize research regarding construction liens and draft memorandum regarding same; email from Anisha Samat to Chad Kopach regarding meeting;</p> <p>Conduct corporate searches;</p>
20-Jul-22	<p>Email from Ellad Gersh to Chad Kopach;</p> <p>Review report to stakeholders;</p> <p>Emails between Chad Kopach and Anisha Samat regarding meeting and construction lien issues to be discussed; conferences between Anisha Samat and Ellad Gersh regarding same; review of pleadings in construction lien actions brought by lien claimants;</p>
21-Jul-22	<p>Engage file regarding return of deposit and various emails and telephone conference regarding sales process;</p>
22-Jul-22	<p>Conferences between Anisha Samat and Ellad Gersh; conference between Anisha Samat and Chad Kopach; review of memorandum regarding construction liens and Construction Lien Act;</p> <p>Various conference calls regarding sales process;</p> <p>Telephone conference with lawyers for first and second mortgagee regarding sales process;</p> <p>Teams meeting between Ellad Gersh, Anisha Samat and Chad Kopach regarding validity of liens; follow up Teams discussions between Ellad Gersh and Anisha Samat;</p>
27-Jul-22	<p>Email correspondence regarding offers received;</p>
28-Jul-22	<p>Review memo regarding lien claims; email to Gary Cerrato;</p> <p>Engage file regarding sale and counter offer; various telephone conferences between Dominique Michaud and the Receiver regarding counter offer and lien priority;</p>



29-Jul-22	<p>Emails and meetings between Ellad Gersh and Anisha Samat regarding status report; emails between Ellad Gersh, Anisha Samat and Maya Polik;</p> <p>Conference between Anisha Samat, Ellad Gersh and Dominique Michaud regarding construction liens memo; emails between Anisha Samat and Maya Poliak; preparation for call with Maya Poliak; email from Anisha Samat to Xin Sun regarding construction liens;</p> <p>Teams meeting between Ellad Gersh and Dominique Michaud to provide status update on lien matter; Teams conference between Ellad Gersh, Anisha Samat and Dominique Michaud;</p> <p>Engage file regarding lien analysis;</p> <p>Conference call regarding sales strategy and lien claim analysis;</p> <p>Telephone conference between Anisha Samat, Ellad Gersh and Chad Kopach;</p>	
	OUR FEE	\$12,574.50
	DISBURSEMENTS	
	<i>* Indicates not subject to H.S.T.</i>	
	Wire Charges	*17.50
	Corporate Searches	*8.00
	Corporate Searches	18.15
	Total Disbursements	\$43.65
	<u>H.S.T. (13%)</u>	
	on \$12,574.50 Fees	1,634.69
	on \$18.15 Disbursements	2.36
	Total H.S.T.	\$1,637.05
	TOTAL FEES, DISBURSEMENTS and H.S.T.	<u>\$14,255.20</u>
	Outstanding account dated: 31-Mar-22	4,364.32
	Outstanding account dated: 29-Apr-22	2,969.09
	Outstanding account dated: 31-May-22	1,447.53
	Outstanding account dated: 30-Jun-22	3,917.97
	TOTAL OUTSTANDING	<u>\$26,954.11</u>



ROBINS APPLEBY LLP

Per:

Dom Michaud

Dominique Michaud

E. & O.E.

/WL

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Account Due When Rendered. In accordance with section 33 of the *Solicitors Act*, interest will be charged at the rate of **3.00%** per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered.

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BDO Canada Limited
500-20 Wellington Street East
Toronto, ON M5E 1C5

DATE: August 31, 2022
CLIENT No.: 7796
FILE No.: 2200186
INVOICE No.: 175153
H.S.T. No.: 12139 1205 RT0001

Attention: Josie Parisi

RE: Receivership - Triumph Development HK Bradford Twin Regency Inc.	
	FOR ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including the following:
02-Aug-22	Engage file regarding lien analysis and counter offer; Conference between Anisha Samat and Dominique Michaud regarding demand letter; emails between Anisha Samat and Dominique Michaud and review of email chain from clients and counsel for Prudent; emails between Anisha Samat and Xin Sun; commence drafting demand letter;
03-Aug-22	Engage file regarding second offer and lien claims; Email to Anisha Samat from Chad Kopach and brief review of same; commence review of documents regarding construction liens; Email from Chad Kopach to Ellad Gersh regarding validity of lien issue; Teams meeting between Ellad Gersh, Dominique Michaud and Anisha Samat regarding priority of liens issue;
04-Aug-22	Draft request for information letter regarding construction liens; conference between Anisha Samat and Stephanie Lanz regarding research on priority of construction liens;
05-Aug-22	Research construction lien and mortgage priorities; Review and revise information request to lien claimant; Conference between Anisha Samat and Dominique Michaud regarding letter to lien claimants; revise and finalize letter to lien claimants; review corporate history of lien claimants;



	<p>Review email from Gary Cerrato to Chad Kopach and others regarding sale of property; email from Eric Golden to Gary Cerrato and others;</p> <p>Prepare initial security opinion; review title;</p>
08-Aug-22	<p>Email research to Anisha Samat;</p> <p>Email correspondence regarding sale approval motion and security opinion;</p> <p>Complete initial draft of security opinion;</p>
09-Aug-22	<p>Review emails exchanged between Eric Golden, Gary Cerrato and others regarding Sales process update;</p> <p>Conduct further legal research regarding priority of construction liens and commence drafting legal opinion;</p> <p>Email correspondence regarding security opinion;</p> <p>Amend security opinion;</p>
10-Aug-22	<p>Emails between Anisha Samat and Ladislav Kovac regarding priority of construction liens;</p> <p>Review emails from Eric Golden and Gary Cerrato;</p> <p>Engage file regarding sale approval motion;</p>
11-Aug-22	<p>Engage file regarding sale approval motion and security opinion;</p>
12-Aug-22	<p>Complete research memo regarding lien priorities;</p>
15-Aug-22	<p>Review legal research memorandum prepared by Anisha Samat on priority dispute; Teams meeting between Ladislav Kovac, Anisha Samat and Ellad Gersh regarding opinion on priority dispute;</p> <p>Finalize lien priority research and memorandum;</p>



	Amend security opinion;
16-Aug-22	Complete security opinion;
18-Aug-22	Email correspondence regarding sale of property;
19-Aug-22	Engage file regarding sale of property;
22-Aug-22	Email correspondence regarding lien priority disputes;
	Conference between Ellad Gersh and Dominique Michaud to discuss legal opinion on lien priority issue;
23-Aug-22	Review priority memo; conference call to discuss security opinion and priority opinion;
	Review and analyze email from Paul Hancock; review priority memorandum and appellate case law on priority claim of lien claimants over mortgagees;
	Conference between Anisha Samat and Ellad Gersh regarding construction lien validity and priority issues; research regarding changes to Construction Act regarding same; conference between Anisha Samat, Ladislav Kovac, Ellad Gersh and Dominique Michaud regarding lien priorities;
	Email from Ladislav Kovac to Patrick Summers and Maya Poliak;
24-Aug-22	Engage file regarding lien analysis; meeting between Dominique Michaud and Anisha Samat regarding sale approval motion; telephone conference between Dominique Michaud and Paul Hancock;
25-Aug-22	Engage file regarding lien analysis; telephone call to Josie Parisi; telephone conference between Dominique Michaud and Maya Poliak regarding lien analysis;
	Emails between Anisha Samat, Maya Poliak, Ellad Gersh and Dominique Michaud regarding meeting to discuss construction liens;
	Conference between Anisha Samat, Maya Poliak and Dominique Michaud regarding construction liens;
26-Aug-22	Engage file regarding lien analysis and sale approval motion;



	Amend security opinion;	
29-Aug-22	Review loan documents for first mortgagee;	
	Commence drafting motion materials for Sale Approval motion;	
	Review of research regarding s. 78(6) of Construction Act (written notice vs actual notice);	
	Emails between Ladislav Kovac and Patrick Summers; review report materials for VTB mortgage;	
	Research on notice under Construction Act; email from Stephanie Lanz to Anisha Samat;	
30-Aug-22	Meeting between Dominique Michaud and Ladislav Kovac to review security opinion;	
	OUR FEE	\$21,898.50
	DISBURSEMENTS	
	<i>* Indicates not subject to H.S.T.</i>	
	Corporate Searches	*18.00
	Computer Search - Teraview	*70.80
	Online Research	31.08
	Corporate Searches	38.10
	Computer Search - Teraview	107.80
	Photocopies	9.80
	Total Disbursements	\$275.58
	<u>H.S.T. (13%)</u>	
	on \$21,898.50 Fees	2,846.81
	on \$186.78 Disbursements	24.28
	Total H.S.T.	\$2,871.09
	TOTAL FEES, DISBURSEMENTS and H.S.T.	<u>\$25,045.17</u>
	Outstanding account dated: 31-Mar-22	Ref. No. 173667 4,364.32
	Outstanding account dated: 29-Apr-22	Ref. No. 173997 2,969.09
	Outstanding account dated: 31-May-22	Ref. No. 174230 1,447.53
	Outstanding account dated: 30-Jun-22	Ref. No. 174475 3,917.97
	Outstanding account dated: 29-Jul-22	Ref. No. 174868 14,255.20
	TOTAL OUTSTANDING	<u>\$51,999.28</u>



ROBINS APPLEBY LLP

Per:

Dominique Michaud


E. & O.E.

/WL

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THIS IS **EXHIBIT "B"** REFERRED TO IN
THE AFFIDAVIT OF **IRVING MARKS**
SWORN BEFORE ME THIS 7TH DAY OF
SEPTEMBER, 2022.


A Commissioner, Notary, Etc.
JOEY JAMIL

Fees and Disbursement Summary of Robins Appleby LLP for the period from March 4, 2022 up to August 30, 2022

NAME	YEAR OF CALL	HOURLY RATE	TOTAL HOURS	TOTAL FEES BILLS
Dominique Michaud	2009	\$630	38.6	\$24,318.00
Ellad Gersh	2010	\$600	9.4	\$5,640.00
Ladislav Kovac	2014	\$525	6.6	\$5,197.50
Rachel Puma	2019	\$350	1.4	\$490.00
Anisha Samat	2021	\$300	29.6	\$8,880.00
Kimberly Lexovsky (Law Clerk)		\$330	0.7	\$231.00
Kystra Ryan (Law Clerk)		\$225	0.2	\$45.00
Stephanie Lanz (Articling Student)		\$225	2.9	\$652.50
SUBTOTAL FEES:				\$45,454.00
H.S.T. @ 13%				\$5,909.02
TOTAL FEES:				<u>\$51,362.02</u>
Disbursements				\$585.88
H.S.T. @ 13%				\$50.38
TOTAL DISBURSEMENTS:				<u>\$636.26</u>
TOTAL FEES, DISBURSEMENTS & H.S.T.				<u>\$51,999.28</u>

**PRUDENT EXCELLENCE
MORTGAGE INVESTMENT
CORPORATION**

- and -

**TRIUMPH DEVELOPMENT HK
BRADFORD TWIN REGENCY INC.**

Applicant

Respondent

Court File No.: CV-22-00677227-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

APPLICATION UNDER SUBSECTION 243(1) 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

PROCEEDING COMMENCED AT TORONTO

AFFIDAVIT OF IRVING MARKS

ROBINS APPLEBY LLP

Barristers + Solicitors
2600 - 120 Adelaide Street West
Toronto, ON M5H 1T1

Dominique Michaud LSO No.: 56871V

dmichaud@robapp.com
Tel: (416) 360-3795

Anisha Samat LSO No. 82342Q

Email: asamat@robapp.com
Tel: (416) 360-3728

Lawyers for the Receiver, BDO Canada Limited

TAB 3

Court File No.: CV-22-00677227-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE JUSTICE CAVANAGH)))	WEDNESDAY, THE 14th DAY OF SEPTEMBER, 2022
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BETWEEN:

**PRUDENT EXCELLENCE MORTGAGE INVESTMENT
CORPORATION**

Applicant

-and-

TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) 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

ORDER

(Approval and Vesting Order)

THIS MOTION made by the BDO Canada Limited ("**BDO**"), in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the of the Property municipally known as 2362 Line 8, Bradford West Gwillimbury, Ontario (the "**Property**") owned by Triumph Development HK Bradford Twin Regency Inc.'s (the "**Debtor**"), for the relief set out in the Notice of Motion dated September 8, 2022, including the approval of the sale transaction (the

"**Transaction**") contemplated by an Asset Purchase Agreement between the Receiver in its capacity as Receiver of the Property and 2792523 Ontario Inc. (in Trust) (the "**Purchaser**" which shall include any party the Purchaser may nominate or direct) dated July 27, 2022 (the "**Sale Agreement**"), and vesting in the Purchaser the Debtor's right, title, benefit and interest in the assets described in the Sale Agreement (the "**Purchased Assets**") was heard this day by videoconference as a result of the Covid-19 pandemic.

ON READING the Motion Record of the Receiver and the First Report of the Receiver dated September 8, 2022 (the "**Receiver's First Report**"), the Confidential Supplemental Report of the Receiver dated September 8, 2022 (the "**Confidential Supplemental Report**"), the Affidavit of Irving Marks sworn September 7, 2022 (the "**Robins Fee Affidavit**") and the Affidavit of Gary Cerrato sworn September 8, 2022 (the "**BDO Fee Affidavit**") and on hearing the submissions of counsel for the Receiver and any such other counsel or individual as were present, no one appearing for any other person on the service list, although properly served as evidenced by the Affidavit of Wendy Lee sworn September 8, 2022, filed.

1. **THIS COURT ORDERS** that unless otherwise defined herein or the context otherwise requires, capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as

may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Receiver's Certificate**"), all of Debtor's right, title, benefit and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order dated the 1st day of March, 2022; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule B** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule C**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that upon the registration in the applicable land registry office or land titles office of a Transfer/Deed of Land or equivalent document, or of an application for registration of this Order in the applicable prescribed form, the applicable land registrar or

equivalent official is hereby directed to enter the Purchaser as the owner of the subject real property in fee simple, and is hereby directed to delete and expunge from title to the real property all of the Claims listed in **Schedule B** hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Debtor and shall not be void or

voidable by creditors of Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

SCHEDULE A
FORM OF RECEIVER'S CERTIFICATE

Court File No.: CV-22-00677227-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

**PRUDENT EXCELLENCE MORTGAGE INVESTMENT
CORPORATION**

Applicant

-and-

TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) 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

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Conway of the Ontario Superior Court of Justice (the "**Court**") dated March 1st, 2022, BDO Canada Limited was appointed as receiver (the "**Receiver**") of the Property municipally known as 2362 Line 8, Bradford West Gwillimbury, Ontario, Toronto, Ontario (the "**Property**") owned by Triumph Development HK Bradford Twin Regency Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated September 14, 2022, the Court approved the asset purchase agreement made as of July 27, 2022 (the "**Sale Agreement**") between the Receiver and 2792523 Ontario Inc. (in Trust) (the "**Purchaser**") and provided for the vesting in the Purchaser of Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser

of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets, (ii) that the conditions to closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Asset Purchase Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Asset Purchase Agreement;
2. The conditions to closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, respectively; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

BDO Canada Limited, in its capacity as Receiver of the Property municipally known as 2362 Line 8, Bradford West Gwillimbury, Ontario, and not in its personal capacity

Per: _____

Name: Josie Parisi

Title: Senior Vice-President

SCHEDULE B
CLAIMS TO BE DELETED AND EXPUNGED FROM TITLE TO REAL PROPERTY

PIN 58041-0010

1. Charge from Triumph Development HK Bradford Twin Regency Inc. to Peter Vander Kooij and Leni Vander Kooij registered on June 19, 2017 as Instrument No. SC1421256.
2. Notice Amending Charge from Triumph Development HK Bradford Twin Regency Inc. to Peter Vander Kooij and Leni Vander Kooij registered on June 20, 2019 as Instrument No. SC1602179.
3. Charge from Triumph Development HK Bradford Twin Regency Inc. to Prudent Excellence Mortgage Investment Corporation registered on June 19, 2017 as Instrument No. SC1760648.
4. Construction Lien from Delbrook Triumphant Builders Inc. to Triumph Development HK Bradford Twin Regency Inc. registered on April 6, 2021 as Instrument No. SC1768859.
5. Construction Lien from 10853828 Canada Inc. to Triumph Development HK Bradford Twin Regency Inc. registered on April 6, 2021 as Instrument No. SC1768866.
6. Construction Lien from Gerrits Engineering Limited to Triumph Development HK Bradford Twin Regency Inc. registered on April 30, 2021 as Instrument No. SC1776388.
7. Certificate of Action from Delbrook Triumphant Builders Inc. to Triumph Development HK Bradford Twin Regency Inc. registered on May 20, 2021 as Instrument No. SC1783814.
8. Certificate of Action from 10853828 Canada Inc. to Triumph Development HK Bradford Twin Regency Inc. registered on May 20, 2021 as Instrument No. SC1783823.
9. Certificate of Action from Gerrits Engineering Limited to Triumph Development HK Bradford Twin Regency Inc. registered on June 11, 2021 as Instrument No. SC1791485.
10. Charge from Triumph Development HK Bradford Twin Regency Inc. to Xiaofeng Fu and Meng Sun registered on as Instrument No. SC1802980.
11. Court Order registered on March 8, 2022 as Instrument SC1876393.

SCHEDULE C
PERMITTED ENCUMBRANCES, EASEMENTS AND RESTRICTIVE COVENANTS
RELATED TO THE REAL PROPERTY (UNAFFECTED BY THE VESTING ORDER)

1. The reservations, limitations, provisions and conditions expressed in the original grant from the Crown and all unregistered rights, interests and privileges in favour of the Crown under or pursuant to any applicable statute or regulation.
2. Any subdivision agreement, development agreement, servicing agreement, site plan agreement or any other agreement, document, regulation, subdivision control by-law or other instrument containing provisions relating to the Lands or the use, development, installation of services and utilities or the erection of buildings or other improvements in or on the Lands.
3. All easements, licenses, rights-of-way, watercourses and rights (and all reference plans with respect thereto), whether registered or unregistered, including without limitation those for access or for the installation and maintenance of public and private utilities and other services including without limitation, telephone lines, hydro-electric lines, gas mains, water mains, sewers and drainage and other services or for the maintenance, repair or replacement of any adjoining building or lands, including any cost sharing agreement relating thereto, or any right of re-entry reserved by a predecessor in title.
4. Any restrictive covenants and building restrictions affecting the Lands.
5. Any defects of title or encroachments by or onto the Lands, whether by gardens, fences, trees, buildings, foundations, or other structures or things, which may be revealed by any survey or reference plan of the Lands, whether now in existence or not.
6. Utility agreements, and other similar agreements with Authorities or private or public utilities affecting the Lands.
7. Liens for taxes, local improvements, assessments or governmental charges or levies not at the time due or delinquent.
8. Undetermined, inchoate or statutory liens and charges (including, without limitation, the liens of public utilities, workers, suppliers of materials, contractors, subcontractors, architects and unpaid Receivers of moveable property) incidental to any current operations of the Lands which have not been filed pursuant to any legal requirement or which relate to obligations not yet due or delinquent.
9. Zoning restrictions, restrictions on the use of the Lands or minor irregularities in title thereto.
10. The reservations, limitations, conditions and exceptions to title set out in the *Land Titles Act (Ontario)*.
11. Instrument No. 51R37039.

**SCHEDULE D
LEGAL DESCRIPTION**

PIN 58041-0138 (LT)

PT LT 16 CON 8 WEST GWILLIMBURY AS IN RO261979 SAVE & EXCEPT PTS 1 & 3
51R37039; TOWN OF BRADFORD WEST GWILLIMBURY

**PRUDENT EXCELLENCE
MORTGAGE INVESTMENT
CORPORATION**

- and- **TRIUMPH DEVELOPMENT HK
BRADFORD TWIN REGENCY INC.**

Applicant

Respondent

Court File No.: CV-22-00677227-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

APPLICATION UNDER SUBSECTION 243(1) 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

PROCEEDING COMMENCED AT TORONTO

APPROVAL AND VESTING ORDER

ROBINS APPLEBY LLP

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Lawyers for the Receiver, BDO Canada Limited

TAB 4

Court File No.: CV-22-00677227-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE JUSTICE CAVANAGH)))	WEDNESDAY, THE 14th DAY OF SEPTEMBER, 2022
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BETWEEN:

**PRUDENT EXCELLENCE MORTGAGE INVESTMENT
CORPORATION**

Applicant

-and-

TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) 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

**ORDER
(Administration and Interim Distribution)**

THIS MOTION made by the BDO Canada Limited ("**BDO**"), in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the property municipally known as 2362 Line 8, Bradford West Gwillimbury, Ontario (the "**Property**") owned by Triumph Development HK Bradford Twin Regency Inc.'s (the "**Debtor**"), for the relief set out in the Notice of Motion dated September 8, 2022, including the approval of the sale transaction (the "**Transaction**") contemplated by an Asset Purchase Agreement between the Receiver in its

capacity as Receiver of the Property and 2792523 Ontario Inc. (in Trust) (the "**Purchaser**") made as of July 27, 2022 (the "**Sale Agreement**"), and vesting in the Purchaser the Debtor's right, title, benefit and interest in the assets described in the Sale Agreement (the "**Purchased Assets**") was heard this day by videoconference as a result of the Covid-19 pandemic.

ON READING the Motion Record of the Receiver and the First Report of the Receiver dated September 8, 2022 (the "**Receiver's First Report**"), the Confidential Supplemental Report of the Receiver dated September 8, 2022 (the "**Confidential Supplemental Report**"), the Affidavit of Irving Marks sworn September 7, 2022 (the "**Robins Fee Affidavit**") and the Affidavit of Gary Cerrato sworn September 8, 2022 (the "**BDO Fee Affidavit**") and on hearing the submissions of counsel for the Receiver and any such other counsel or individual as were present, no one appearing for any other person on the service list, although properly served as evidenced by the Affidavit of Wendy Lee sworn September 8, 2022, 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 hereof.

DISTRIBUTIONS

2. **THIS COURT ORDERS** that the Receiver is hereby authorized to make distributions to the following mortgagees in accordance with paragraph 53 of the Receiver's First Report:

- (a) Leni Vander Kooij and Peter Vander Kooij;
- (b) Prudent Excellence Mortgage Investment Corp.;

SEALING

3. **THIS COURT ORDERS** that the Confidential Supplemental Report is hereby sealed until the closing of the Transaction or upon further order of the Court.

APPROVAL OF ACTIVITIES

4. **THIS COURT ORDERS** that the activities of the Receiver as described in the Receiver's First Report are hereby approved.

5. **THIS COURT ORDERS** that the of the Interim Receipts and Disbursements of the Receiver as described in the Receiver's First Report are hereby approved.

APPROVAL OF RECEIVER' FEES AND EXPENSES

6. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its legal counsel as described in the Receiver's First Report, the BDO Fee Affidavit and the Robins Fee Affidavit are hereby approved.

**PRUDENT EXCELLENCE
MORTGAGE INVESTMENT
CORPORATION**

- and -

**TRIUMPH DEVELOPMENT HK
BRADFORD TWIN REGENCY INC.**

Applicant

Respondent

Court File No.: CV-22-00677227-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

APPLICATION UNDER SUBSECTION 243(1) OF THE
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PROCEEDING COMMENCED AT TORONTO

**ORDER
(Administration and Interim Distribution)**

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**PRUDENT EXCELLENCE
MORTGAGE INVESTMENT
CORPORATION**

- and-

**TRIUMPH DEVELOPMENT HK
BRADFORD TWIN REGENCY
INC.**

Applicant

Respondent

Court File No.: CV-22-00677227-00CL

ONTARIO
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APPLICATION UNDER SUBSECTION 243(1) OF THE
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PROCEEDING COMMENCED AT TORONTO

**MOTION RECORD OF THE RECEIVER,
BDO CANADA LIMITED**

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