

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

THE HONOURABLE ) MONDAY, THE 21<sup>st</sup>  
JUSTICE CONWAY ) DAY OF JUNE, 2021

B E T W E E N:

**MELVYN EISEN, TRUSTEE**

Applicant

- and -

**DIAM DANFORTH PROPERTY INC.**

Respondent

**APPLICATION UNDER** Section 243(1) of the *Bankruptcy and Insolvency Act*  
Section 101 of the *Courts of Justice Act*, and Section 68(1) of the *Construction Act*

**ORDER**

**THIS MOTION** made by Rosen Goldberg Inc. (“**Rosen Goldberg**”), in its capacity as Court-appointed, non-possessory Receiver and construction lien trustee (in this capacity, the “**Receiver**”) of the Real Property municipally known as 2359 Danforth Avenue, Toronto, Ontario (the “**Real Property**”), and all other property, assets and undertakings of DIAM Danforth Property Inc. (“**DIAM**”, or the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, for an Order (i) abridging the time for service of the Receiver’s Motion Record and related Notice of Motion, validating service of the Motion Record and related Notice of Motion, and dispensing with further service thereof; (ii) approving of the activities of the Receiver, and its

proposed activities, as described in the second report of the Receiver dated June 12, 2020 (the “**Second Report**”), the supplementary third report of the Receiver dated August 11, 2020 (the “**Supplementary Third Report**”), and the fourth report of the Receiver dated April 30, 2021 (the “**Fourth Report**”); (iii) approving the Receiver’s Interim Statement of Receipts and Disbursements from May 4, 2020 to April 30, 2021, (iv) sealing Confidential Appendix “1” to the Fourth Report, (v) authorizing the Receiver to remit to the Olympia Trust Company (“**Olympia Trust**”) in respect of the second-ranking mortgage registered in favour of Olympia Trust, in trust (the “**OT Second Mortgage**”) \$550,000 from the remaining net proceeds of sale of the Real Property (the “**OT Remittance**”), for the purposes of *a pro rata* distribution by Olympia Trust to the investors in the OT Second Mortgage (the “**OT Investors**”) forthwith upon Olympia Trust’s receipt of the OT Remittance, without any deductions by Olympia Trust from the OT Remittance for fees, costs, charges, penalties, or otherwise; and (vi) approving the professional fees of the Receiver and its counsel, Blaney McMurtry LLP (“**Blaneys**”), was heard this day by Zoom videoconference.

**ON READING** the Receiver’s Notice of Motion dated April 30, 2021, the Supplementary Third Report, the Fourth Report, and the supplementary fourth report of the Receiver dated May 28, 2021 (the “**Supplementary Fourth Report**”), filed, and upon hearing the submissions of counsel for the Receiver and for certain of the OT Investors, no other parties attending, although duly served as appears from the Affidavits of Service of Chad Kopach sworn May 7 and 28, 2021, filed,

1. **THIS COURT ORDERS** that service of the Notice of Motion and the Motion Record herein is hereby abridged, that this motion is properly returnable today and that service, including the form, manner and time that such service was actually effected on all parties, is hereby validated, and where such service was not effected such service is hereby dispensed with.
2. **THIS COURT ORDERS** that the Second Report, the Supplementary Third Report and the Fourth Report and the actions of the Receiver described therein, be and are hereby approved.
3. **THIS COURT ORDERS** that the Receiver's Statement of Receipts and Disbursements as set out in Appendix "L" to the Fourth Report is hereby approved.
4. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to remit to Olympia Trust in respect of the OT Second Mortgage \$500,000 from the net remaining proceeds of sale of the Real Property for the purposes of distribution by Olympia Trust to the OT Investors as set out in Schedule "A" hereto, and that Olympia Trust shall forthwith upon receipt of these funds remit to each OT Investor that investor's *pro rata* share of these funds pursuant to the percentage of each investor's investment(s) as set out in Schedule "A" hereto without any deduction or set-off whatsoever by Olympia Trust for any fees, costs, charges, penalties or otherwise.
5. **THIS COURT ORDERS** that the fees and disbursements of the Receiver for the period from July 8, 2020 to April 30, 2021, and of Blaneys for the period from July 1, 2020 to March 25, 2021, be and are hereby approved.

6. **THIS COURT ORDERS** that the Confidential Appendix “1” to the Fourth Report and Confidential Appendices “1”, “2”, “3” and “4” to the Supplementary Fourth Report (collectively, the “**Confidential Appendices**”), shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order.

7. **THIS COURT ORDERS** that the Confidential Appendices shall remain under seal until further Order of the Court.

A handwritten signature in blue ink, reading "Conway J.", is written over a horizontal line.

**SCHEDULE "A"**

<b>Client Last Name</b>	<b>Client First Name</b>	<b>Plan Id</b>	<b>% of total</b>	<b>Proportionate share of \$500,000</b>
	2407244 Ontario Inc.	147720	1.00%	\$5,000.00
AUJLA	NIRMAL	122917	0.79%	\$3,950.00
BADWAL	BHAGAT	133749	1.29%	\$6,460.00
BADWAL	BHAGAT	143912	0.93%	\$4,650.00
BADWAL	SURINDER	143630	0.52%	\$2,590.00
BADWAL	SURINDER	143914	0.93%	\$4,650.00
BAINS	KASHMIR	136358	0.24%	\$1,216.00
BAINS	KULDIP	136356	0.90%	\$4,523.50
BAINS	KULDIP	136363	0.49%	\$2,463.50
BAL	GURPAL	209576	0.55%	\$2,760.00
BAL	GURPAL	209578	0.69%	\$3,425.00
BAL	SURINDERJIT	241222	3.38%	\$16,880.00
BASRA	AMRIK	132428	0.73%	\$3,650.00
BHANWER	KULJEET	134815	0.40%	\$1,985.50
BHANWER	KULJEET	140585	0.51%	\$2,559.70
BIRDI	GURDEV	136656	0.70%	\$3,500.00
BIRDI	GURDEV	241232	0.24%	\$1,180.00
BIRDI	GURDEV	241235	0.28%	\$1,420.00
BIRDI	HARDEEP	145844	0.50%	\$2,500.00
BIRDI	KAMALJEET	145843	0.58%	\$2,915.00
BIRDI	LAKHVIR	146558	0.93%	\$4,650.00
BIRDI	ROOP	136652	0.70%	\$3,500.00
BRAR	BALJINDER	146572	2.52%	\$12,600.00
BRAR	PARAMJIT	146574	0.80%	\$4,000.00
CHAHIL	PAVITTER	129195	1.53%	\$7,672.50
CHATHA	SIKANDER	142992	0.92%	\$4,620.00
DHALIWAL	SUKHBIR	114920	0.80%	\$4,000.00
DHALIWAL	TAPINDERJIT	114924	0.10%	\$500.00
DHAMRAIT	KAMALPREET	146571	0.93%	\$4,650.00
DHAMRAIT	RAJWANT	146570	0.93%	\$4,650.00
DHESI	RANJIT	133634	0.75%	\$3,727.00
DHILLON	PARMINDER	137612	0.30%	\$1,495.00
DOSANJH	JASSIE	144402	0.93%	\$4,650.00
FERGUSON	IRENE	144360	0.79%	\$3,970.00
FERGUSON	IRENE	209964	1.21%	\$6,045.00
FERGUSON	WILLIAM	209811	0.41%	\$2,048.50
GAKHAL	PARWINDER	130752	0.30%	\$1,507.00

GARCHA	BALJIT	129201	1.40%	\$6,985.30
GILDHARRY	HARRILAL	133771	0.20%	\$1,015.00
GILL	BALJIT	142997	0.92%	\$4,620.00
GILL	GURPREET	126347	1.32%	\$6,613.10
GILL	HARVINDER	142620	0.48%	\$2,390.00
GILL	JUGJIT	148147	0.92%	\$4,600.00
GILL	KULDIP	148146	0.82%	\$4,100.00
GILL	SUKHMANDER	148144	0.86%	\$4,300.00
HUNJAN	GURMUKH	145100	0.95%	\$4,760.00
HUNJAN	HARVINDER	145099	0.93%	\$4,650.00
ISOSHIMA	GARY	148086	0.33%	\$1,660.00
IYER	CHITRA QUAISARA	114734	0.78%	\$3,910.00
KALIA	RAJESH	136798	1.00%	\$5,000.00
KALIA	RITU	126585	1.14%	\$5,675.90
KAMBOJ	AMANDEEP	131951	0.99%	\$4,950.00
KANG	NIRMAL	142110	0.69%	\$3,473.50
KANG	SARBJIT	142111	0.24%	\$1,200.00
KAUR	AMRITPAL	132413	1.27%	\$6,331.00
KAUR	AMRITPAL	132414	0.86%	\$4,307.50
KAUR	AMRITPAL	132424	0.81%	\$4,070.00
KAUR	DEVINDER	145322	0.92%	\$4,620.00
KAUR	INDRAJEET	122455	0.28%	\$1,410.90
KAUR	KAMALPREET	136304	0.30%	\$1,507.50
KAUR	MANINDER	143414	0.37%	\$1,836.50
KAUR	MANINDER	143415	0.80%	\$3,976.50
KOTRA	SANDEEP	144939	1.78%	\$8,897.00
LASHER	RAGHBIR	114736	0.49%	\$2,462.50
LOTEY	GURMEET	148434	0.91%	\$4,564.00
LOTEY	MAHINDER	135551	0.91%	\$4,560.00
LOTEY	MAHINDER	143492	0.61%	\$3,064.00
LOTEY	MAHINDER	210372	3.11%	\$15,541.10
LOTEY	PRITPAL	148435	0.91%	\$4,564.00
LOTEY	SUKHDEV	135549	0.80%	\$3,985.00
LOTEY	SUKHDEV	210373	0.33%	\$1,659.00
MATHAROO	JITENDER	135787	0.37%	\$1,860.00
MCCABE	JENNIFER	143020	0.93%	\$4,650.00
MCCABE	JENNIFER	143626	0.83%	\$4,149.00
MCCABE	JENNIFER	144252	2.43%	\$12,150.00
MINHAS	KULJEET	130751	0.73%	\$3,650.00
NAGRA	SUKHDEV	132033	0.82%	\$4,100.00
PANNU	KASHMIR	130558	0.30%	\$1,509.00
PANNU	SUKHJEET	127744	0.57%	\$2,872.10

PANNU	SUKHJEEVAN	130745	0.21%	\$1,028.00
PATHAK	RAJESH	121155	3.85%	\$19,235.50
PATIL	RAJAGOUDA	86022	0.31%	\$1,561.00
PATIL	SUREKHA	114534	1.15%	\$5,747.50
RAHEMTULLA	ONALLY	146246	1.23%	\$6,150.00
RANDHAWA	DEVINDER	143447	0.95%	\$4,767.50
RANDHAWA	KAMALDEEP	147199	0.81%	\$4,038.00
RANDHAWA	NUPINDER	133853	0.17%	\$865.00
RANDHAWA	SARWAN	114250	1.30%	\$6,498.00
RIAR	JASHDEEP	114270	0.53%	\$2,656.00
RIAR	KARANDEEP	114269	0.51%	\$2,573.00
SAINI	GURPREET	144086	0.50%	\$2,500.00
SAMRA	MANDEEP	147885	0.80%	\$4,000.00
SANDHU	KAMALJEET	115058	0.38%	\$1,900.00
SANDHU	SUKHVINDER	114420	0.19%	\$969.40
SANGHERA	KULVINDER	145186	0.50%	\$2,518.50
SAREON	GURDIP	144603	0.35%	\$1,740.00
SIDHU	KUNDAN	144178	0.92%	\$4,620.00
SINCLAIR	GARY	247280	0.49%	\$2,470.00
SINGH	AJIT	204445	1.60%	\$8,000.00
SINGH	APINDER	143419	0.95%	\$4,766.00
SINGH	HARINDER	133271	0.45%	\$2,257.50
SINGH	IQBAL	132423	0.81%	\$4,070.00
SINGH	IQBAL	132485	2.99%	\$14,935.00
SINGH	JOGA	248154	0.49%	\$2,470.00
SINGH	SURJIT	114421	0.78%	\$3,889.00
SRAN	AMANDEEP	145515	0.98%	\$4,890.00
TAK	NACHHATTAR	135778	0.58%	\$2,889.50
TAKHAR	SAWARNJIT	89569	0.27%	\$1,363.00
TUMBER	SARTAJ	144164	5.99%	\$29,970.00
VALERI	ROBERTO	94105	0.31%	\$1,550.00
VERMA	RENU	204087	0.95%	\$4,750.00
WOODWALL	BIMLA	131070	0.72%	\$3,600.00
<b>TOTAL</b>			<b>100.00%</b>	<b>\$500,000.00</b>

**MELVYN EISEN, TRUSTEE**  
Applicant

and

**DIAM DANFORTH PROPERTY INC.**  
Respondent

**SUPERIOR COURT OF JUSTICE**  
Proceeding commenced at Toronto  
[COMMERICAL LIST]

**ORDER**

**BLANEY MCMURTRY LLP**  
Barristers & Solicitors  
2 Queen Street East, Suite 1500  
Toronto ON M5C 3G5

**Eric Golden LSO #38239M**  
(416) 593-3927 (Tel)  
(416) 593-5437 (Fax)  
Email: [egolden@blaney.com](mailto:egolden@blaney.com)

**Chad Kopach LSO #48084G**  
(416) 593-2985 (Tel)  
(416) 593-5437 (Fax)  
Email: [ckopach@blaney.com](mailto:ckopach@blaney.com)

Lawyers for the non-possessory Receiver,  
Rosen Goldberg Inc.