



SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

ENDORSEMENT

COURT FILE NO.: CV-24-00723457-00CL DATE: July 25, 2025

NO. ON LIST: 3

TITLE OF PROCEEDING: COSMAN MORTGAGE HOLDING CORP. v. CACOELI et al.

BEFORE: JUSTICE J. DIETRICH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Oren Chaimovitch	Lawyer for The Applicant, Cosman Mortgage Holding Corp.	oren.chaimovitch@devrylaw.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Christopher Reed	Lawyer for The Court-Appointed Receiver, Pollard & Associates Inc	creed@laihleyreed.com

ENDORSEMENT OF JUSTICE J. DIETRICH:

[1] Pollard and Associates Inc., in its capacity as receiver (the “**Receiver**”) of the Property defined in the Order of Justice Penny dated August 30, 2024 (the “**Appointment Order**”) seeks an order:

- a. approving a distribution in the amount of \$3,133,830.59 to the Applicant, Cosman Mortgage Holding Corp. ("**Cosman Holding**"), in connection with a mortgage registered by Cosman Holding on title to the Real Property on March 22, 2021
- b. approving the Second Report to Court dated July 7, 2025 and the activities of the Receiver set out therein including the statements of receipts and disbursements attached thereto;
- c. approving the fees and disbursements of the Receiver and its counsel as set out in the Second Report including proposed costs to complete in the aggregate amount of \$10,000; and
- d. discharging the Receiver and releasing the Receiver from liability (except with respect to gross negligence or willful misconduct) on the completion of the remaining activities as set out in the Second Report.

[2] Defined terms used but not defined herein, have the meaning provided to them in the factum of the Receiver filed on this motion.

[3] There is no opposition to relief sought by the Receiver.

[4] Pursuant to the order of Justice Steele made on May 21, 2025 sale transaction for the Real Property was approved. That transaction closed on June 5, 2025.

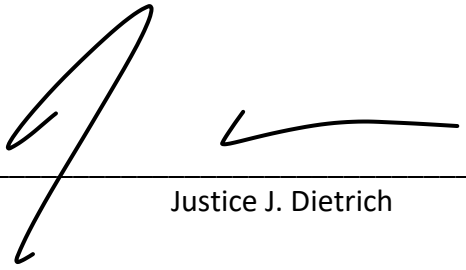
[5] The Receiver seeks to make a distribution to Cosman Holding in the amount of \$3,133,830.59 from the proceeds of the transaction. This amount will be insufficient to repay the presently outstanding amount of \$4,601,776.76 owed by the Respondents to Cosman Holding. The Receiver has obtained an opinion from counsel that the security in favour of Cosmon Holding is valid, subject to typical assumptions and qualifications. Terra Bona Developments Inc., had also registered a construction lien, however, the Receiver's view was that the lien had expired. Terra Bona was served with the material and did not appear. Accordingly, the distribution is appropriate in the circumstances and is approved.

[6] The Receiver also seeks approval of the fees and disbursements of itself and its legal counsel, including a fee accrual of an aggregate amount of \$10,000 to complete matters. In this respect, as the Court of Appeal for Ontario held in *Bank of Nova Scotia v Diemer* 2014 ONCA 851 at paras 33 and 45, this Court does not undertake a line-by-line analysis of the invoices. Rather, the guiding principles on fee approvals of this nature are whether the fees are fair, reasonable, and proportionate given the value of the property and liabilities as well as the complexity of the proceeding. In considering these guiding principles, the fees of the Receiver and its counsel are appropriate and are approved.

[7] The Receiver also seeks approval of the Second Report, the activities set out therein and the statements of receipts and disbursements attached thereto (one prior to the proposed distribution to Cosman Holdings and one showing the distribution as made). The evidence is that the Receiver has carried out its duties in a reasonable and efficient manner, consistent with its powers as set out in the Receivership Order and in the interests of the Debtors' stakeholders generally. There are no objections to the Second Report and accordingly it is approved. The draft order provides that only the Receiver may rely on such approval.

[8] The Receiver also seeks its discharge effective upon service by the Receiver of the Discharge Certificate substantially in the form attached to the proposed draft Order. It is well established that the Court may grant an order discharging the Receiver when the proceedings have run their course. That is the case here and the discharge is approved. The Receiver also seeks a release, save for any gross negligence or willful misconduct. The release of a receiver in these circumstances is not controversial and is appropriate in the circumstances.

[9] Order to go in the form signed by me this day.



Justice J. Dietrich

Date: July 25, 2025