COURT FILE NO CV-25-00001828-0000
DATE: 2026-02-19

SUPERIOR COURT OF JUSTICE – ONTARIO

7755 Hurontario Street, Brampton ON L6W 4T6

RE: BUSINESS DEVELOPMENT BANK OF CANADA, **applicant**

AND:

2868335 ONTARIO INC., **respondent**

BEFORE: **Justice STEWART**

COUNSEL: PLUNKETT, Kyle / PARSONS, Shaun for the **applicant**
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HEARD: **February 17, 2026 by video conference**

MOTION ENDORSEMENT

1. Motion, by receiver, for two orders to conclude the receivership.

2. None of the other parties, including the tenants in the properties in question, attended today's motion, although they were properly served. Prior to the motion

being heard, the receiver emailed the Zoom link to the two tenants at issue in this motion. Neither tenant attended.

3. The court reviewed the detailed materials filed by the receiver and also heard helpful oral submissions from counsel for the receiver.

4. The respondent, 2868335 Ontario Inc. was placed into receivership by order dated July 3, 2025.

5. The respondent is a real estate holding company which owns two commercial real estate properties at 40 West Drive and 44 West Drive, both in Brampton.

6. The receiver retained a commercial real estate agent to sell the properties. A buyer was identified, and an agreement of purchase and sale is in place. The parties intend to close the transaction within ten days of these orders being granted.

7. At the outset of the receivership, the properties had six tenants. There are currently two remaining tenants. Liberty Chapel is represented by its principal, Mr. Duah. Liberty Chapel has agreed to move by February 28, 2026.

8. The second remaining tenant is IT5 Labs and its principal, Mr. Iqbal. IT5 occupies approximately 900 square feet (less than 25% of one building). IT5 recently committed to move by March 2, 2026.

9. Approval of transaction: The court is satisfied that each of the four criteria in Royal Bank of Canada v, Soundair[1] indicate that the transaction should be approved. The court finds that the receiver has acted reasonably and responsibly in finding a purchaser for the property. There is no opposition to the transaction. The applicant, BDC (the senior secured creditor and first mortgagee of the properties) supports the transaction.

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[1] *Royal Bank of Canada* v. *Soundair Corp*, 1991 CanLII 2727 at para 16.

10. Vesting of remaining leases: as noted above, two tenants remain in the premises, although both are scheduled to move out by March 2, 2026, at the latest. The receiver asks the court to vest these two remaining leases. The court is satisfied that this step is a necessary exercise in caution given the pending transaction. The tenants were given notice of the receivership on July 15, 2025, and notice of termination of the leases was provided on July 30, 2025. The receiver has also provided IT5 with incentives since December 2025 to assist with the transition to new premises. The court is satisfied that the criteria set out in the caselaw[2] favours the vesting order. Specifically, the leasehold interests are weak, the applicant has not subordinated its interests to the tenants, there is no equity in the leasehold interest and the transaction requires vacant possession.

11. Distribution of Proceeds of Transaction: the receiver seeks an order permitting it to distribute the proceeds of the transaction in anticipation of the transaction closing. The court finds that this is a practical, efficient step which saves the parties a further motion. The approval and vesting draft order clearly sets out what amounts are to be paid in priority, followed by the distribution to the applicant. The court approves the receiver's report with the distribution schedule.

12. Ancillary Relief: the receiver seeks a second order with ancillary relief, including approving the two reports from the receiver, approving the fees and disbursements of the receiver, discharging the receiver (including a release) and temporarily sealing the confidential appendices A and B to the first receiver report.

13. As noted above, the receiver conducted a reasonable and responsible process and the reports, fees/disbursements and winding down/discharge orders are approved.

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[2] *Third Eye Capital Corporation* v. *Ressources Dianor Inc*, 2019 ONCA 508 at paras 102 to 110; *Meridian Credit Union Ltd.* v. *984 Bay St Inc.*, 2002 CanLII 26476 (ONSC) at para 20.

14. The sealing order is a temporary one; the confidential appendices shall be available to the public after the transaction closes (which is currently anticipated to happen in early March 2026). The court is satisfied that the test for a sealing order is met[3]; specifically, the order is necessary to protect the commercial interests in the transaction, there is no viable alternative to the temporary order and the benefits (concluding an orderly receivership) outweighs any potential prejudice.

15. I have signed both the approval and vesting order as well as the ancillary order.

L.B. Stewart J.

Released: February 19, 2026

[3] *Sherman Estate* v. *Donovan*, 2021 SACC 25 at paras 38 and 41.