

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE

)

WEDNESDAY, THE 11th DAY

)

JUSTICE NEWBOULD

)

OF JANUARY, 2017

ICICI BANK CANADA

Applicant

- and -

BAYSIDE MALL LIMITED

Respondent

ORDER

THIS MOTION, made by A. John Page & Associates Inc., in its capacity as the court-appointed Receiver (the "**Receiver**") of certain of the assets, undertakings and properties of 1368883 Ontario Inc., formerly Bayside Mall Limited (the "**Debtor**"), for an Order: (a) approving the conduct and activities of the Receiver to date (as detailed in the Eleventh Report of the Receiver); (b) approving the Receiver's Statement of Receipts and Disbursements; (c) approving the Receiver's conclusion that no portion of the property tax refund arising out the minutes of settlement provided for in the Memorandum of Agreement dated May 11, 2016 (in connection with its' appeal of the assessment by Municipal Property Assessment Corporation for the period from 2013 to 2016) ought to be paid over to Bayside Mall (2015) Limited and/or any of the tenants or former tenants of the Debtor; (d) releasing the Receiver, and others, from any and all liability to tenants and former tenants of the Debtor; and (e) approving the fees and expenses of the Receiver and its counsel; and such further and other relief as to this Honourable Court may seem just, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Eleventh Report of the Receiver dated November 1, 2016 (the "**Eleventh Report**"), and the affidavits of A. John Page sworn November 3, 2016 (the "**Receiver's Fee Affidavit**"), Heath Whiteley sworn November 14, 2016 (the "**Whiteley Fee Affidavit**") and Tim Duncan sworn November 2, 2016 (the "**Duncan Fee Affidavit**"), and on hearing the submissions of the lawyer(s) present on the motion, all parties per the service list on the notice of motion having been served as appears from the affidavit of Heath Whiteley sworn January 9, 2017.

1. **THIS COURT ORDERS** that service of the Notice of Motion and Motion Record herein upon any interested party not served is hereby dispensed with.
2. **THIS COURT ORDERS** that the activities of the Receiver to date as set out in the Eleventh Report are hereby approved.
3. **THIS COURT ORDERS** that the receipts and disbursements of the Receiver as set forth in the Statement of Receipts and Disbursements contained in the Eleventh Report be and the same are hereby approved.
4. **THIS COURT ORDERS AND DECLARES** that no portion of the portion of the Property Tax Refund (as defined in the Eleventh Report) shall be paid over to Bayside Mall (2015) Limited and/or any of the tenants or former tenants of the Debtor, including, without limitation, those parties listed in **Schedule "A"** hereto.
5. **THIS COURT ORDERS AND DECLARES** that A. John Page & Associates Inc. is hereby released and discharged from any and all liability that A. John Page & Associates Inc. now has or may hereafter have to any and all tenants and former tenants of the Debtor (including, without limitation, those parties listed in **Schedule "A"** hereto) by reason of, or in any way arising out of, the acts or omissions of A. John Page & Associates Inc. while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, A. John Page & Associates Inc. is hereby forever released and discharged from relating to matters that were raised, or which could have been raised, in the within receivership proceedings by any and all tenants and former tenants

of the Debtor (including, without limitation, those parties listed in Schedule "A" hereto), save and except for any gross negligence or wilful misconduct on the Receiver's part.

6. **THIS COURT ORDERS** that the fees of the Receiver for the period from June 1, 2016 and ending October 31, 2016 in the amount of \$56,825.14 plus applicable GST/HST as set forth in the Receiver's Fee Affidavit are hereby approved and allowed.

7. **THIS COURT ORDERS** that the fees of the Receiver's counsel for the period from June 1, 2016 and ending October 31, 2016 in the amount of \$11,920.00 plus disbursements of \$209.16 and applicable GST/HST as set forth in the Whiteley Fee Affidavit are hereby approved and allowed.

8. **THIS COURT ORDERS** that the fees of the Receiver's independent counsel for the period from February 1, 2016 and ending May 31, 2016 in the amount of \$792.00 plus disbursements of \$26.56 and applicable GST/HST as set forth in the Duncan Fee Affidavit are hereby approved and allowed.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JAN 25 2017

PER / PAR: 

Listing of Tenants and Former Tenants relating to the period from December 5, 2012 to October 7, 2015

Suite #	Square Footage	Approximate Departure Date	New lease arrangement	Tenant
166	2,755			Anjema Eye Institute
	356		1-Dec-14	Anjema Eye Institute - additional
121	3,532			Aram's Rugs (Dermentjian)
FC131	487			Beanzz
101	3,472	31-Jul-15		Canadian Blood Services
BS191	895			County of Lambton
191	55,595			County of Lambton
173	793		1-Mar-15	Dr Warren Optometrist
104	2,000	31-Jul-14		Hogan Pharmacy
FC144	513			Hong Kong Express
100B	2,572			Limbo Lounge
100	3,507			Limbo Lounge
125	834			Mandarin Arts
129	1,074	30-Sep-14		March of Dimes
175	1,952			Marsh TV
145	636	30-Jun-14		Mary Kathy Anic Vinnis
185	4,485	30-Apr-15		Meridian Hearing
116	400			Mini Accessories
115	2,809			Ministry of Children & Youth Services
105	4,743			Ministry of College & University
80/81	1,571	2014		Preferred Hairstylists
184	2,450			PT Healthcare Solutions Inc.
182A	200			Sarnia Transit
174	721			Sarnia Vision Care
FC146	545	31-May-15		Subway
52A	9,200	31-Jan-16		Sun Media

Note

This listing may not include all parties who rented space at Bayside Mall during the period in question. For example it excludes certain parties who rented storage and parking space at the Mall

Court File No. CV-12-9911-00CL

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Applicant

- AND -

BAYSIDE MALL LIMITED
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

(PROCEEDING COMMENCED AT TORONTO)

ORDER
(re Eleventh Report)

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Lawyer for the Receiver