

## Bricks, Hartley

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**Subject:** FW: EXTERNAL: Addenda Capital Inc. v. 249 Ontario Street Holdings Inc., et al CV-21-00656098-00CL

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**From:** Cavanagh, Justice Peter (SCJ) <[Peter.Cavanagh@scj-csj.ca](mailto:Peter.Cavanagh@scj-csj.ca)>

**Sent:** Tuesday, March 9, 2021 3:36 PM

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**Subject:** EXTERNAL: Addenda Capital Inc. v. 249 Ontario Street Holdings Inc., et al CV-21-00656098-00CL

**Counsel:**

David Preger and Dylan Augruso for Addenda Capital Inc.

No one appearing for respondents

**Endorsement:**

The applicant, Addenda Capital Inc. ("Addenda"), brings this application for an order approving Deloitte Restructuring Inc. ("Deloitte") as interim receiver pursuant to subsection 47 (1) of the *Bankruptcy and Insolvency Act* ("BIA") over a medical office building municipally known as 249 Ontario St. in Port Hope, Ontario (the "Property").

Addenda has a first ranking mortgage over the Property. The respondent owners of the Property allowed significant tax and water arrears to accumulate on the Property, and Addenda has incurred \$307,498.88 in costs to keep the Property current and avoid a tax sale by the Municipality of Port Hope. The Respondents have permitted subsequent encumbrances to be registered against the Property without Addenda's consent and contrary to the terms of Addenda's charge, and have ceased making their monthly payments due under Addenda's mortgage.

On October 16, 2020, Addenda issued a Notice of Intention to Enforce Security pursuant to section 244 of the BIA, together with a demand on the debtors to cure the defaults arising from their failure to pay property taxes and water arrears and for permitting subsequent charges to be registered against the Property without Addenda's consent. There were negotiations towards a forbearance agreement but it was never signed. None of the defaults have been cured. Vacancies in the building continue unabated. Addenda is very concerned that vacancies have risen and will continue to rise.

The Respondents have not taken a position on this motion.

I am satisfied that an interim receiver is necessary for the protection of the debtor's estate and the interests of Addenda. Addenda's security provides for the appointment of a receiver upon default. The appointment of Deloitte as interim receiver is necessary to protect the interests of Addenda and subsequent secured creditors. Given that Deloitte's objective is to stabilize the operation of the Property as quickly as possible, I am satisfied that the debtors will suffer no prejudice as a result of the appointment of Deloitte as interim receiver. In the circumstances, it is just and convenient and necessary to appoint Deloitte as interim receiver over the Property.

Order to issue in form of attached order signed by me.

A come-back hearing is scheduled for April 7, 2021 at 2:00 p.m. for 1/2 hour.



Cavanagh J.

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