

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
(COMMERCIAL LIST)

In the Matter of the Proposal of Kuk-III John Kim
and in the Matter of the Proposal of Myoung-Ja Mary Kim

SUPPLEMENTARY REPORT TO THE FIFTH REPORT OF ALBERT GELMAN INC.
IN ITS CAPACITY AS PROPOSAL TRUSTEE

(Dated April 24, 2023)

I. INTRODUCTION

1. This Supplementary Report ("**Supplementary Report**") to the Proposal Trustee's Fifth Report to Court date April 11, 2023 ("**Fifth Report**") is filed by Albert Gelman Inc. ("**AGI**") in its capacity as proposal trustee (the "**Proposal Trustee**") in connection with a Notice of Intention to Make a Proposal ("**NOI**") filed by Kuk-III John Kim ("**John Kim**") and Myoung-Ja Mary Kim ("**Mary Kim**") and, together with John Kim, the "**Debtors**") on April 18, 2022 under Section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**").

2. The Debtors are making a motion to Court, to be heard jointly, returnable April 28, 2023 (the "**April 29 Motion**") seeking various relief.

II. SCOPE AND TERMS OF REFERENCE

3. This Supplementary Report has been prepared for the use of this Court and the Debtors' stakeholders as general information relating to the Debtors and to assist the Court in making a determination of whether to approve the relief sought. Accordingly, the reader is cautioned that this Supplementary Report may not be appropriate for any other purpose. The Proposal Trustee will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Supplementary Report contrary to the provisions of this paragraph.

4. Terms not otherwise defined herein shall have the meanings ascribed to them in the Fifth Report.

III. PROPERTY TAX ARREARS

5. At the April 28 Motion to Debtors are seeking Court approval to sell the real property municipally known as 385 Spadina Road, Toronto, Ontario (the "**Real Property**") to the Purchaser.

6. Pursuant to a statement dated May 10, 2022 from A. O. Shingler & Co. Ltd. (the “**Bailiff**”), the property tax arrears with respect to the Real Property were \$60,175. Pursuant to a supplementary statement provide by the Bailiff dated April 14, 2023 the property tax arrears have increased to \$203,476 (the “**Property Tax Arrears**”). The original statement provided by the Bailiff did not include the property tax owing for 2021 or the interim arrears for 2022. The Proposal Trustee is unaware of why these amounts were not included on the original statement provided by the Bailiff. Attached hereto as **Appendix “A”** are copies of the property tax statements prepared by the Bailiff.

7. Set out below is a calculation of the estimated net proceeds from the sale of the Real Property.

Net proceeds from sale of 385 Spadina Road, Toronto, Ontario	
Sales proceeds	\$ 500,000
Commissions at 6% (incl. HST)	(33,900)
Property tax arrears	(203,476)
Trustee's fees and disbursements (incl. HST)	(95,000) *
Debtor's legal fees and disbursements (incl. HST)	(150,000) *
Net proceeds	\$ <u>17,624</u>
* The Trustee's fees and disbursements as well as the fees and disbursements of the Debtor's legal counsel have been estimated.	

8. As set out above, the net proceeds from the sale of the Real Property if the Transaction is approved and the sale to the Purchaser closes will be approximately \$17,000 for the benefit of the Debtor’s unsecured creditors.

IV. PROPOSAL TRUSTEE’S RECOMMENDATION

9. In light of the new information regarding the quantum of the Property Tax Arrears, the Proposal Trustee continues to recommend that this Honourable Court make an Order authorizing and directing the Debtors to complete the Transaction contemplated by the Purchase Agreement and vesting the Real Property in the Purchaser free and clear of all encumbrance for the following reasons:

- a. The Real Property was listed on the MLS for more than 2 months with only one offer having been received, and in fact, continues to be listed as conditionally sold, with no new offers having been received;
- b. The Realtor has advised the Proposal Trustee that the pool of prospective purchasers interested in properties with significant environmental contamination is very small and there is no certainty that if this Transaction does not close that another prospective purchaser can be found;

- c. The Realtor has advised the Proposal Trustee that the Purchaser is involved in the construction industry and has the financial means and capability to address the required environmental remediation;
- d. The unpaid property taxes continue to accrue at a rate of approximately \$50,000 per year, plus interest, penalties and bailiff fees. If the Transaction is completed, the Property Tax Arrears will be paid on closing;
- e. According to the Purchase Agreement (Schedule "A", paragraph 4), the Debtor must satisfy or waive its condition of Court approval on or before April 30, 2023, being 45 days from March 16, 2023, the date Purchaser waived its only condition. If the condition is not waived or satisfied before then, the Purchaser is no longer required to close the Transaction. The Debtors have requested that the Purchaser extend this conditional period but as of the date of this Supplementary Report the Purchaser has not signed back the requested amendment; and,
- f. In the Proposal Trustee's opinion the proposed Transaction is commercially reasonable and beneficial to all stakeholders.

All of which is respectfully submitted this 24th day of April 2023

**ALBERT GELMAN INC., solely in its
capacity as Trustee of re the Proposals of
Kuk-III John Kim and Myoung-Ja Mary Kim
and not its Personal or any other Capacity**

Per: 

Tom McElroy, CPA, CA, CBV, CIRP, LIT

Appendix "A"



A. O. SHINGLER & CO. LTD. | BAILIFFS
Specialists in the Recovery of Municipal Property Tax & Commercial Rent Arrears

TAX STATEMENT

To:

Kuk-III, John Kim
Myoung-Ja, Mary Kim
2108 4th Ave. W., Unit 2
Vancouver BC V6K 1N6

Re: The City of Toronto

Property Taxes
385 Spadina Rd.
Toronto

Roll#: 1904-11-1-280-00200

Date: 10-May-22

Last Payment

No Payments Have Been Made

Balances

Year	Warrant	Type	Principal Tax	Penalties & Interest	Bailiff Fees	HST	Misc. Charges	Total
2020	5-2225-21	T	\$44,453.15	\$12,563.40	\$2,280.69	\$296.49	\$0.00	\$59,593.73
Total Now Due								\$59,593.73
Due As Of June 1st								\$60,174.51

If the above taxes remain unpaid they are subject to further interest charges per month or portion thereof as determined by law until paid.

We accept payment by internet or telephone banking, cheque, money order, or bank draft.
Please provide your property assessment roll number on your method of payment.

Appendix "B"



A. O. SHINGLER & CO. LTD. | BAILIFFS
Specialists in the Recovery of Municipal Property Tax & Commercial Rent Arrears

TAX STATEMENT

To:

Kuk-III, John Kim
 Myoung-Ja, Mary Kim
 2108 4th Ave. W., Unit 2
 Vancouver BC V6K 1N6

Re: The City of Toronto

Property Taxes
 385 Spadina Rd.
 Toronto

Roll#: 1904-11-1-280-00200

Date: 14-Apr-23

Last Payment

No Payments Have Been Made

Balances

Year	Warrant	Type	Principal Tax	Penalties & Interest	Bailiff Fees	HST	Misc. Charges	Total
2021	5-TOR01-23	W	\$371.77	\$110.56	\$0.00	\$0.00	\$0.00	\$482.33
2021	5-TOR02-23	W	\$1,848.22	\$502.81	\$0.00	\$0.00	\$0.00	\$2,351.03
2021	5-TOR03-23	T	\$42,804.10	\$12,249.28	\$0.00	\$0.00	\$0.00	\$55,053.38
2022	5-TOR04-23	W	\$406.82	\$77.33	\$0.00	\$0.00	\$0.00	\$484.15
2022	5-TOR05-23	W	\$442.27	\$102.53	\$0.00	\$0.00	\$0.00	\$544.80
2022	5-TOR06-23	M	\$4,270.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,270.00
2022	5-TOR07-23	T	\$44,699.22	\$6,000.63	\$0.00	\$0.00	\$0.00	\$50,699.85
2022	5-TOR08-23	W	\$382.92	\$56.07	\$0.00	\$0.00	\$0.00	\$438.99
2023	5-TOR09-23	W	\$455.42	\$43.67	\$0.00	\$0.00	\$0.00	\$499.09
2023	5-TOR10-23	T	\$20,383.60	\$254.83	\$0.00	\$0.00	\$0.00	\$20,638.43
2020	5-2225-21	T	\$44,453.15	\$18,675.66	\$2,525.22	\$328.28	\$0.00	\$65,982.31
Total Now Due								\$201,444.36
Due As Of May 1st								\$203,475.94

If the above taxes remain unpaid they are subject to further interest charges per month or portion thereof as determined by law until paid.



A. O. SHINGLER & Co. LTD. | BAILIFFS

Specialists in the Recovery of Municipal Property Tax & Commercial Rent Arrears

We accept payment by internet or telephone banking, cheque, money order, or bank draft.
Please provide your property assessment roll number on your method of payment.