

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

B E T W E E N:

**WINDSOR PRIVATE CAPITAL LIMITED PARTNERSHIP  
and WINDSOR II LIMITED PARTNERSHIP**

Applicants

- and -

**2352107 ONTARIO INC.**

Respondent

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY  
AND INSOLVENCY ACT*, RSC 1985, c. B-3, AS AMENDED; AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, RSO 1990, c. C.43, AS AMENDED

**STATEMENT OF LAW OF THE RECEIVER**  
(Returnable January 29, 2026)

January 28, 2026

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**Lawyers for the Court-appointed Receiver**

**TO: SERVICE LIST**

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**STATEMENT OF LAW OF THE RECEIVER**

**Relief Sought<sup>1</sup>**

1. Albert Gelman Inc., in its capacity as Court-appointed receiver (in such capacity, the “**Receiver**”) of the real property municipally known as 175 Melvin Robson Avenue, Aurora (the “**Real Property**”), and all assets, undertakings and properties of 2352107 Ontario Inc. (the “**Company**”), situated on, arising from, used in connection with or otherwise relating to the Real

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<sup>1</sup> Capitalized terms used but not defined herein have the meanings given to them in the First Report of the Receiver dated January 27, 2026 (the “**First Report**”).

Property, including all proceeds thereof (collectively, the “**Property**”), seeks the following orders:<sup>2</sup>

- (a) vesting the Company’s right, title and interest in the Retail Plaza in the Retail Purchaser, free and clear of all claims and encumbrances, other than Permitted Encumbrances (as defined in the Retail APS), upon the execution and delivery of a certificate by the Receiver confirming completion of the transaction contemplated by the Retail APS;
- (b) vesting the Company’s right, title and interest in the applicable Condo Units in the respective purchasers, free and clear of all claims and encumbrances, other than permitted encumbrances, upon the execution and delivery of a certificate confirming completion of the transaction contemplated by the applicable Condo Unit APS; and
- (c) sealing Confidential Appendices “1” and “2A” through “2L” (collectively, the “**Confidential Appendices**”) pending completion of the proposed transactions or further Order of the Court.

### **The Court Should Grant the Vesting Orders**

2. Paragraph 3(m) of the Receivership Order empowers and authorizes the Receiver to complete any existing agreements of purchase and sale in respect of the Property, or any part or

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<sup>2</sup> First Report, section 1.0 at paras 1, 2, 6.

parts thereof, without Court approval in respect of any such transaction.<sup>3</sup>

3. Paragraph 3(o) of the Receivership Order empowers and authorizes the Receiver to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property.<sup>4</sup>

4. It is respectfully submitted that the Court should grant the AVOs for the following reasons:

- (a) the Receivership Order expressly authorizes the Receiver to complete existing agreements of purchase and sale and to seek any orders necessary to convey the Real Property, or any part or parts thereof, to purchasers free and clear of liens and encumbrances, other than permitted encumbrances;<sup>5</sup>
- (b) the Construction Liens prevent the completion of the Retail APS and the Condo APSs absent vesting orders, which are required to enable the Receiver to convey good and marketable title to the applicable purchasers in accordance with the terms of those agreements;<sup>6</sup>
- (c) the scheduled closing date under the Condo APSs is January 31, 2026, and absent vesting orders, the Construction Liens create a risk that one or more of the APSs may be terminated;<sup>7</sup> and

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<sup>3</sup> *Windsor Private Capital Limited Partnership et al. v. 2352107 Ontario Inc.* (January 23, 2026), Toronto, Court File No. CL-26-00000005-0000, [Order (Appointing Receiver)] (ONSC (Commercial List)), (Steele J) (the “**Receivership Order**”) at para. 3(m).

<sup>4</sup> Receivership Order, *supra* note 3, at para 3(o).

<sup>5</sup> First Report, section 3.0 at para. 2.

<sup>6</sup> First Report, section 3.0 at para. 1.

<sup>7</sup> First Report, section 2.0 at para. 8.

- (d) the Receiver is of the view that no party will be materially prejudiced by the granting of the vesting orders, as the proposed vesting orders expressly provide that any claims and encumbrances vested out shall attach to the net sale proceeds with the same nature and priority as existed immediately prior to closing.

### **The Sealing Order Should be Granted**

5. The Supreme Court of Canada has held that a sealing order may be granted:<sup>8</sup>

- (a) where it is necessary to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation because reasonable alternative measures will not prevent the risk; and
- (b) where the salutary effects of the confidentiality outweigh its deleterious effects, including the effects on the right to free expression, which includes public interest in open and accessible court proceedings.

6. In *Sherman Estate v. Donovan* (“***Sherman Estate***”), the Supreme Court of Canada held that a person asking a court to exercise discretion in limiting the ‘open court’ presumption must establish that:<sup>9</sup>

- (a) court openness poses a serious risk to public interest;
- (b) the order sought is necessary to prevent the risk to the identified interest because reasonably alternative measures will not prevent this risk; and

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<sup>8</sup> [\*Sierra Club of Canada v Canada \(Minister of Finance\)\*, 2002 SCC 41 \(CanLII\)](#), [2002 SCC 41](#) at para 45.

<sup>9</sup> [\*Sherman Estate v Donovan\*, 2021 SCC 25 \(CanLII\)](#), [2021 SCC 25](#) at para 38.

(c) as a matter of proportionality, the benefits of the order outweigh its negative effects.

7. The Receiver is of the view that the Confidential Appendices should be filed with the Court on a confidential basis and remain sealed pending further order of the Court or closing of the transactions. The APSs contain commercially sensitive information that if publicly disclosed, may negatively impact any future marketing of the Retail Plaza and/or the Condo Units if the respective transactions do not close.<sup>10</sup>

8. The Receiver is of the view that no person will be prejudiced by the sealing order.<sup>11</sup>

9. The salutary effects of sealing such information from the public record greatly outweigh the deleterious effects of doing so under the circumstances. The Receiver is of the view that the sealing of the Confidential Appendices is consistent with the decision in *Sherman Estate*.<sup>12</sup>

10. Accordingly, the Receiver submits the proposed sealing order is appropriate in the circumstances.

I certify the authenticity of every authority cited in the factum.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 28<sup>th</sup> day of January, 2026.



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**CHAITONS LLP**  
*Lawyers for the Court-Appointed Receiver,  
Albert Gelman Inc.*

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<sup>10</sup> First Report, section 4.0 at para. 1.

<sup>11</sup> First Report, section 4.0 at para. 2.

<sup>12</sup> First Report, section 4.0 at para. 3

**Schedule “A”  
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PROCEEDING COMMENCED AT TORONTO

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