

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, section 68 of the *Construction Lien Act*, R.S.O. 1990, c.
C.30, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43**

NOTICE OF MOTION

Terra Firma Capital Corporation (“**Terra Firma**”) will make a Motion to a judge of the Commercial List via Zoom videoconference due to the COV ID-19 crisis on August 19, 2020 at 10:00 am or as soon after that time as the motion may be heard . The Zoom videoconference details are set out in Schedule “A”.

PROPOSED METHOD OF HEARING: The Motion is to be heard:

- ☐ in writing under subrule 37.12.1(1) because it is (*insert one of* on consent, unopposed *or* made without notice);
- ☐ in writing as an opposed Motion under subrule 37.12.1(4);

☒ orally.

THE MOTION IS FOR:

1. An Order that Alvarez and Marsal Canada Inc. in its capacity as the court appointed receiver and construction lien trustee of the Respondents (the “**Construction Receiver**”) be directed to distribute to Terra Firma the Park Levy Reserve as defined in the Tenth Report of the Construction Receiver dated August 6, 2020 (the :”**Tenth Report**”); and
2. Such further and other relief as this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. The Construction Receiver collected adjustments on the sale of condominium units at the Leslieville development that had been undertaken by Urbancorp (Leslieville Developments Inc. and was completed by the Construction Receiver;
2. No court proceedings have been brought in respect of the adjustments that comprise the Park Levy Reserve, despite ample notice to the affected parties;
3. Pursuant to the existing Orders in this Proceeding, Terra Firma is the next ranking stakeholder to receive distributions from the estate of the Respondents, and the Construction Receiver’s analysis has concluded that there is no possibility that the subsequent ranking stakeholders will receive any distributions under the most optimistic scenario;
4. Upon discharge of the Construction Receiver, all potential claims against it, including in respect of the Park Levy Reserve, will be extinguished, meaning that whatever funds the Construction Receiver has on hand should be distributed to Terra Firma as further partial payment of the waterfall distributions previously Ordered in this proceeding; and

5. Such further and other grounds as counsel may advise and this Court accepts.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Tenth Report of the Construction Receiver; and
2. Such further and other materials counsel may advise and this Court may permit.

August 7, 2020

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R. Brendan Bissell

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Solicitors for Terra Firma Capital Corporation

To: The Service list

MASTER SERVICE LIST

As of 13 June, 2019

Court File No. CV-16-11409-00CL

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and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43**

TO:	<p>GOWLING WLG (CANADA) LLP 1 First Canadian Place Suite 1600, 100 King Street West Toronto, ON M5X 1G5</p> <p>Attention: Clifton P. Prophet Tel: (416) 862-3509 Fax: (416) 862-7661 Email: clifton.prophet@gowlingwlg.com</p> <p>Attention: Frank Lamie Tel: (416) 862-3609 Fax: (416) 862-7661 Email: frank.lamie@gowlingwlg.com</p> <p><i>Lawyers for the Applicants, Canadian Imperial Bank of Commerce in its capacity as Administrative Agent and Lender</i></p>
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AND TO:	<p>ALVAREZ & MARSAL CANADA INC. Royal Bank Plaza, South Tower 200 Bay Street, Suite 2900, P.O. Box 22 Toronto, ON M5J 2J1</p> <p>Attention: Doug McIntosh Tel: (416) 847-5150 Fax: (416) 847-5201 Email: dmcintosh@alvarezandmarsal.com</p> <p>Attention: Tony Zaspalis Tel: (416) 847-5171 Fax: (416) 847-5201 Email: tzaspalis@alvarezandmarsal.com</p> <p>Attention: Ryan Gruneir Tel: (416) 847-5151 Fax: (416) 847-5201 Email: rgruneir@alvarezandmarsal.com</p> <p><i>Court Appointed Receiver and Construction Lien Trustee of the Respondents</i></p>
AND TO:	<p>BLAKE, CASSELS & GRAYDON LLP 199 Bay Street Suite 4000, Commerce Court West Toronto ON M5L 1A9</p> <p>Attention: Pamela L.J. Huff Tel: (416) 863-2958 Fax: (416) 863-2653 Email: pamela.huff@blakes.com</p> <p>Attention: Milly Chow Tel: (416) 863-2594 Fax: (416) 863-2653 Email: milly.chow@blakes.com</p> <p>Attention: Chris Burr Tel: (416) 863-3261 Fax: (416) 863-2653 Email: chris.burr@blakes.com</p> <p><i>Lawyers for the Court Appointed Receiver and Construction Lien Trustee, Alvarez & Marsal Canada Inc.</i></p>

AND TO:	<p>DLA PIPER Suite 6000, 1 First Canadian Place 100 King St. W Toronto, ON M5X 1E2</p> <p>Attention: Danny M. Nunes & Edmond F.B. Lamek Tel: (416) 365-3421 / (416) 365-3444 Fax: (416) 369-7944 Email: danny.nunes@dlapiper.com Email: edmond.lamek@dlapiper.com</p> <p><i>Lawyers for the Urbancorp CCAA Entities</i></p>
AND TO:	<p>DAVIES WARD PHILLIPS & VINEBERG LLP 155 Wellington Street West Toronto, ON M5V 3J7</p> <p>Attention: Robin B. Schwill Tel: (416) 863-5502 / (416) 367-7460 Fax: (416) 863-0900 Email: rschwill@dwpv.com</p> <p><i>Lawyers for the Monitor of the Urbancorp CCAA Entities</i></p>
AND TO:	<p>KSV ADVISORY INC. 150 King Street, Suite 2308 Toronto, ON M5H 1J9</p> <p>Attention: Bobby Kofman / Noah Goldstein / Robert Harlang Tel: (416) 932-6228 / (416) 932-6027 / (416) 932-5306 Email: bkofman@ksvadvisory.com / ngoldstein@ksvadvisory.com / rharlang@ksvadvisory.com</p> <p><i>Monitor of the Urbancorp CCAA Entities</i></p>
AND TO:	<p>BENNETT JONES LLP 3400, One First Canadian Place, Box 130 Toronto, ON M5X 1A4</p> <p>Attention: S. Richard Orzy / Raj Sahni Tel: (416) 777-5737 / (416) 777-4804 Fax: (416) 863-1716 Email: orzyr@bennettjones.com / sahnir@bennettjones.com</p> <p><i>Lawyers for Alan Saskin</i></p>

AND TO:	<p>FULLER LANDAU LLP 151 Bloor Street West, 12th Floor Toronto, ON M5S 1S4</p> <p>Attention: Gary Abrahamson Tel: (416) 645-6524 Email: gabrahamson@fullerllp.com</p> <p><i>Proposal Trustee for Alan Saskin</i></p>
AND TO:	<p>TORYS LLP 79 Wellington St. W., 30th Floor TD South Tower Toronto, ON M5K 1N2</p> <p>Attention: Adam Slavens Tel: (416) 865-7333 Fax: (416) 865-7380 Email: aslavens@torys.com</p> <p><i>Lawyers for Tarion Warranty Corporation</i></p>
AND TO:	<p>ALTUS GROUP</p> <p>Attention: Colin Doran Email: colin.doran@altusgroup.com</p> <p><i>Cost Consultant for Leslieville and The Beach Projects</i></p>
AND TO:	<p>DICKINSON WRIGHT LLP 199 Bay Street, Suite 2200, P.O. Box 447 Commerce Court Postal Station Toronto, ON M5L 1G4</p> <p>Attention: David P. Preger Tel: (416) 646-4606 Fax: (416) 865-1398 Email: dpreger@dickinsonwright.com</p> <p>Attention: Lisa S. Corne Tel: (416) 646-4608 Fax: (416) 865-1398 Email: lcorne@dickinsonwright.com</p> <p><i>Lawyers for Certain Purchasers of Residential Units at 50 Curzon St., Toronto (Urbancorp (Leslieville) Developments Inc.)</i></p>

AND TO:	<p>SHIBLEY RIGHTON LLP 700-250 University Avenue Toronto, ON M5H 3E5</p> <p>Attention: Megan Mackey Email: mmackey@shibleyrighton.com</p> <p>Attention: Thomas McRae Email: thomas.mcrae@shibleyrighton.com</p> <p><i>Lawyers for Certain Purchasers of Residential Units at 50 Curzon St., Toronto (Urbancorp (Leslieville) Developments Inc.)</i></p>
AND TO:	<p>ROBINS APPLEBY LLP 2600-120 Adelaide Street West Toronto, ON M5H 1T1</p> <p>Attention: Dominique Michaud Tel: (416) 360-3795 Fax: (416) 868-0306 Email: dmichaud@robapp.com</p> <p><i>Lawyers for Terra Firma Capital Corporation</i></p>
AND TO:	<p>GOLDMAN SLOAN NASH & HABER LLP 480 University Avenue, Suite 1600 Toronto, ON M5G 1V2</p> <p>Attention: Brendan Bissell Tel: (416) 597-6489 Fax: (416) 597-9922 Email: bissell@gsnh.com</p> <p><i>Lawyers for Terra Firma Capital Corporation</i></p>
AND TO:	<p>MINISTRY OF FINANCE (ONTARIO) Legal Services Branch 33 King Street West, 6th Floor Oshawa, ON L1H 8H5</p> <p>Attention: Kevin O'Hara, LL.M, Senior Counsel Tel: (905) 433-6934 Fax: (905) 436-4510 Email: kevin.ohara@ontario.ca</p>

AND TO:	<p>DANA ROSS 30 Caroline Avenue Toronto, ON M4M 2X7</p> <p>Tel: (416) 708-7930 Email: dana_lynn_ross@yahoo.com</p> <p><i>Purchaser of one of the Townhomes at 50 Curzon St., Toronto (Urbancorp (Leslieville) Developments Inc.)</i></p>
AND TO:	<p>ANWAR JAMAL 250 Cornell Centre Blvd. Markham, ON L6B 0V9</p> <p>Email: anwar.jamal@hotmail.com</p> <p><i>Purchaser of one of the Townhomes at 50 Curzon St., Unit #319 (Urbancorp (Leslieville) Developments Inc.)</i></p>
AND TO:	<p>ASHTON BROOKS 1 Bellhaven Road Toronto, ON M4L 3J4</p> <p>Tel: (519) 546-8271 Email: ashtonbrooks@gmail.com</p> <p><i>Purchaser of one of the Townhomes at 50 Curzon St., Unit #306 (Urbancorp (Leslieville) Developments Inc.)</i></p>
AND TO:	<p>JOSEPH PAK HIM CHAN PROFESSIONAL CORPORATION 203-80 Acadia Avenue Markham, ON L3R 9V1</p> <p>Tel: (905) 475-2426 Fax: (416) 987-5604 Email: jchan@josephphchan.com</p> <p><i>Lawyer/Creditor for Joseph Pak Him Chan, purchaser of one of the Townhomes at 50 Curzon Street, Toronto (Urbancorp (Leslieville) Developments Inc.)</i></p>
AND TO:	<p>EUN LEE Email: jh0302es@yahoo.co.kr</p> <p><i>Purchaser of one of the Townhomes at 50 Curzon Street, Unit #515 (Urbancorp (Leslieville) Developments Inc.)</i></p>

AND TO:	ADRIAN McCALLA Tel: (416) 838-7654 Email: theumbrellagroups@gmail.com <i>Purchaser of one of the Townhomes at 21 Hemlock (Urbancorp (The Beach) Developments Inc.)</i>
AND TO:	HARRIS, SHEAFFER LLP Yonge Corporate Centre Suite 610, 4100 Yonge Street Toronto, ON M2P 2B5 Attention: Michael Baum Tel: (416) 250-2892 Fax: (416) 250-5300 Email: mbaum@harris-sheaffer.com
AND TO:	CHAITONS LLP 5000 Yonge Street, 10th Floor Toronto, ON M2N 7E9 Attention: Barry Rotenberg Tel: (416) 218-1133 Fax: (416) 218-1833 Email: brotenberg@chaitons.com
AND TO:	CHARLES SHIN and WON MI SHIN Email: charlesschin85@gmail.com Email: chawonmi@gmail.com <i>Purchaser of one of the Townhomes at 50 Curzon Street, Toronto (Urbancorp (Leslieville) Developments Inc.)</i>
AND TO:	USHAVINDER S. BHATIA 898 Silverthorn Mill Ave Mississauga, ON L5W 1B2 Tel: (416) 417-9982 Email: ushvinder@hotmail.com <i>Purchaser of one of the Townhomes at 21 Hemlock, Unit #28 (Urbancorp (The Beach) Developments Inc.)</i>

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AND TO:	XIAO HONG LING Email: luyi9981@gmail.com <i>Purchaser of one of the Townhomes at 50 Curzon St., Unit #501 (Urbancorp (Leslieville) Developments Inc.)</i>
AND TO:	MYUNG HO LIM Email: zizibe22@yahoo.com <i>Purchaser of one of the Townhomes at 50 Curzon St., Unit #503 (Urbancorp (Leslieville) Developments Inc.)</i>
AND TO:	TCC/URBANCORP (BAY/STADIUM) LIMITED PARTNERSHIP 120 Lynn Williams Street, Suite No. 2A Toronto, ON M6K 3P6
AND TO:	MIKE TATARI 104 Harlandale Ave Toronto, ON M2N 1P3 Tel: (416) 670-4080 Email: miketatari@live.ca <i>Purchaser of one of the Townhomes at 50 Curzon St., Unit #306 (Urbancorp (Leslieville) Developments Inc.)</i>

AND TO:	<p>RYAN FAZA Real Estate Representative Royal Lepage Realty Plus 2575 Dundas Street West Mississauga, ON L5K 2M6</p> <p>Tel: (905) 617-0037 Fax: (905) 828-1511 Email: rfaza@royallepage.ca</p> <p><i>Purchaser of one of the Townhomes at Hemlock, (Urbancorp (The Beach) Developments Inc.)</i></p>
AND TO:	<p>PEI YUN Email: yunp57@hotmail.com</p> <p><i>Purchaser of one of the Townhomes at 50 Curzon St., Toronto (Urbancorp (Leslieville) Developments Inc.)</i></p>
AND TO:	<p>CASSELS BROCK & BLACKWELL LLP 40 King Street West, Suite 2100 Toronto, ON M5H 3C2</p> <p>Attention: Mark St. Cyr Tel: (416) 869-5462 Fax: (416) 640-3209 Email: mstcyr@casselsbrock.com</p> <p><i>Lawyers for the Respondent, 1481614 Ontario Inc. formerly carrying on business as Coldwell Banker Case Realty</i></p>
AND TO:	<p>MILLER THOMSON LLP 60 Columbia Way, Suite 600 Markham, ON L3R 0C9</p> <p>Attention: Enzo Di Iorio Tel: (905) 415-6711 Fax: (905) 415-6777 Email: ediiorio@millerthomson.com</p> <p>Attention: Cara Shamess Tel: (905) 415-6464 Fax: (905) 415-6777 Email: cshamess@millerthomson.com</p> <p><i>Lawyers for Midland Appliance</i></p>

AND TO:	<p>ALFRED S. SCHORR 227 Eagle Street East, Suite 2900 Newmarket, ON L3Y 1J8</p> <p>Attention: Alfred S. Schorr Tel: (905) 940-9252 Fax: (905) 940-5583 Email: alfred@schorrlaw.ca</p> <p><i>Lawyers for Living Realty and International Home Marketing</i></p>
AND TO:	<p>SAMEUL HO AND ANITA CHEUNG 51 Franklin Ave North York, ON M2N 1B8</p> <p>Email: samuel.sh.ho@gmail.com</p> <p><i>Purchaser of one of the Townhomes at 50 Curzon St., Unit #309 (Urbancorp (Leslieville) Developments Inc.)</i></p>
AND TO:	<p>SELINA NAZIM 199 Richmond Street West, Suite 2402 Toronto, ON M5V 0H4</p> <p>Tel: (416) 565-6270 Email: selinapitt@rogers.com</p> <p><i>Purchaser of one of the Townhomes at 50 Curzon St., Unit 119 (Urbancorp (Leslieville) Developments Inc.)</i></p>
AND TO:	<p>MINISTRY OF THE ENVIRONMENT AND CLIMATE CHANGE (ONTARIO) Legal Services Branch 135 St. Clair Ave. West, 10th Floor Toronto, ON M4V 1P5</p> <p>Attention: Nadine Harris Tel: (416) 212-4998 Fax: (416) 314-6579 Email: nadine.harris@ontario.ca</p>

AND TO:	CITY OF TORONTO Litigation Section, Legal Services Division 26th Floor, Metro Hall, Stn. 1260 55 John Street Toronto, ON M5V3C6 Attention: Christopher Henderson Email: christopher.henderson@toronto.ca
AND TO:	CRAFT DEVELOPMENT CORPORATION Attention: Peter Griffis Email: p.griffis@craftgrp.com
AND TO:	TSCC NO. 2669 c/o FirstService Residential Ontario 2645 Skymark Avenue, Suite 101 Mississauga, ON L4W 4H2 Attention: Mr. Ted Sablatnig / Mr. Julian McNabb Email: ted.sablatnig@fsresidential.com / julian.mcnabb@fsresidential.com
AND TO:	PAUL MARCACCIO Attention: Paul Marcaccio Email: ptm@rogers.com
CONSTRUCTION LIEN CLAIMANTS:	
AND TO:	DELZOTTO, ZORZI LLP 4810 Dufferin Street, Suite D Concord, ON L4K 4L6 Attention: Robert Calderwood Tel: (416) 665-5555 Fax: (416) 665-9653 Email: rcalderwood@dzlaw.com <i>Lawyers for Furkin Construction Inc.</i>

AND TO:	<p>D'ALIMONTE LAW Professional Corporation 4300 Steeles Avenue West, Unit #27 Woodbridge, ON L4L 4C2</p> <p>Attention: Joseph D'Alimonte Tel: (905) 264-1553 Fax: (905) 264-5450 Email: jdalimonte@bellnet.ca</p> <p><i>Lawyers for NG Marin Inc.</i></p>
AND TO:	<p>HAMMOND FLESIAS 3800 Steeles Avenue West, Suite 300 Vaughan, ON L4L 4G9</p> <p>Attention: Richard Hammond Tel: (905) 850-8550 x 400 Fax: (905) 850-9998 Email: rhammond@hammondfilesias.com</p> <p><i>Lawyers for Lido Construction Inc.</i></p>
AND TO:	<p>LOOPSTRA NIXON LLP 135 Queens Plate Drive, Suite 600 Toronto, ON M9W 6V7</p> <p>Attention: Alison Kuchinsky Tel: (416) 748-4771 Fax: (416) 746-8319 Email: akuchinsky@loonix.com</p> <p>Attention: Michael B. McWilliams Tel: (416) 746-4710 Fax: (416) 746-8319 Email: mmcwillaims@loonix.com</p> <p>Attention: Christophe Shammass Tel: (416) 748-5121 Fax: (416) 746-8319 Email: cshammass@loonix.com</p> <p><i>Lawyers for Canadian Rental Centres and Emergency Propane Services Inc.</i></p>

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AND TO:	<p>BISCEGLIA & ASSOCIATES 7941 Jane Street, Suite 200 Concord, ON L4K 4L6</p> <p>Attention: Emilio Bisceglia Tel: (905) 264-1632 Fax: (905) 264-1059 Email: ebisceglia@lawtoronto.com</p> <p><i>Lawyers for Alpa Stairs and Railings Inc.</i></p>
AND TO:	<p>DRUDI ALEXIOU KUCHAR LLP 7050 Weston Road, Suite 610 Vaughan, ON L4L 8G7</p> <p>Attention: Marco Drudi Tel: (905) 850-6116 Fax: (905) 850-9146 Email: mdrudi@dakllp.com</p> <p><i>Lawyers for Uptown Hardware Limited</i></p>

AND TO:	<p>PHILIP HORGAN LAW OFFICE 301-120 Carlton Street Toronto, ON M5A 4K2</p> <p>Attention: Philip Horgan Tel: (416) 777-9994 Fax: (416) 777-9921 Email: phorgan@carltonlaw.ca</p> <p>Attention: Mary Zettel Tel: (416) 777-9994 Fax: (416) 777-9921 Email: mzettel@carltonlaw.ca</p> <p><i>Lawyers for Commercial Two Construction Inc.</i></p>
AND TO:	<p>KOSKIE MINSKY LLP 20 Queen Street West, Suite 900 Toronto, ON M5H 3R3</p> <p>Attention: Jeffrey Armel Tel: (416) 595-2125 Fax: (416) 204-2892 Email: jarmel@kmlaw.ca</p> <p><i>Lawyers for EXP Services Inc.</i></p>
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AND TO:	<p>CASSELS BROCK & BLACKWELL LLP Scotia Plaza, 40 King Street West, Suite 2100 Toronto, ON M5H 3C2</p> <p>Attention: Mark St. Cyr Tel: (416) 869-5462 Fax: (416) 640-3209 Email: mstcyr@casselsbrock.com</p> <p><i>Lawyers for Sterling Tile & Carpet</i></p>
AND TO:	<p>JOHN LO FASO PROFESSIONAL CORPORATION 3700 Steeles Avenue West, Suite 600 Woodbridge, ON L4L 8K8</p> <p>Attention: John Lo Faso Tel: (905) 856-3700 Fax: (905) 850-9969 Email: johnlofaso@westonlaw.ca</p> <p><i>Lawyers for Silvio Construction Co. Ltd.</i></p>

MASTER E-SERVICE LIST

As of 13 June 2019

Court File No. CV-16-11409-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
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Schedule “A”

Conference Details to join Motion via Zoom

Join Zoom Meeting

<https://us02web.zoom.us/j/85097770454>

Meeting ID: 850 9777 0454

One tap mobile

+16475580588,,85097770454# Canada

+17789072071,,85097770454# Canada

Dial by your location

+1 647 558 0588 Canada

+1 778 907 2071 Canada

+1 438 809 7799 Canada

+1 587 328 1099 Canada

+1 613 209 3054 Canada

+1 647 374 4685 Canada

Meeting ID: 850 9777 0454

Find your local number: <https://us02web.zoom.us/u/kbB5eAfilu>

Join by SIP

85097770454@zoomcrc.com

Join by H.323

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BETWEEN
CANADIAN IMPERIAL BANK OF COMMERCE
Applicant

- and -

Court File No. CV-16-11409-00CL
URBANCORP (LESLIEVILLE) DEVELOPMENTS INC. et al.
Respondents

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

Proceedings commenced at Toronto

NOTICE OF MOTION

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