

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

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

and

VILLAGE DEVELOPMENTS INC.

Respondent

APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended

**SECOND SUPPLEMENTARY APPLICATION RECORD
(Returnable June 14, 2023)**

June 2, 2023

GOWLING WLG (CANADA) LLP

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Email: kate.yurkovich@gowlingwlg.com

Lawyers for the Applicant

TO: The Attached Service List.

SERVICE LIST

TO:	<p>GOWLING WLG (CANADA) LLP 1 First Canadian Place, 100 King Street West Suite 1600 Toronto, Ontario M5X 1G5</p> <p>Thomas Gertner Tel: (416) 369-4618 Fax: (416) 862-7661 Email: thomas.gertner@gowlingwlg.com</p> <p>Katherine Yurkovich Tel: 416-862-4342 Fax: 416-862-7661 Email: kate.yurkovich@gowlingwlg.com</p> <p><i>Counsel to the Applicant, Vector Financial Services Limited</i></p>
AND TO:	<p>RSM CANADA LIMITED 11 King Street West, Suite 700, Box 27 Toronto, Ontario M5H 4C7</p> <p>Bryan Tannenbaum Tel: (416) 238-5055 Fax: (416) 480-2646 Email: bryan.tannenbaum@rsmcanada.com</p> <p>Jeffrey Berger Tel: (647) 726-0496 Fax: (416) 480-2646 Email: jeff.berger@rsmcanada.com</p> <p><i>Proposed Receiver</i></p>

AND TO:	VILLAGE DEVELOPMENTS INC. 7686 Appleby Lane, Milton, Ontario L9E 0N1 Paul Debattista Email: pauldebattista@outlook.com <i>Respondent</i>
AND TO:	ZIMMERMAN ASSOCIATES 3338 Dufferin Street, Toronto, Ontario M6A 3A4 Lawrence Zimmerman Tel: (647) 792-1272, Ext. 208 Email: larry@zimlaw.ca <i>Counsel to the Respondent, Village Developments Inc.</i>
AND TO:	OLYMPIA TRUST COMPANY P.O. Box 2581 STN Central Calgary, Alberta T2P 1C8 <i>Co-Lender to the Applicant, Vector Financial Services Limited</i>
AND TO:	CURRENT TENANT 485 Ontario Street South Milton, Ontario L9T 2N2
AND TO:	CURRENT TENANT 501 Ontario Street South Milton, Ontario L9T 2N2
AND TO:	CURRENT TENANT 511 Ontario Street South Milton, Ontario L9T 2N2

AND TO:	<p>SOCIETE EN COMMANDITE MVMT CAPITAL 200 Rue Hyppolite-Denaut La Prairie, Quebec J5R 6P2</p> <p>Elisabeth Fortin Email: elisabeth.fortin@gef-sf.com</p> <p><i>Mortgagee against the properties municipally known as 485, 501 and 511 Ontario Street South, Milton, Ontario</i></p>
AND TO:	<p>JASON WAXMAN 18 Turner Avenue Hamilton, Ontario L8P 3K5 Tel: 905-575-7421 Email: jason@addisonwealth.com</p> <p><i>Mortgagee against the properties municipally known as 485, 501 and 511 Ontario Street South, Milton, Ontario</i></p>
AND TO:	<p>FIJ LAW LLP Barristers & Solicitors 50 West Pearce Street, Suite 10 Richmond Hill, Ontario L4B 1C5</p> <p>Robert Izsak Tel: (905) 763-3770 ext. 211 Fax: (905) 763-3772 Email: rzsak@fijlaw.com</p> <p><i>Counsel to Jason Waxman</i></p>

<p>AND TO:</p>	<p>2343640 ONTARIO INC. 18 Turner Avenue Hamilton, Ontario L8P 3K5</p> <p>C/O FIJ LAW LLP Barristers & Solicitors 50 West Pearce Street, Suite 10 Richmond Hill, Ontario L4B 1C5</p> <p>Attention: Robert Izsak Tel: (905) 763-3770 ext. 211 Fax: (905) 763-3772 Email: rzsak@fijlaw.com</p> <p><i>Mortgagee against the properties municipally known as 485, 501 and 511 Ontario Street South, Milton, Ontario</i></p>
<p>AND TO:</p>	<p>ALEXANDER RABINOVICH MEDICINE PROFESSIONAL CORPORATION 18 Turner Avenue Hamilton, Ontario L8P 3K5</p> <p>C/O FIJ LAW LLP Barristers & Solicitors 50 West Pearce Street, Suite 10 Richmond Hill, Ontario L4B 1C5</p> <p>Attention: Robert Izsak Tel: (905) 763-3770 ext. 211 Fax: (905) 763-3772 Email: rzsak@fijlaw.com</p> <p><i>Mortgagee against the properties municipally known as 485, 501 and 511 Ontario Street South, Milton, Ontario</i></p>

AND TO:	<p>DR. JAMES DILL MEDICINE PROFESSIONAL CORPORATION 18 Turner Avenue Hamilton, Ontario L8P 3K5</p> <p>C/O FIJ LAW LLP Barristers & Solicitors 50 West Pearce Street, Suite 10 Richmond Hill, Ontario L4B 1C5</p> <p>Attention: Robert Izsak Tel: (905) 763-3770 ext. 211 Fax: (905) 763-3772 Email: rzsak@fijlaw.com</p> <p><i>Mortgagee against the properties municipally known as 485, 501 and 511 Ontario Street South, Milton, Ontario</i></p>
AND TO:	<p>MORRIS ZOLADEK 18 Turner Avenue Hamilton, Ontario L8P 3K5</p> <p>C/O FIJ LAW LLP Barristers & Solicitors 50 West Pearce Street, Suite 10 Richmond Hill, Ontario L4B 1C5</p> <p>Attention: Robert Izsak Tel: (905) 763-3770 ext. 211 Fax: (905) 763-3772 Email: rzsak@fijlaw.com</p> <p><i>Mortgagee against the properties municipally known as 485, 501 and 511 Ontario Street South, Milton, Ontario</i></p>

AND TO:	<p>MARTIN NASH 18 Turner Avenue Hamilton, Ontario L8P 3K5</p> <p>C/O FIJ LAW LLP Barristers & Solicitors 50 West Pearce Street, Suite 10 Richmond Hill, Ontario L4B 1C5</p> <p>Attention: Robert Izsak Tel: (905) 763-3770 ext. 211 Fax: (905) 763-3772 Email: rzsak@fijlaw.com</p> <p><i>Mortgagee against the properties municipally known as 485, 501 and 511 Ontario Street South, Milton, Ontario</i></p>
AND TO:	<p>GEORGINE NASH 18 Turner Avenue Hamilton, Ontario L8P 3K5</p> <p>C/O FIJ LAW LLP Barristers & Solicitors 50 West Pearce Street, Suite 10 Richmond Hill, Ontario L4B 1C5</p> <p>Attention: Robert Izsak Tel: (905) 763-3770 ext. 211 Fax: (905) 763-3772 Email: rzsak@fijlaw.com</p> <p><i>Mortgagee against the properties municipally known as 485, 501 and 511 Ontario Street South, Milton, Ontario</i></p>

AND TO:	<p>CHRISTOPHER GRATTON 18 Turner Avenue Hamilton, Ontario L8P 3K5</p> <p>C/O FIJ LAW LLP Barristers & Solicitors 50 West Pearce Street, Suite 10 Richmond Hill, Ontario L4B 1C5</p> <p>Attention: Robert Izsak Tel: (905) 763-3770 ext. 211 Fax: (905) 763-3772 Email: rzsak@fijlaw.com</p> <p><i>Mortgagee against the properties municipally known as 485, 501 and 511 Ontario Street South, Milton, Ontario</i></p>
AND TO:	<p>1860346 ONTARIO INC. 18 Turner Avenue Hamilton, Ontario L8P 3K5</p> <p>C/O FIJ LAW LLP Barristers & Solicitors 50 West Pearce Street, Suite 10 Richmond Hill, Ontario L4B 1C5</p> <p>Attention: Robert Izsak Tel: (905) 763-3770 ext. 211 Fax: (905) 763-3772 Email: rzsak@fijlaw.com</p> <p><i>Mortgagee against the properties municipally known as 485, 501 and 511 Ontario Street South, Milton, Ontario</i></p>

AND TO:	BEACH ROAD INVESTMENTS INC. 733 Beach Blvd. Hamilton, Ontario L8H 6Y5 Gillian Stanley Email: gilliantstanley@gmail.com <i>Successor of 2459437 Ontario Inc., mortgagee against the properties municipally known as 485, 501 and 511 Ontario Street South, Milton, Ontario, following amalgamation dated January 5, 2023</i>
AND TO:	1846836 ONTARIO INC. 64 Belvidere Avenue Toronto, Ontario M6C 1P6 <i>Mortgagee against the properties municipally known as 485, 501 and 511 Ontario Street South, Milton, Ontario</i>
AND TO:	VAULT CAPITAL INC. 41 Scarsdale Road, Unit 5 North York, Ontario M3B 2R2 <i>Secured Creditor of Village Developments Inc.</i>
AND TO:	DEPARTMENT OF JUSTICE CANADA Ontario Regional Office Tax Law Services Division The Exchange Tower 130 King St. West, Suite 3400, Box 36 Toronto, ON M5X 1K6 Diane Winters Tel: (416) 973-3172 Email: diane.winters@justice.gc.ca
AND TO:	MINISTRY OF FINANCE Legal Services Branch 33 King Street West, 6th Floor Oshawa, ON L1H 8H5 Insolvency Unit Tel: (905) 433-6934 Email: insolvency.unit@ontario.ca

Email Addresses:

thomas.gertner@gowlingwlg.com; kate.yurkovich@gowlingwlg.com;
bryan.tannenbaum@rsmcanada.com; jeff.berger@rsmcanada.com; pauldebattista@outlook.com;
larry@zimlaw.ca; diane.winters@justice.gc.ca; insolvency.unit@ontario.ca;
elizabeth.fortin@gef-sf.com; rizsak@fijlaw.com; gilliantstanley@gmail.com;

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TAB	DOCUMENT
1.	Supplementary Affidavit of Noah Mintz sworn June 2, 2023
A.	Email Correspondence between counsel to Vector and counsel to VDI dated March 29, 2023

TAB 1

ONTARIO
SUPERIOR COURT OF JUSTICE
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- and -

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Respondent

**APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3,
as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended**

SUPPLEMENTARY AFFIDAVIT OF NOAH MINTZ
(Sworn June 2, 2023)

I, **NOAH MINTZ** of the city of Toronto, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Managing Director of the Applicant, Vector Financial Services Limited (in its capacity as administrator for and on behalf of the Lenders under the Commitment Letter, “**Vector**”). As a result, I have personal knowledge of the matters to which I hereinafter depose save and except where I refer to matters based on information and belief, in which case I verily believe that information to be true.
2. I am swearing this affidavit to supplement my prior affidavit in these proceedings sworn on March 17, 2023 (the “**March 17 Affidavit**”). Capitalized terms used herein and not otherwise defined have the meanings given to them in my March 17 Affidavit.

3. This matter was originally returnable on March 29, 2023 (the “**Original Hearing**”).
4. On the date of the Original Hearing Vector and VDI agreed to adjourn its receivership application on the following terms (the “**Adjournment Terms**”):
 - (a) VDI would pay \$335,000.00 to Vector be applied towards existing Indebtedness by no later than March 29, 2023;
 - (b) VDI would deliver to Vector copies of any leases in effect with respect to the Mortgaged Property; and
 - (c) VDI would deliver \$55,000.00 to Vector be applied towards existing Indebtedness by no later than April 5, 2023, following which the parties would agree to re-enter into the Forbearance Agreement, as modified by the Adjournment Terms.

Attached hereto as **Exhibit “A”** is a true copy of the email correspondence between Gowling and Zimmerman Associates, confirming their respective client’s consent and agreement to the Adjournment Terms.

5. Under the terms of the Forbearance Agreement (as modified by the Adjournment Terms), Vector agreed to forbear from taking any further steps to enforce on the Security from VDI until May 10, 2023 (the “**Forbearance Period**”), following which, the Indebtedness would be required to be repaid in full. The Forbearance Agreement further provided that the Forbearance Period could be extended for a period of three months provided a further payment towards the Indebtedness in the amount of \$481,500.00 was made by May 3, 2023 (the “**Extension Payment**”).

6. Pursuant to the Forbearance Agreement, VDI consented to the immediate enforcement of all security held by Vector including by way of the appointment of a Receiver over the Mortgaged Property upon the expiry of the Forbearance Period.

7. VDI failed to make the Extension Payment by the deadline stipulated in the Forbearance Agreement and the Forbearance Period was not extended. On May 10, 2023, the Forbearance Period expired. To date, VDI has not repaid the Indebtedness and accordingly, Vector seeks the appointment of a Receiver over the Mortgaged Property on the terms of the Appointment Order.

8. This Affidavit is sworn in support of Vector's Application for the Appointment Order and for no other or improper purpose.

SWORN BEFORE ME VIA VIDEOCONFERENCE, the affiant being located in the City of Toronto in the Province of Ontario and the Commissioner being located in the City of Toronto in the Province of Ontario on June 2, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)



Noah Mintz

THIS IS EXHIBIT "A"
TO THE SUPPLEMENTARY AFFIDAVIT
OF NOAH MINTZ SWORN REMOTELY
BEFORE ME ON JUNE 2, 2023



A commissioner for taking affidavits

Yurkovich, Kate

From: Gertner, Thomas
Sent: May 25, 2023 10:41 AM
To: Yurkovich, Kate
Subject: FW: Settlement Terms

From: Larry Zimmerman <larry@zimlaw.ca>
Sent: March 29, 2023 11:55 AM
To: Gertner, Thomas <Thomas.Gertner@ca.gowlingwlg.com>
Subject: RE: Settlement Terms

This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.

Thomas,

I agree to the terms below on behalf of my client. As funds have already been wired to you, kindly advise upon receipt.

Thank you.

Larry

Lawrence Zimmerman LLB.

ZIMMERMAN ASSOCIATES

Barristers and Solicitors

3333 Dufferin Street

Toronto, Ontario M6A 3A4

larry@zimlaw.ca

Direct: 416-489-9222

Fax: 416-489-6222

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AVIS: Message confidentiel dont le contenu peut être privilégié. Utilisation/divulgarion interdites sans permission. Si reçu par erreur, prière téléphoner 416-489-6230 pour des instructions.

From: Gertner, Thomas <Thomas.Gertner@gowlingwlg.com>
Sent: Wednesday, March 29, 2023 11:44 AM
To: Larry Zimmerman <larry@zimlaw.ca>
Subject: Settlement Terms

Larry;

Below are the terms my client is willing to accept with respect to adjourning its Application:

1. Village Developments Inc. ("**VDI**") will deliver by wire in immediately available funds \$335,000 to Gowlings by 4pm on March 29, 2023 on behalf of Vector Financial Services Limited ("**Vector**") (the "**Initial Payment**"). Vector will be entitled to immediately apply the Initial Payment to its indebtedness.
2. Vector will request an adjournment of at-least one week from the Court at the hearing on March 29, 2023 (subject to Court availability) (the "**Rescheduled Hearing**"). If the Initial Payment is not received by 4pm on March 29, 2023, Vector shall be entitled to move up the date for the Rescheduled Hearing and VDI will not contest the appointment of the Receiver at the Reschedule Hearing.
3. Provided the Initial Payment is received when required under Item 1, and provided further that VDI delivers to Gowlings on behalf of Vector a further \$55,000 in immediately available funds, by April 5 at 8:00 am, Vector and VDI will enter into the Forbearance Agreement, modified by these terms only. If VDI fails to deliver this amount in full, it will not contest the appointment of the Receiver at the Reschedule Hearing.

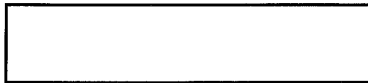
Please confirm your client's agreement to these terms by responding email.

Thomas Gertner

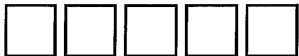
Partner

T +1 416 369 4618

thomas.gertner@gowlingwlg.com



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Court File No. CV-23-00696349-00CL

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PROCEEDING COMMENCED AT TORONTO

SUPPLEMENTARY AFFIDAVIT OF NOAH MINTZ
(Sworn June 2, 2023)

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Lawyers for the Applicant

Court File No. CV-23-00696349-00CL

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(Returnable June 14, 2023)

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