

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

DUCA FINANCIAL SERVICES CREDIT UNION LTD.

Applicant

- and -

2460467 ONTARIO INC.

Respondent

**IN THE MATTER OF AN APPLICATION PURSUANT TO 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**

**REPLY AFFIDAVIT OF IVAN BOGDANOVICH
(Sworn August 6, 2024)**

I, **IVAN BOGDANOVICH**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY** as follows:

1. I am Director, Special Assets of the Applicant, DUCA Financial Services Credit Union Ltd. (“**DUCA**”) and as such have knowledge of the matters hereinafter deposed to, or where I do not possess such personal knowledge, I have stated the source of my information and in all such cases do verily believe it to be true.
2. This Affidavit is supplementary to my affidavit sworn on July 15, 2024 (the “**Initial Affidavit**”) and in response to the affidavit of Kamal Patel sworn on July 31, 2024 (the “**Patel Affidavit**”). Capitalized terms not defined herein shall have the meanings ascribed thereto in the Initial Affidavit.
3. References to amounts herein shall be in Canadian currency, unless otherwise specified.

4. In response to paragraph 12 of the Patel Affidavit, I can advise that after this matter was transferred to the Special Assets Group at DUCA, no information with respect to the letter dated January 24, 2024, which is Exhibit “B” to the Patel Affidavit was provided to me.
5. In response to paragraph 21 of the Patel Affidavit, I am advised by Roger Jaipargas, a partner at Borden Ladner Gervais LLP (“**BLG**”), the lawyers for DUCA, that he previously spoke to Williams Friedman, counsel to 246, and delivered an email to Mr. Friedman on June 17, 2024, which is Exhibit “T” to the Initial Affidavit about the status of this matter and the concerns of DUCA. 246 was aware at all times through my dealings with 246 and through my counsel’s dealings with Mr. Friedman, that DUCA had lost confidence in 246 and that they should seek alternative financing, as DUCA would be seeking the appointment of a receiver by the Court.
6. In response to paragraph 27 of the Patel Affidavit, the allegation that DUCA is seeking the appointment a Receiver in an attempt to disclaim the purchased units, is false. The decision with respect to the path forward in connection with the Property is a matter that will be in the hands of the Receiver, if a Receiver is appointed by the Court. No determination has been made as to the path forward for the Property at this time, including with respect to any purchased units.
7. With regard to paragraph 30 of the Patel Affidavit, I was surprised to learn that only since the commencement of this application, “246 has been actively pursuing replacement financing to repay the proper amount owing under the loan, including all accrued interest to date”. The receivership application was only recently commenced, but the concerns of DUCA have been well known to Mr. Patel and his counsel long before the receivership proceedings were commenced.
8. With respect to paragraph 31 of the Patel Affidavit, which states that 246 is in the process of obtaining a commitment letter from a lender to fully discharge DUCA’s loan and that 246 anticipates that same will come to fruition “in or around the end of August, 2024”, this statement rings hollow. 246 has provided no letter of intent, term sheet, or commitment letter, to evidence any real prospect of a refinancing, which would have DUCA repaid prior

to August 31, 2024. This is just a further attempt by 246 to delay DUCA’s right to seek the appointment of a receiver by the Court.

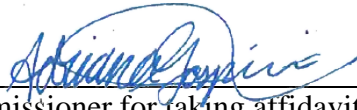
9. DUCA’s concerns with respect to 246 continue to mount given a further recent development that DUCA learned of on August 2, 2024. By email dated August 2, 2024, DUCA was advised by Michelle Wright, Property Stands & Municipal By-Law Enforcement Officer at the City of Belleville, that a reinspection of the Property was completed and the City of Belleville is of the view that a previous order of the Property Standards Officer (the “**City Order**”) has not been complied with. Attached hereto and marked as Exhibit “**A**” is a copy of the email from Michelle Wright dated August 2, 2024, together with the relevant attachments.
10. This new development obviously causes DUCA to have even further significant concerns with respect to the stability of the Debtor and the risk to DUCA’s collateral.
11. DUCA has lost confidence in the principals of the Respondent and is of the view that a Receiver should be appointed to secure the Property and develop a marketing and sale strategy, with a view to maximizing the realizations for the benefit of the stakeholders.
12. Further, a Receiver will be able to gather information with regard to the events that have transpired to date, as canvassed in this affidavit, to see if there are further avenues of recovery that should be explored.
13. This Affidavit is sworn in support of an Order for the appointment of KSV Restructuring Inc. as Receiver over the Property of the Debtors and for no other or improper purpose.

SWORN BEFORE ME over video conference)
 this 6th day of August 2024, in accordance with)
 Ontario Regulation 431/20. The affiant was)
 located in Toronto, in the Province of Ontario,)
 while the commissioner, Mariela Adriana)
 Gasparini, was located in Vaughan, in the)
 Province of Ontario.)

A Commissioner for taking affidavits
 LSO Licence no.: P14458

IVAN BOGDANOVICH

This is "Exhibit "A" referred to in the Affidavit of
IVAN BOGDANOVICH SWORN REMOTELY by
IVAN BOGDANOVICH of the City of Toronto, in
the Province of Ontario, before me at the City of
Vaughan, in the Province of Ontario, on August 6,
2024 in accordance with O. Reg. 431/20,
Administering Oath or Declaration Remotely

A handwritten signature in blue ink, appearing to read "Adrian Payne", is written over a horizontal line.

A Commissioner for taking affidavits

Gasparini, Adriana

From: Wright, Michelle <mwright@belleville.ca>

Sent: August 02, 2024 11:53 AM

To: 'hojokitchener@yahoo.com' <hojokitchener@yahoo.com>; 'jim@fusioncorp.ca' <jim@fusioncorp.ca>; Ivan Bogdanovich <ibogdanovich@duca.com>; 'nick@fusioncorp.ca' <nick@fusioncorp.ca>

Subject: 240 Yeoman St Property Standards Order and City Action Letter

Importance: High

You don't often get email from mwright@belleville.ca. [Learn why this is important](#)

Please be cautious

This email was sent to you from someone outside of DUCA.

Good afternoon everyone,

Back on June 19 2024, you received an email from Deputy Building Official Craig Laver that explained the site condition was reviewed with Bylaw and that bylaw would be addressing some Property Standards issues. On June 28 2024, a Property Standards Order was sent registered mail with a compliance date of July 17 2024. A copy of this Order is attached for your reference as the original order was sent back to us as unclaimed. **A re-inspection was completed to confirm that the Order was not complied with.** Please find attached a City Action Letter with a compliance date of August 12 2024.

Should you have any questions or concerns in regards to the attached letters, please do not hesitate to reach out.

Regards,

Michelle Wright C.P.S.O

Property Standards & Municipal By-law Enforcement Officer

Engineering & Development Services

Building Section

City Hall, 169 Front St, Belleville, ON, K8N 2Y8

Telephone- 613-967-3322
Email- mwright@belleville.ca



This e-mail and any attachments may contain confidential information. If you are not the intended recipient, please notify the sender immediately by return e-mail, delete this e-mail and destroy any copies. Any dissemination or use of this information by a person other than the intended recipient is unauthorized and may be illegal. DUCA Financial Services Credit Union Inc. reserves the right to monitor all e-mail communications through its network for quality control purposes.



**The City of Belleville
Engineering & Development Services**

Building Section, 2nd Floor

Department Number: 613-967-3204

Department Fax Number: 613-967-3262

Department TTY Line: 613-967-3268

June 28, 2024

REGISTERED MAIL

**ORDER OF THE
PROPERTY STANDARDS OFFICER
OF THE CITY OF BELLEVILLE**

**2460467 ONTARIO INC
29 IDLE RIDGE CRT
KITCHENER, ON
N2A 3W3**

Dear Sir/Madam:

**240 YEOMANS ST BELLEVILLE, ON.
Case #: BEPS20240566**

Your property described above and in Schedule "A" does not conform to the standards prescribed in the City of Belleville Property Standards By-Law 2012-79 as amended, particulars of which are as set out in Schedule "B" attached hereto.

IT IS HEREBY ORDERED:

1. Your property be repaired and maintained in accordance with the requirements in Schedule "B", such work to be carried out **no later than July 17, 2024**, and if such repairs are not carried out within such time, or the property is not maintained as required, the City of Belleville may carry out the repairs and maintenance work at your expense. Should further repairs and maintenance work be necessary at a later time as a result of your failure to maintain and keep your property in repair in accordance with the requirements in Schedule "B", the City of Belleville, without further notice to you, may carry out such further repairs and maintenance work at your expense.

You may appeal this Order to the Property Standards Committee by sending Notice of Appeal, accompanied by a non-refundable cheque in the amount of One Hundred Dollars (\$100.00), by registered mail to the Secretary of the Committee by the 17th day of July, 2024.

Dated at the City of Belleville this 28 day of June, 2024.

**Michelle Wright
Property Standards Officer
City of Belleville – Building Dept.
(613) 967- 3322
mwright@belleville.ca**

SCHEDULE "A"

In the City of Belleville,

**PLAN 92 LOTS 14, 21 & PT LOT;15, 20, PT UNION, YEOMANS & RAILWAY ST RP
21R18413 PARTS;1, 2, & 3**

Municipally known as 240 YEOMANS ST
BELLEVILLE, ON

SCHEDULE "B"

The City of Belleville Property Standards By-law No. 2012-79 as amended
Provision(s):

Section 3 - Maintenance of Accessory and Unoccupied Buildings and Yards

3.2.1 Where any property is unoccupied the owner or his agent shall protect every such property against the risk of fire, accident or other danger and shall effectively prevent the entrance thereto of all unauthorized persons, and shall protect against weather damage.

Section 3 - Maintenance of Accessory and Unoccupied Buildings and Yards

3.3.1 Storm water shall be drained from the yard so as to prevent recurrent ponding or the entrance of water into a basement or cellar.

Section 3 - Maintenance of Accessory and Unoccupied Buildings and Yards

3.10.1 All yards shall be kept clean and free from rubbish, garbage, brush, or other debris and from objects or conditions that might create a health, fire or accident hazard.

Section 3 - Maintenance of Accessory and Unoccupied Buildings and Yards

3.10.4 All yards shall be kept reasonably free of weeds and heavy undergrowth. Noxious weeds shall be eliminated.

Section 3 - Maintenance of Accessory and Unoccupied Buildings and Yards

3.10.5 Grasses shall be maintained at a reasonable length.

Section 3 - Maintenance of Accessory and Unoccupied Buildings and Yards

3.10.6 All yards and vacant lots shall be kept clean and free from termites, rodents, vermin and other pests and any conditions which might result in the harbouring of such pests.

Section 3 - Maintenance of Accessory and Unoccupied Buildings and Yards

3.10.7 All yards and vacant lots shall be free of dilapidated or collapsed structures or accumulation of materials, inoperative machinery, or any parts thereof or any

other unsafe condition or unsightly condition out of character with the surrounding environment.

Section 3 - Maintenance of Accessory and Unoccupied Buildings and Yards

3.10.8 All yards and vacant lots shall be free of holes or excavations or any unprotected wells that might create an accident or health hazard.

Section 3 - Maintenance of Accessory and Unoccupied Buildings and Yards

3.11.1 Premises which, because of their use or occupancy, or for any other reason, create a nuisance to adjacent premises or to the neighbourhood or to the users of streets or parks shall be buffered from such premises or public areas so as to minimize the effect of the nuisance.

Section 3 - Maintenance of Accessory and Unoccupied Buildings and Yards

3.11.2 Without limiting the generality of the foregoing, such buffering shall include: a) the provision and maintenance of an effective barrier to prevent wind blown waste, wrappings, debris and the like from encroaching on the adjacent premises; and b) the provision and maintenance of a visual screen, appropriate to the nature of the adjacent uses, to minimize the visual impact of nuisances to persons at grade adjacent to the property; and c) to prevent lighting and vehicle headlights in parking areas from shining directly into dwelling unit windows; and d) to screen transformers and other similar structures and/or equipment; and e) to provide a safe route for persons and vehicles.

Section 4 - Maintenance of Buildings and Structures

4.7.1 The exterior walls and other parts of the building shall be free from loose, rotted, warped and broken materials and objects. Such materials and objects shall be removed, repaired or replaced.

Section 4 - Maintenance of Buildings and Structures

4.7.2 All exterior surfaces shall be of materials, which provide adequate protection from the weather and insects.

Section 4 - Maintenance of Buildings and Structures

4.7.3 The exterior walls and their components shall be adequate to support the loads upon them and shall have an acceptable cladding or covering, free of holes, cracks or excessively worn surfaces, to prevent the entry of moisture into the structure and provide reasonable durability and shall be so maintained by the painting, restoring or repairing of the walls, coping or flashing and by the waterproofing of joints and of the walls themselves and by the installing or repairing of terminate shields or other suitable methods.

Section 4 - Maintenance of Buildings and Structures

4.9.1 All exterior door openings shall be fitted with exterior grade doors and all exterior window openings shall be fitted with exterior grade windows.

REQUIRED ACTION

1. Remove all rubbish, garbage, brush or other debris from all portions of the above captioned property. This is including, but not limited to, broken/discarded metals and materials, loose litter such as fast food containers, coffee cups, discarded tarps, etc. The property shall be kept clean and free of rodents and other pests and conditions which may result in the harboring of such pests. Refer to all photos below.
2. Cut all grass and weeds on all portions of the above captioned property and maintain at a reasonable length. Refer to photos 2, & 3.
3. The above captioned property shall be free of holes and excavations that might create an accident or health hazard. This is including, but not limited to, the hole directly south on Union Street along the East side of the property. Refer to photo 5.
4. Measures shall be put into place so as to not create a nuisance to adjacent premises or to the neighborhood or to the users on the streets. This is including, but not limited to, the cleanup of loose litter, waste, wrappings, debris, etc., noise being created by loose or ripped materials such as the Tyvek air barrier material, etc. Refer to photos 6 & 7.

PHOTO 1



PHOTO 3



PHOTO 2



PHOTO 4



PHOTO 5



PHOTO 6



PHOTO 7





**The City of Belleville
Engineering & Development Services**

Building Section, 2nd Floor
Department Number: 613-967-3204
Department Fax Number: 613-967-3262
Department TTY Line: 613-967-3268

July 30, 2024

CITY ACTION

BEPS20240566

**2460467 ONTARIO INC
29 IDLE RIDGE CRT
KITCHENER, ON
N2A 3W3**

Dear: Sir/Madam,

RE: Order of the Property Standards Officer. 240 YEOMANS ST. Case# BEPS20240566.

Please be advised this office is now prepared to take whatever steps necessary to satisfy the captioned "Order". All costs and Administration fees incurred will be collected as taxes.

If you wish to undertake the required remedial action yourself, immediately contact the undersigned no later than **August 12 2024**. If we do not hear from you by this date the Municipality will proceed to complete the work and add all costs to your Municipal Tax Bill and/or may proceed with legal action.

Sincerely,

**Michelle Wright
By-Law Enforcement Officer
City of Belleville – Building Dept.
(613) 967-3322
mwright@belleville.ca**

Administration Fee of \$150.00 plus \$50.00 per inspection after issuing "City Action" letter.

Court File No.: CV-24-00096502-0000

IN THE MATTER OF AN APPLICATION PURSUANT TO 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

DUCA FINANCIAL SERVICES CREDIT UNION LTD. - and - 2460467 ONTARIO INC.

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDINGS COMMENCED AT OTTAWA

REPLY AFFIDAVIT OF IVAN BOGDANOVICH
(Sworn August 6, 2024)

BORDEN LADNER GERVAIS LLP

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