



**ONTARIO SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00744295-00CL

DATE: November 25, 2025

NO. ON LIST: 2

TITLE OF PROCEEDING: IN THE MATTER OF RIOCAN REAL ESTATE INVESTMENT TRUST

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

Counsel in Attendance:

Name of Person Appearing	Name of Party	Contact Info
Robert J. Chadwick	RioCan Real Estate	(416) 597-4285 rchadwick@goodmans.ca
Julie Rosenthal	RioCan Real Estate	(416) 597-4259 jrosenthal@goodmans.ca
Andrew Harmes	RioCan Real Estate	(416) 849-6923 aharmes@goodmans.ca
Deborah E. Palter	Oxford Properties	(416) 304-0148 dpalter@tgf.ca
D.J. Miller	Oxford Properties	(416) 304-0559 djmillier@tgf.ca
Andrew Nesbitt	Oxford Properties	(416) 307-2413 anesbitt@tgf.ca
Evan Cobb	FTI (Receiver)	(416) 216-1929 evan.cobb@nortonrosefulbright.com
Nadine Tawdy	FTI (Receiver)	(416) 216-2439 Nadine.tawdy@nortonrosefulbright.com
James Renihan	FTI (Receiver)	(416) 216-1944 james.renihan@nortonrosefulbright.com
Orestes Pasparakis	FTI (Receiver)	(416) 216-4815 O.p@nortonrosefulbright.com

ENDORSEMENT OF JUSTICE OSBORNE:

- [1] This Endorsement flows from the case conference I conducted yesterday, November 24, on an urgent basis.
- [2] I previously endorsed a case management timetable for this motion, which I provisionally scheduled for a full day hearing on December 16, 2025.
- [3] On the weekend, counsel for Oxford Properties contacted the Court to request an urgent case conference to seek directions. Oxford took the position that reply evidence served late on November 21 by RioCan and the Receiver was improper on the basis that portions of it related to evidence that Oxford had previously requested before delivering its own responding record, and on the basis that RioCan and the Receiver had improperly split their case. Oxford therefore sought an order striking the improper reply evidence from the record or, in the alternative, adjourning the motion and granting Oxford a reasonable opportunity to deliver a sur-reply, which would necessitate the setting of a new timetable and a rescheduling of the hearing date.
- [4] In particular, Oxford, submits that the improper reply evidence includes paragraphs 19 to 32, 53 to 57, 61 to 68 and 74 of the affidavit of Dennis Blasutti sworn November 21, 2025, together with Exhibits "B" and "I" thereto; certain enumerated excerpts from the expert report of James Tate dated November 21, 2025; and the entire affidavit of Ian Putnam sworn November 21, 2025.
- [5] RioCan submits that there is no basis for Oxford's objection, that the impugned evidence is proper reply, but in the alternative, if Oxford is permitted to file sur-reply evidence, that evidence should be delivered on a timetable that would permit cross examinations and the hearing of the motion to proceed as scheduled.
- [6] The Receiver also submits that the impugned evidence is proper reply.
- [7] There is no issue among the parties about the law relating to proper reply: see *Johnson v. North American Palladium Ltd.*
- [8] There are two issues.
- [9] First, as I advised counsel at the case conference yesterday before hearing submissions from any of them, I have a practical challenge on the Commercial List that due in large part to illness on the List, I do not have a judge available for a full day motion on December 16. This motion is important to the parties and cannot be properly addressed before or after regular court hours on an expedited basis as I would ordinarily be prepared to do. Accordingly, the

motion must be adjourned as a result of scheduling logistics regardless of the issue of reply evidence.

[10] Second, and separate and apart from the scheduling challenges, in my view, considering the particular circumstances of this case, fairness and a just and equitable balancing of the interests of the parties requires not that the impugned evidence be struck, but rather that Oxford be given an opportunity to file sur-reply to respond to the evidence.

[11] It follows that, for both reasons, the motion date of December 16 is hereby vacated. The motion will be rescheduled for a full day hearing before me as soon as possible. I have spoken with the Commercial List Trial Coordinator, and will adjust the schedule to hear this matter on Wednesday, January 14, 2026 commencing at 10 AM and continuing as necessary for a full day. I am hopeful, given this direction, that the parties can work out among themselves a timetable (revised) for the delivery of Oxford's sur-reply materials and cross examinations as may be necessary. If they cannot do so (which I hope will not be the case), they should advise the Commercial List office and I will fix a schedule.



Date: Nov 24, 2025

Peter J. Osborne