

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

In the matter of an Application under Section 243(1) of the Bankruptcy and Insolvency Act (Canada), R.S.C. 1985, C. B-3, as am.; and Section 101 of the Courts of Justice Act (Ontario), R.S.O. 1990, C. C.43, as am.

**RIOCAN REAL ESTATE INVESTMENT TRUST, RIOCAN HOLDINGS INC.,
RIOCAN HOLDINGS (OAKVILLE PLACE) INC., RIOCAN PROPERTY
SERVICES TRUST, RC HOLDINGS II LP, RC NA GP 2 TRUST and RIOCAN
FINANCIAL SERVICES LIMITED**

Applicants

and

**2455034 ONTARIO LIMITED PARTNERSHIP, 2455034 ONTARIO INC.,
2491815 ONTARIO LIMITED PARTNERSHIP, 2491815 ONTARIO INC., 2491816
ONTARIO LIMITED PARTNERSHIP, 2491816 ONTARIO INC., 2681842
ONTARIO LIMITED PARTNERSHIP, 2681845 ONTARIO INC., and 2681842
ONTARIO INC**

Respondents

REPLY COSTS SUBMISSIONS OF OXFORD PROPERTIES GROUP

March 25, 2026

THORNTON GROUT FINNIGAN LLP
100 Wellington Street West
Suite 3200, TD West Tower
Toronto ON M5K 1K7

D.J. Miller (LSO# 34393P)
Email: djmiller@tgf.ca / Tel.: (416) 304-0559

Deborah E. Palter (LSO #37962K)
Email: dpalter@tgf.ca / Tel: (416) 304-0148

Andrew Nesbitt (LSO# 905140)
Email: anesbitt@tgf.ca / Tel.: (416) 307-2413

Lawyers for Oxford Properties Group

1. The Receiver's motion was no garden variety motion by an impartial court officer for approval of a transaction. The Receiver and RioCan acted as one in bringing the motion. Both filed materials and cross-examined Oxford's witnesses. RioCan reviewed the Receiver's draft materials.¹ The Receiver relied on RioCan's evidence. They split the argument at the hearing.
2. RioCan and Oxford were the only stakeholders with an interest in the outcome. The Receiver acted solely for RioCan's benefit and entirely ignored Oxford's interests.
3. Oxford *does* seek costs payable by the Receiver forthwith. Contrary to paragraphs 4, 17 and 20 of the Receiver's submissions, courts consistently reject the position that receivers litigate with "one-way risk". They are liable for costs as any litigant but are entitled to seek indemnity from: (a) the assets in the estate; or (b) an indemnity agreement, if any. If the Receiver has no source of indemnity, then it "litigate[d] at its peril".² The Court of Appeal has confirmed that "[i]t does not matter that the receiver [...] was acting in good faith or that it appeared desirable to the receiver [...] to pursue the proceeding"³ or, as the Receiver suggests, that it acted "creatively".
4. The Receiver cites no authority for the proposition at paragraph 4 of its submissions that it is "*unusual for costs to be awarded where a court declines to approve a transaction proposed by a court-appointed officer*". Even if that were so, it is rarer still for a Court to reject a proposed transaction because a receiver acted unfairly, as the Receiver did. This justifies an award of costs.
5. Contrary to paragraphs 7-10 of the Receiver's submissions, Oxford's multimillion dollar offer was not "trivial" or "tactical".⁴ Oxford's offer was a *bona fide* effort to resolve the motion and justifies elevated costs. The offer contemplated RioCan's involvement because RioCan

¹ Undertakings Chart of Dennis Blasutti, Items 2-3, Cross Brief, Vol 1, Tab 3A, [Case Center E2727](#). RioCan's review of the Receiver's draft materials included the Receiver's answers to Oxford's Written Interrogatories.

² *Hunert-Fara v Faga*, 2013 ONSC 1581 [at paras 13](#) and [16](#), per DM Brown J.

³ *Akagi v Synergy Group (2000) Inc*, 2015 ONCA 771 [at para 23](#).

⁴ \$2.5 million exceeds the amount paid for any HBC lease in the CCAA and receivership proceeding. \$5 million is exponentially more. Monitor's Fifth Report, [Case Center E595](#); Monitor's Seventh Report, [Case Center E732](#), [E735](#).

asserted a security interest, was directing the Receiver in all aspects of the motion, and given the terms of the Appointment Order.⁵ The fact that the offer clearly described the terms (which tracked the Appointment Order and a Lease Surrender Order obtained in the proceeding for the JV locations of Cadillac Fairview)⁶ does not make it any less of an offer to settle, or “coercive”.

6. It does not lie with the Receiver to challenge the reasonableness of Oxford’s costs when the true costs (incurred by the Receiver and RioCan) of bringing the motion are unknown. It is well-established that, in these circumstances, the Court should infer that the parties bringing the motion devoted “as much or more time and money” as Oxford.⁷ The Receiver cannot credibly argue that Oxford’s costs were not within its reasonable expectation when the Receiver failed to file a complete cost outline and much of the work that would have been borne by the Receiver was instead performed by RioCan (the party with the economic interest), who did not file a cost outline.

7. Further, Oxford’s costs were reasonable. It incurred ~\$558,000 in partial indemnity costs over a period of 21 weeks from when the Receiver served its Second Report and refused to produce the Proposed Sublease. This is proportionately less than the ~\$387,000 that this Court held was reasonably incurred in the four (4) weeks leading to the “Ruby Liu” motion, where Oxford shared the litigation burden by allocating the work among various counsel for eight other landlords.⁸

8. The Receiver does not have a license to ignore *Soundair* principles and take litigation risks on behalf of one stakeholder without cost consequences. The Receiver aggressively pursued its motion without regard to Oxford’s interests and lost. It is appropriate to award Oxford its costs.

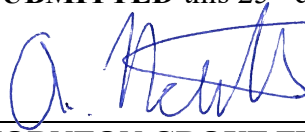
⁵ Appointment Order at para 6, [Case Center E1866](#). When Oxford’s offer was made, RioCan had taken an assignment of RBC’s security interest and asserted that position.

⁶ See Notice of Motion of the Receiver dated September 24, 2025, [Case Center E439](#), and the Lease Surrender Approval Order, [Case Center E921](#) with respect to the lease surrender transactions at the Laval and St. Bruno properties of Cadillac Fairview for the JV Entities. See also the Appointment Order at para 5(q), [Case Center E1865](#).

⁷ *Frazer v Haukioja*, 2010 ONCA 249 [at para 73](#).

⁸ *In re Hudson’s Bay Company*, 2026 ONSC 1331 [at para 56](#).

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 25th day of March, 2026.



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D.J. Miller (LSO# 34393P)

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Lawyers for Oxford Properties Group, *et al.*

RIOCAN REAL ESTATE INVESTMENT TRUST et al v. 2455034 ONTARIO LIMITED PARTNERSHIP et al

Applicants

Respondents

Court File No.: CV-25-00744295-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

REPLY COSTS SUBMISSIONS OF OXFORD
PROPERTIES
(YORKDALE SUBLEASE MOTION)

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