

CITATION: CMLS Financial Ltd. v. Ashcroft Development Inc. et al., 2026 ONSC 5101
COURT FILE NO.: CV-25-101333
DATE: 2026 09 08

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

RE: CMLS FINANCIAL LTD., Applicant

AND:

ASHCROFT DEVELOPMENT INC., HP ABL FUND 1 GP INC. and HP ABL
FUND 1 LIMITED PARTNERSHIP, Respondents

BEFORE: C. MacLeod RSJ

COUNSEL: Josh Suttner and Calvin Horsten, for the Applicant

Chad Kopach for the proposed receiver

Alexander Bissonnette, for the Respondent Ashcroft

J. F. Lalonde, for the HP ABL Fund Respondents

HEARD: September 8, 2026

DECISION AND REASONS

[1] This is the return of a Receivership application that was originally before the court in March of this year. At that time, I ruled on the validity of the security and the guarantees, but I declined to appoint the Receiver due to efforts the Respondent had undertaken to sell the properties and pay down debt. (see 2026 ONSC 1824)

[2] As discussed in the previous reasons, CMLS had obtained a \$10 million second charge over the subject lands owned by ADI, as a result of a forbearance agreement in relation to a loan owed by Ashcroft Urban Developments Inc. (AUDI). The AUDI loan had a balance of around \$65 million when the parties appeared in March.

[3] The subject lands are also encumbered by a first charge in favour of HP but HP has other security as well. Various Ashcroft entities are in receivership and either through the activities of receivers or Ashcroft's own efforts, various properties and assets have been sold.

[4] Since the hearing in March, there has been a significant reduction of the CMLS debt. In fact it has been reduced to the approximate amount secured by the guarantee and security over these lands.

[5] In addition, an adjoining piece of land to one of these parcels has been sold and is expected to close in October. That sale will reduce the indebtedness of ADI to HP and thus improve the position of the Applicant with respect to the subject lands.

[6] There is also an ongoing negotiation with regard to one of the subject parcels of land and I am satisfied from the affidavit of Mr. Difillipo that although the listing agreement for the subject lands has expired, that does not indicate a lack of effort on the part of the Ashcroft entities to market the properties and pay down its debt.

[7] These are vacant development lands and there is a limited pool of potential purchasers. It would not be reasonable to interfere with a potential sale or drive up the costs by putting in a Receiver at this time.

[8] The appointment of the Receiver is opposed by the Respondent but also by HP. Far from the evidence indicating that the Applicant is prejudiced by delay, it appears to me that the position of the Applicant has improved and will continue to improve as the total debt to CMLS approaches the \$10 million that is guaranteed and fully secured against the subject lands.

[9] On the other hand, I agree that the Applicant should not have to wait forever. It has, as detailed in the earlier reasons, security documents that include both the right to appoint a Receiver or to exercise private power of sale. I am prepared to permit ADI to continue its efforts to either sell the subject lands or pay down the debt from other resources or both.

[10] Consequently, I am adjourning the Application to January 15, 2027 at 10:00 a.m. The parties can anticipate that if little has changed and there is no immediate prospect of CMLS being paid in full, a Receiver may well be appointed over these assets.

[11] Ashcroft is to continue its efforts to unlock the value in these lands and to pay off the encumbrances. Counsel for the Applicant and for HP are to be kept advised of those efforts and any other developments which might impair the value of the security.

[12] Costs of today are reserved to the return of the Application. I recognize that there is an outstanding costs award in relation to the appearance in March and I have received written submissions. That costs decision will also be relevant at the hearing in January.

September 8, 2026

Justice C. MacLeod