

Court File No. CV-20-00640265-00CL  
Court File No. CV-20-00640266-00CL

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

**IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT,  
R.S.O 1990, C. C. 43, AS AMENDED**

**AND IN THE MATTER OF THE ADMINISTRATION PROCEEDINGS OF  
CARRIAGE HILLS VACATION OWNERS ASSOCIATION**

**AND IN THE MATTER OF THE ADMINISTRATION PROCEEDINGS OF  
CARRIAGE RIDGE OWNERS ASSOCIATION**

**STATEMENT OF LAW**  
**(Motion returnable February 13, 2024)**

Date: February 9, 2024

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

**IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT,  
R.S.O 1990, C. C. 43, AS AMENDED**

**AND IN THE MATTER OF THE ADMINISTRATION PROCEEDINGS OF  
CARRIAGE HILLS VACATION OWNERS ASSOCIATION**

**AND IN THE MATTER OF THE ADMINISTRATION PROCEEDINGS OF  
CARRIAGE RIDGE OWNERS ASSOCIATION**

**STATEMENT OF LAW**  
**(Motion returnable February 13, 2024)**

**FACTS**

1. The Carriage Hills Vacation Owners Association and the Carriage Ridge Owners Association (collectively, the “**Associations**”) were each incorporated by letters patent as a corporation without share capital under the *Corporations Act*, RSO 1990, c C.38 (the “*OCA*”).<sup>1</sup>

**LAW**

**Dissolution under the *Corporations Act* (Ontario)**

2. An *OCA* corporation can be wound up by order of the Superior Court of Justice (the “**Court**”) where, among other circumstances, in the opinion of the Court it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up.<sup>2</sup>

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<sup>1</sup> Ninth Report of the Receiver dated February 1, 2024, at section 1.1.3.

<sup>2</sup> [OCA section 243](#).



3. Upon making a winding-up order, the Court may appoint a liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property.<sup>3</sup>
4. The fees and disbursements of the liquidator are payable out of the estate in priority to all other claims.<sup>4</sup>
5. If the liquidator is unable to distribute rateably the property of the corporation among its members because a member's whereabouts is unknown, the share of the property of the corporation of such member may, by agreement with the Public Guardian and Trustee, be delivered or conveyed by the liquidator to the Public Guardian and Trustee.<sup>5</sup>
6. At any time after the affairs of the corporation have been fully wound up, the Court may, upon the application or motion of the liquidator, make an order dissolving the corporation.<sup>6</sup>
7. Where the realization and distribution of a wound-up corporation's property has proceeded to the point that it is expedient that the liquidator be discharged, the Court may make an order discharging the liquidator and for payment of the funds remaining in the liquidator's hands into Court or to another person.<sup>7</sup>

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<sup>3</sup> [OCA section 246.](#)

<sup>4</sup> [OCA section 255.](#)

<sup>5</sup> [OCA section 268.](#)

<sup>6</sup> [OCA section 267.](#)

<sup>7</sup> [OCA section 270.](#)

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of February, 2024.



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**SCHEDULE “A”**  
**TEXT OF STATUTES, REGULATIONS AND BY-LAWS**

[Corporations Act, RSO 1990, c C.38](#)

**Definitions**

1 (1) In this Act,

...

“corporation” means a corporation with or without share capital, but in Part III “corporation” means a corporation without share capital;

“court” means the Superior Court of Justice;

...

“Director” means the Director appointed under section 278 of the *Business Corporations Act*;

...

**Winding up by court**

243 A corporation may be wound up by order of the court,

- (a) where the shareholders or members by a majority of the votes cast at a general meeting called for that purpose pass a resolution authorizing an application to be made to the court to wind up the corporation;
- (b) where proceedings have been begun to wind up voluntarily and it appears to the court that it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;
- (c) where it is proved to the satisfaction of the court that the corporation, though it may be solvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or
- (d) where in the opinion of the court it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up.

...

### **Appointment of liquidator**

246 (1) The court in making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property.

...

### **Costs and expenses**

247 The costs, charges and expenses of a winding up by order of the court shall be assessed by an assessment officer. .

...

### **Winding up after order**

249 Where a winding-up order has been made by the court, the winding up of the corporation shall be conducted in the same manner and with the like consequences as provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator prior to the winding-up order, in which case the list is subject to review by the court, and except that all steps in the winding up are subject to the order and direction of the court.

...

### **Consequences of winding up**

254 (1) Upon a winding up,

- (a) the liquidator shall apply the property of the corporation in satisfaction of all its liabilities proportionately and, subject thereto, shall distribute the property rateably among the shareholders or members according to their rights and interests in the corporation;
- (b) in distributing the property of the corporation, the wages of all employees, apprentices and other wage earners in the employment of the corporation due at the date of the commencement of the winding up or within one month before, not exceeding three months wages and for vacation pay accrued for not more than twelve months under the *Employment Standards Act* and the regulations thereunder or under a collective agreement made by the corporation, shall be paid in priority to the claims of the ordinary

creditors, and such persons are entitled to rank as ordinary creditors for the residue of their claims;

- (c) all the powers of the directors cease upon the appointment of a liquidator, except in so far as the liquidator may sanction the continuance of such powers.

### **Distribution of property**

- (2) Section 53 of the *Trustee Act* applies with necessary modifications to liquidators.

### **Payment of costs and expenses**

255 The costs, charges and expenses of a winding up, including the remuneration of the liquidator, are payable out of the property of the corporation in priority to all other claims.

...

### **Order for dissolution**

267 (1) Despite section 266, in the case of a voluntary winding up or in the case of a winding up by order of the court, the court at any time after the affairs of the corporation have been fully wound up may, upon the application or motion of the liquidator or any other person interested, make an order dissolving it, and it is dissolved at and from the date of the order.

### **Copy of dissolution order to be filed**

(2) The person on whose application the order was made shall file with the Minister, within 10 days after the order was made, a copy of the order certified under the seal of the court, a notarial copy of the certified copy or any other type of copy of the order permitted by the Director.

...

### **Where shareholder unknown**

268 (1) Where the liquidator is unable to distribute rateably the property of the corporation among the shareholders or members because a shareholder or member is unknown or the person's whereabouts is unknown, the share of the property of the corporation of such shareholder or member may, by agreement with the Public Guardian and Trustee, be delivered or conveyed by the liquidator to the Public Guardian and Trustee to be held in trust for the shareholder or member, and thereupon subsections 319 (5) and (6) apply thereto.

**Idem**

(2) A delivery or conveyance under subsection (1) shall be deemed to be a rateable distribution among the shareholders or members for the purposes of clause 254 (1) (a).

...

**Provision for discharge of liquidator and distribution by the court**

270 (1) Where a corporation is being wound up under an order of the court and the realization and distribution of its property has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the corporation remaining in the liquidator's hands can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court may direct, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

**IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O  
1990, C. C. 43, AS AMENDED**

**AND IN THE MATTER OF THE ADMINISTRATION PROCEEDINGS OF CARRIAGE HILLS  
VACATION OWNERS ASSOCIATION**

**AND IN THE MATTER OF THE ADMINISTRATION PROCEEDINGS OF CARRIAGE RIDGE  
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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**Proceedings commenced at Toronto**

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**STATEMENT OF LAW**  
(Returnable February 13, 2024)

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