

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

EFM Transfer Agent, LLC	:	
	:	Case No. 21 CV 5425
Plaintiff,	:	
	:	Judge Sheryl K. Munson
vs.	:	
	:	
Apex Colonial OH, LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	

FIRST REPORT OF RECEIVER

Robert J. Weiler, Sr., the court-appointed receiver (the “Receiver”) for the Colonial Village Apartments (the “Property”), submits this First Report of Receiver pursuant to Local Rule 66.06.

I. INTRODUCTION

Local Rule 66.06 provides that “[a]t the outset of the receivership, or as soon thereafter as information becomes reasonably available, the court shall be provided with a written plan for the receivership.” Local Rule 66.06(A). The Local Rules set out specific categories of information on which the Court requires information. This filing is submitted in fulfillment of the Receiver’s ongoing duties under Local Rule 66.06 and will be periodically updated throughout the course of the Receivership pursuant to Local Rule 66.06(G).

Accordingly, this filing discusses and identifies the following:

- i. the nature of the Property and the property leasing and management operations under the control of the Receiver, a statement of the circumstances leading to the receivership filing, an overview of the current case posture, and a report from the Receiver since being appointed;
- ii. the disclosure of significant assets of the receivership estate;

iii. the goals of the Receiver as it relates to the Property in receivership, including estimated liquidation dates and methods;

iv. the anticipated transactional costs predicted for the receivership, including professional costs, operational costs and employee costs;

v. the anticipated litigation within the receivership and the expected costs for such proceedings; and

v. the expected duration of the receivership.

The Receiver respectfully requests that the Court, upon analysis of the contents of this filing, enter an order approving the report. A proposed order is attached.

II. BACKGROUND INFORMATION

A. The City's Environmental Case and EMF's present foreclosure case

i. The City's Environmental Case

1. This matter concerns the Colonial Village Apartments, a 508-unit multi-family residential apartment complex located on the east side of Columbus. The Property spans 34 parcels and consists of 96 buildings.

2. The genesis of this litigation arises out of the case of *State Ex Rel. Columbus City Attorney Zach Klein v. Apex Colonial OH, LLC, et al.*, Case No. 2021 EVH 60155 (the "Environmental Case"), pending in the Franklin County Municipal Court, Environmental Division (the "Environmental Court"), the Honorable Judge Stephanie Mingo presiding.

3. The Environmental Case was initiated on April 14, 2021, by the City of Columbus, Ohio (the "City"), through the filing of its *Complaint for Preliminary and Permanent Injunctive Relief* (the "Environmental Complaint") against Apex Colonial OH, LLC ("Apex Colonial"), certain principals of Apex Colonial, lienholders against the Property, and other interested parties.

4. In the Environmental Complaint, the City alleged that the Property was the subject of chronic code violations and unsanitary conditions. It alleged that from 2019 to 2021, hundreds of code violations were issued against the Property for numerous different types of interior and exterior code violations, many of which impacted the base habitability of the units at the Property. It further alleged that the code violations at the Property were not being managed or remedied, and that the prior and current owners of the Property had ignored their basic duties to tenants and the surrounding community.

5. In addition, the City alleged that the Property's condition was leading to a rampant amount of reported crime at the Property. It explained that the Property was a location known by the Columbus Division of Police ("CPD") as being notorious for extremely high levels of crime. As an example, the City alleged that in the 18-month period from January 2018 to June 2019, CPD was called to the Property over 4,000 times, 500 of which were incidents of violence (including 5 shootings and 2 homicides).

6. During the time preceding the filing of the Environmental Complaint, the CPD assisted the City of Columbus Code Compliance Department ("Code Enforcement") with inspections at the Property. The CPD reported to the City that there were significant issues found through its security assessment at the Property, including lack of appropriate security coverage, inadequate lighting, non-operating security cameras, unsecure vacant units, and deficient maintenance of locks, windows, doors, and other resident safety devices.

7. The City alleged that despite ongoing efforts by the City, Code Enforcement, and the CPD to meet with the owners of the Property and improve matters, the code issues, security issues, and deterioration of the Property continued largely unabated. To make matters worse, in

approximately November 2020, security services at the Property were discontinued by the CPD and a private security company due to non-payment.

8. Just as problematic, Apex Colonial ceased paying the City's Department of Public Utilities ("DPU") for ongoing utility usage at the Property. This resulted in a substantial number of shutoff notices being issued to tenants for electric, water, and sewer services.

9. Ultimately, the City alleged in the Environmental Case that the Property constituted a public nuisance due to the ongoing code violations and criminal activity. The City specifically alleged that among its concerns was the fact that nearly 100 residents at the Property were participants in the Columbus Metropolitan Housing Association's Housing Choice Voucher Program (which provides housing assistance for very low-income families, the elderly and disabled) and clients of the Community Shelter Board (an organization that serves individuals in need of rapid re-housing and supportive housing for homelessness prevention and shelter services). That is, among the clientele served at the Property are some of the City's most in-need and vulnerable citizens.

10. After the filing of the Environmental Case, on April 30, 2021, Apex Colonial and related entities entered with the City into the *Agreed Court Order and Preliminary Injunction* (the "Preliminary Injunction"). Through the Preliminary Injunction, Apex Colonial agreed, among other things, to the following:

- a. immediately restart security services at the Property;
- b. remediate all outstanding emergency interior unit and exterior common area code violations and all open structure violations within 90 days;
- c. coordinate and permit regular inspections of the Property by Code Enforcement and the CPD;

- d. ensure timely and thorough securing of vacant units;
- e. remove individuals engaging in criminal activity at the Property; and
- f. develop and present a plan for the remediation of exterior code violations at the Property.

11. Within weeks of the entry of the First Injunction, the City filed a motion for contempt, alleging that Apex Colonial failed to pay for security services. Apex Colonial forfeited a bond that was posted, which was paid to the security company to obtain restarted services.

12. Thereafter, prior to a scheduled permanent injunction hearing before the Environmental Court, the City and Apex Colonial entered and submitted the *Stipulated Order for Permanent Injunctive Relief* (the “Permanent Injunction”). Through the entry of the Permanent Injunction, the Environmental Court found that the Property constituted a public nuisance as defined by R.C. §§ 3719.19, 3767.01 and 3767.41, Columbus City Code § 4703.01, and under common law. Apex Colonial and others were enjoined from maintaining a public nuisance at the Property, and the injunction was determined to run with the land to any future owners of the Property.

13. The Permanent Injunction contained many renewed provisions that matched those within the Preliminary Injunction. In addition, it contained new provisions related to the screening of potential new owners of the Property, appropriate staffing of property management, certain minimum service requirements for maintenance, additional provisions related to rent receipts and deposit receipts, new rules for the Property prohibiting certain behavior, additional provisions to enhance security measures, and more detailed provisions related to the abatement of code violations.

14. Again, within weeks of entry of the Permanent Injunction, the City filed another motion for contempt, alleging that Apex Colonial failed to comply with multiple matters contained in the Permanent Injunction. Ultimately, on September 15, 2022, the City and Apex Colonial entered a *Stipulated Order for Contempt* under which the Environmental Court held Apex Colonial in contempt for failing to abide by the Permanent Injunction.

15. Around that time, the City began to explore the possibility of seeking the appointment of a receiver over the Property using R.C. § 3767.41 as the basis for appointment. Under that code section, after a real property has been found to constitute a public nuisance, and after the owner and lienholders on the property have been given adequate opportunity to address the nuisances, a court may appoint a receiver to abate the nuisances. The power of that section is that a 3767.41 receiver's administrative claims prime all liens on the property, including real property taxes and any first mortgage.

16. Because of the possibility of the appointment of a 3767.41 receiver, the City and EFM Transfer Agent, LLC ("EFM" or the "Plaintiff"), the first mortgage holder on the Property, began discussions as to how to resolve the nuisance issues at the Property. Once it was determined that EFM would be filing a foreclosure case due to defaults under its loan, the City and EFM agreed to jointly move for the appointment of a receiver in this case.

17. Since the filing of this case, the Environmental Case has continued with various matters, including additional contempt proceedings. For instance, on January 25, 2022, the Environmental Court held a hearing on the continued violations of the Permanent Injunction in the period preceding the appointment of the Receiver. On March 18, 2022, the Environmental Court issued a new order finding that Apex Colonial was in contempt of its Permanent Injunction and issued a new fine of \$50,000.00 (which has not been paid).

ii. EFM's present foreclosure case

18. This case was initiated on August 26, 2021, through EFM's filing of its *Complaint for Breach of Loan Documents and Foreclosure* (the "Complaint"), against Apex Colonial, certain guarantors of the EFM loan, lienholders against the Property, and other interested parties. The City of Columbus, Ohio (the "City") is among the defendants.

19. Through the Complaint, the Plaintiff alleged that it was the holder of a promissory note, mortgage, and other loan documents under which the Plaintiff was the first priority lienholder against the Property in the amount of approximately \$15.5 million, plus continuing interest, fees, and collection-related costs (the "EFM Loan"). The Complaint sets forth in detail the documents that underly the EFM Loan, including its perfected security interest in the Property.

20. EFM alleged in the Complaint that Apex Colonial and the loan guarantors were in default under the EFM Loan, and that as a result, EFM was entitled to a judgment for the full amount due. It further alleged that it was entitled to foreclose on its first mortgage against the Property. Among the other relief requested, EFM sought relief through the appointment of a receiver over the Property.

21. Immediately after filing the Complaint, EFM and the City filed the *Joint Motion of Plaintiff EFM Transfer Agent, LLC and Interested Party City of Columbus for the Appointment of a Receiver* (the "Receiver Motion"). Through the Receiver Motion, EFM and the City jointly moved for the appointment of a receiver. EFM set forth that the documents supporting the EFM Loan permitted the appointment of a receiver. The City indicated that the ongoing issues in the Environmental Case and the state of the Property as a public nuisance provided an independent basis for the appointment of a receiver. The Receiver Motion set forth the qualifications of the Receiver, his counsel, and the proposed property manager to operate this receivership estate.

22. Apex Colonial never answered the Complaint nor did it respond to the Receiver Motion. A default judgment motion was filed on October 4, 2021, by EFM. Thereafter, the Court entered an *Order Appointing Receiver* on October 5, 2021, appointing the Receiver over the Property (the “Initial Appointment Order”).

23. As the Receiver began the process of transitioning into his role in this case, Apex Colonial filed an appeal and several other documents in an attempt to stop the receivership. Apex Colonial filed its appeal of the Initial Appointment Order on October 12, 2021, and posted a bond that was merely the same amount as the Receiver’s bond. The appeal was accompanied by a flurry of other filings which included a memorandum in opposition to the default judgment motion, a motion for administrative stay, and a motion for reconsideration. Based on the filings, this Court set a hearing in November 2021 to hear matters pertaining to the appointment of the Receiver and Apex Colonial’s alleged defenses against the appointment.¹

24. Thereafter, EFM and Apex Colonial agreed to, and the Court entered an *Agreed Entry* on November 10, 2021, resolving the disputes as of that time. Based on that agreement, the Initial Appointment Order was vacated, the appeal was dismissed, and this litigation was stayed until January 21, 2022. During the period of the stay, Apex Colonial was required to either refinance the Property or sell the Property to pay EFM in full. If Apex Colonial failed to make that payment, it would waive any defenses to the appointment of the Receiver, waive all defenses to the litigation, waive the right to appeal, consent to the entry of a foreclosure decree and judgment, and permit the immediate entry of a new order appointing the Receiver.

25. Despite its continued assurance that a sale or a refinance was imminent (including various last-minute attempts to yet again extend the agreed-upon deadlines for a sale or refinance),

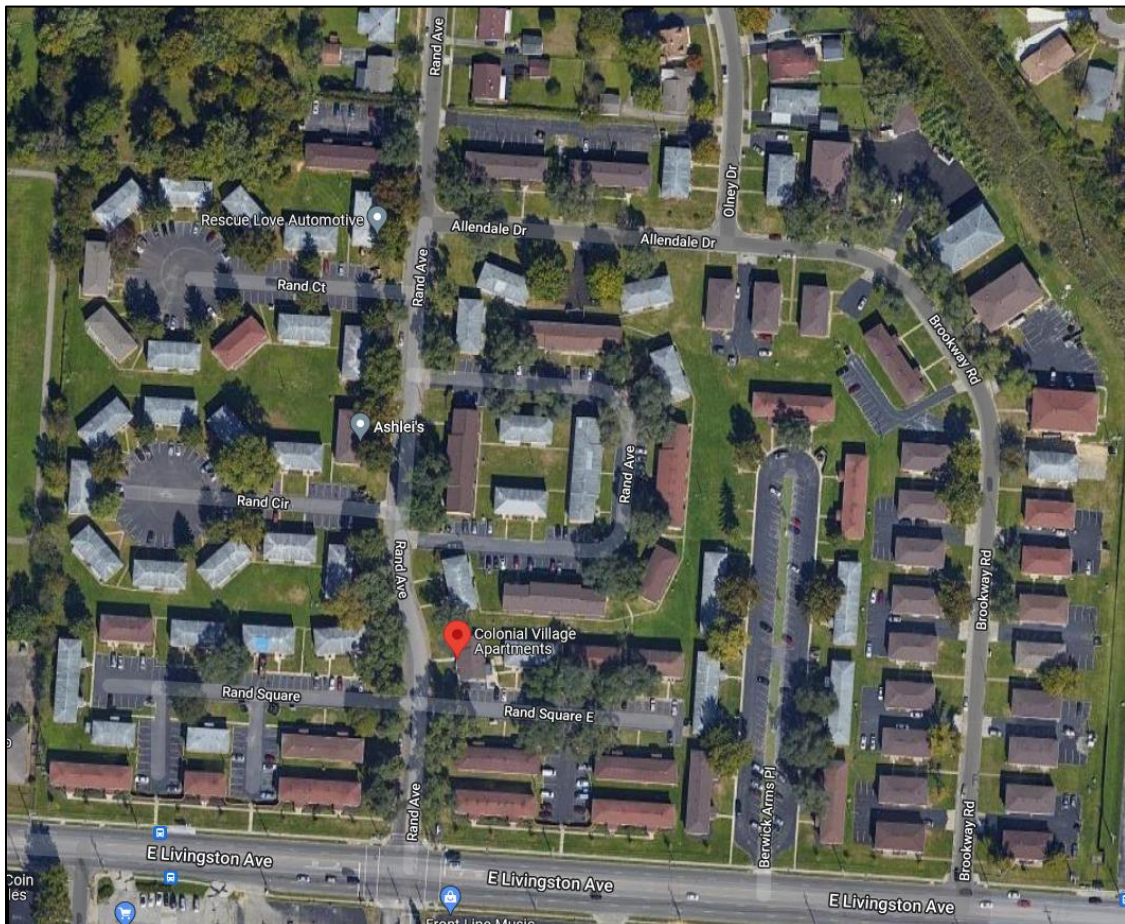
¹ In order for this Court to proceed, the appeal was administratively stayed and the matter was remanded back from the appellate court. The appeal was eventually dismissed.

Apex Colonial did not pay EFM. Therefore, on February 17, 2022, this Court entered the *Order Appointing Receiver* (the “Receiver Order”).

B. The nature of the business within receivership and circumstances leading to receivership – Local Rule 66.06(B)(1)

i. Nature of the business

26. As set forth above, the asset located at the Property is the Colonial Village Apartments. The apartment complex is located on the east side of Columbus on East Livingston Avenue, approximately 2.4 miles east of I-70. It is in an area that is within 10-15 minutes from many large Columbus-area employers, and its close proximity to the highway increases its value.



Aerial view via Google Maps

27. To see an aerial video prepared by the Receiver's broker, visit the following link:

<https://www.youtube.com/watch?v=FYyQ-ODiYPU>.

28. The initial portions of the complex were built in the early 1960s and the Property has had many owners since its initial construction, including nine different owners in the past 25 years. The most recent purchase was by the current owner in 2020 for approximately \$15.5 million.

29. The 96 buildings are generally brick built, two story structures in various conditions of repair. Within those buildings, there are three unit types, which are the following:

- a. One Bedroom – 596 sq. ft.
- b. Garden Two Bedroom – 817 sq. ft.
- c. Townhouse Two Bedroom – 967 sq. ft., an example of which is below:



Example Floor Plan

30. Rent at the Property ranges from \$530 to \$745 per month, making the Property a destination for tenants in need of affordable housing options.

31. Based on the current rental value of the units, the potential monthly rent for the Property is approximately \$350,000.00 per month, which translates to almost \$4.2 million per year in potential rental income.

32. However, when the Receiver took control of the Property, a significant number of units were either down (meaning they were not in a condition to lease) or vacant. At the time this report was written, the total vacancy rate for the Property was approximately 40%.

33. There is a leasing center at the main entrance to the Property out of which the various property managers and maintenance staff operate.



Leasing Office

34. There is also a maintenance shed where supplies and spare fixtures are kept for use in maintenance and repair.

35. Although the Property does not have central amenities (there is no pool, gym, or dog park), the development is buoyed by the fact that the buildings are not on any main streets, there is green space, and there is an appropriate amount of parking.

36. For utilities, the Property's water and sewer services are all in the name of the owner of the Property; water services are not separately metered. Electric service is separately metered per unit, but the responsibility for payment (the landlord or the tenant) varies by lease.

37. Unit vacancy, crime, and unattended deferred maintenance have led to a deterioration of the interior and exterior of the buildings located on the Property. As set forth in the Environmental Complaint—and as verified by the Receiver and his team after his appointment—interior units suffer from a variety of ailments, including: bed bugs, rodent infestation, roach infestation, water damage, holes/cracks in ceilings and walls, non-functional heat or air, broken doors and windows, broken locks, floor damage, and missing life and safety equipment.

38. The exteriors of the buildings also have problems, such as broken windows, bare and rotted wood, damaged and missing gutters, damaged and missing soffit materials, mortar voids and damaged concrete, damaged light fixtures, damaged thresholds, and—until the Receiver took over—unsecured vacant units.

39. In addition, prior to the appointment of the Receiver, the Property was littered with large amounts of trash and debris, solid waste, and yard waste.

40. While the Property has a lot of potential, its age and the continued deferred maintenance (and inattention of its owners) have driven it to its current state.

ii. Overview of creditors and parties in interest

41. Upon the filing of this case, EFM filed a Preliminary Judicial Report from First American Title setting forth the parties with interests in the Property. The Receiver has reviewed the PJR and matters that have arisen since the filing of the PJR, and provides this general overview of the creditors and parties in interest in this case.

42. The first lienholder on the Property is the Franklin County Treasurer with its claim for real property taxes. The current assessed value for all the parcels is approximately \$15.5 million. However, there is a pending appeal related to the valuation of the Property, as further discussed below.

43. The first mortgagee, as detailed above and in the Complaint and associated judgment, is EFM. As of the date of this report, EFM is owed in excess of \$19 million in total.

44. An unpaid vendor named Pierce Cleaning, LLC, has a mechanic's lien on the Property in the principal amount of \$22,579.50.

45. An unpaid security vendor named Garver Asset Protection, LLC ("Garver"), has a mechanic's lien on the Property in the principal amount of \$196,710.38.

46. A company affiliated with Garver, Premiere Property Partners, LLC ("Premiere"), provided maintenance services to Apex Colonial and is also unpaid. In all, Premiere and Garver are owed approximately \$300,000. See *Plaintiff's Motion for Summary Judgment* dated February 9, 2022, in the case of *Premier Property Partners LLP, et al., v. Colonial Village Apartments, et al.*, Case No. 21 CV 6142, pending before this Court.

47. After the filing of this case and the application of *lis pendens*, an additional unpaid security vendor named Jason E. Smith dba N Forcers Security filed a mechanic's lien against the Property in the amount of \$107,376.64. The Receiver filed a motion to join N Forcers after his

appointment, and this Court entered the *Order Granting Motion to Join Party* on April 4, 2022, to join N Forcers as a defendant.

48. The City of Columbus, Department of Public Utilities (“DPU”) is owed more than \$800,000 for pre-receivership utilities that were unpaid. *See Defendant City of Columbus’s Motion for Leave to File an Answer and Cross-Claim.*²

49. The City is owed for fines ordered by the Environmental Court as detailed above.

50. There are also multiple unpaid vendors that have and have not filed suit, including ADT Security, Sherwin Williams, and Protective Thermal Solutions, LLC.

51. Finally, there are multiple known claims by tenants, including a rent escrow case filed by Crystal Hanks (FCMC Case No. 2021 CVR 25733), a small claims case by Camille Weston (FCMC Case No. 2021 CVI 37458), and a complaint by Barbara Meredith for negligence and breach of the landlord-tenant statutes (FCCCP Case No. 21 CV 8033).

52. As set forth below, the Receiver has filed a *Motion of Receiver to Establish Proof of Claim Process* (the “Claim Process Motion”) which is still pending. Upon the granting of the Claim Process Motion, the Receiver will publish a notice and request for claims to all creditors.

C. Report of Receiver of activities to date – Local Rule 66.06(C)

The following sections provide a narrative overview of the Receiver’s activities since his appointment.

i. Control of Company and Securing Assets

53. Upon entry of the Receiver Order, the Receiver immediately obtained the required bond and executed his undertaking. Upon the filing of the bond and undertaking, the Receiver became authorized under the Receiver Order to act as directed by the Court.

² The City’s proposed cross claim indicates an amount of approximately \$500,000 is due, but that number was as of several months ago. The amount grew even further before the Receiver was appointed.

54. The immediate need of the Receiver was to re-establish communication and coordination with the property management company hired to operate the Property. As set forth in the Receiver Order, the Receiver was authorized to employ Hayes Gibson Property Services, LLC (“Hayes Gibson” or the “Property Manager”), to operate the Property under his supervision. The Receiver quickly established contact and entered into the *Property Management Agreement* that was attached to and approved through the Receiver Order.

55. Under his agreement with it, the Receiver authorized Hayes Gibson to manage the Property by employing personnel, repairing and maintaining the Property, complying with Code Enforcement orders, entering into and performing under service contracts with vendors, leasing units and collecting rents, paying bills, and managing the overall finances of the Property.

56. Hayes Gibson was selected due to its vast amount of experience in managing properties of this nature, including distressed properties within receivership.

57. To facilitate the turnover of the Property to the Receiver, the Receiver Order provided for a broad range of documents that were required to be turned over to the Receiver and the Property Manager. Those items included, for example, a current rent roll, lease files, accounts receivable listings, passwords and keys, bank records, financials, insurance policies, and other documentation.

58. On February 22, 2022, counsel for the Receiver sent a demand to Apex Colonial, through its counsel, for turnover of the documents required by the Receiver Order. The request separated the documents requested into different priority categories based on their importance.

59. Because it claimed that it was continuing to work on a refinance or sale of the Property (see discussion below), Apex Colonial, through its counsel, did not provide documents in response to the turnover requests. To this date, Apex Colonial has not produced a single

document directly to the Receiver.³ To be sure, counsel for the Receiver attempted to work through the turnover issues even by providing a reduced list and sending multiple emails seeking the information. Apex Colonial did not comply except to reactivate Ms. Sherman's limited electronic records access weeks after the Receiver's appointment. As of the filing of this report, a renewed and final request for turnover has been made with a compliance deadline of May 5, 2022.

60. There were additional issues further complicating the initial takeover. Apparently (based on the Receiver and his counsel's conversations with the staff on site), Apex Colonial instructed its staff not to appear at the Property, telling them that the Receiver would only be in place temporarily and that they need not cooperate. As a result, when the Property Manager initially went to the Property, there were no workers present other than a couple maintenance staff members. Even those individuals left after taking a call from someone who may have been associated with Apex Colonial.

61. Because of that, on March 1, 2022, the Receiver authorized the Property Manager to drill the locks on the leasing office. They were able to enter the office and begin the process of taking over control of the operations. However, problems persisted. The Property Manager found that the electric had been turned off to part of the office, they were unable to access the computer systems, and the physical records on site were sparse and incomplete.

62. The Property Manager was able to make contact with the staffing and maintenance employees and tell them that they were to report for work, and they could retain their jobs in a probationary period under the supervision of the Property Manager. Thereafter, several of the employees returned to work, including the main on-site property manager, Ms. Sherman.

³ As explained further, the Receiver has been able to recover limited documentation through files on site and those that were accessible by the on-site property manager, Sylvia Sherman.

63. Unfortunately, upon the appointment of the Receiver, Ms. Sherman's access to rental software and files were turned off by Apex Colonial.⁴ It wasn't until March 14, 2022—nearly a month after the Receiver's appointment—that her access was restored. As a result, the initial month of the Receivership turnover process was stymied by the failure of Apex Colonial to provide any documentation to help in the process.

64. Even after Ms. Sherman's access was restored, the only help received was in getting a rent roll as of the date the Receiver was appointed. The financial information in the rental software was incomplete and unreliable, and Ms. Sherman still did not have access to many categories of documents and financials. Even the rent roll has proven to be unreliable.

65. To be sure, the Receiver might have sought Court intervention to obtain an order for contempt against Apex Colonial for its non-compliance, and he still reserves the right to do so. However, over the last 30 days, the Receiver and his team have been focused on the ongoing operations and the sale process as set forth below. The Receiver has provided Apex Colonial one final chance to turn over missing documentation, and if it does not, the Receiver will seek relief from the Court.

66. Most important in the turnover process: notices were provided to the tenants at the Property that the Receiver was in charge, that rents needed to be directed to the Receiver, and that there would be positive changes moving forward.

ii. Initial operations of Property

67. Once Hayes Gibson was on site and had begun the process for taking control of the Property, the Receiver and his team focused on ensuring that operations were stable and could be managed.

⁴ This could have also been by the management company called Aloft Management; but it was through a request to Apex Colonial's counsel that this access was eventually turned back on.

68. The Receiver made sure there was appropriate insurance coverage on the Property and the operations. EFM carried insurance on the Property, and the Receiver and EFM worked to have the Receiver noted as the proper party in interest on the policy.

69. The Receiver and the Property Manager also met to determine how to manage banking matters. It was decided that the Property Manager would open an account in the name of the receivership estate, and that it would operate the Property from that account, subject to the finance and budgeting provisions of the Receiver Order. That process took several weeks longer than anticipated due to certain banking requirements, so Hayes Gibson opened a temporary account just in its name to take deposits and pay certain expenses in the meantime.

70. The Property Manager, through its on-site staff, quickly established a presence for the tenants. They ensured that the tenants were aware of the changes to operations, knew how to pay rent, and, importantly, were able to submit maintenance requests. In accordance with the Receiver Order, the Property Manager established a phone number for the main office during business hours (614-826-0174) and an after-hours number (1-866-287-5226) through which emergency maintenance requests can be made.

71. During this transition process, the Receiver kept the City informed about the process of staffing the front office and addressed concerns by multiple parties as to staffing at the Property. There was concern that the retention of that staff would not be well received by the tenants. However, Hayes Gibson decided that the continuity would be needed, and given the staffing shortages in this economy, it was determined that restarting with new staff would not be ideal. Moreover, the Receiver and his counsel have personally met with staff members and believe that much of the problem was a lack of resources provided by Apex Colonial. It is hard, after all, to respond to maintenance requests if there is not funding to do so.

72. Hayes Gibson immediately started to work through the status of leases at the Property. It established the use of a new lease form that better complied with Ohio landlord-tenant requirements, and it began its review and audit of existing leases. During this process, the Property Manager found that the lease files were largely incomplete, that many leases were missing or out of date, and that the rent roll from Apex Colonial's software was not reliable.

73. Therefore, the staff worked through the painstaking process of updating the rent roll. They contacted tenants to determine their status, visited various units, engaged the help of security personnel to identify vacant units, and took other steps to obtain an accurate roll of tenants.

74. As a part of that process, the Property Manager also put the tenant information into a new management software package called Yardi. That software provides the ability to accurately track tenant and leasing matters, accounting matters, and maintenance issues.

75. As to maintenance, the Property Manager has assigned Peter Waitkus, the Hayes Gibson Director of Maintenance, to personally work at the Property. Mr. Waitkus was instrumental in transitioning the maintenance services and personally worked to re-establish a program for maintenance that would address ongoing tenant issues.

76. One of the main goals for the operations of the Property is to ensure tenants know of and can rely on the maintenance services. Prior to the Receiver being appointed, tenants often skipped the unreliable maintenance services of Apex Colonial entirely and went straight to Code Enforcement to report problems. The Receiver aims to get ahead of routine maintenance issues and avoid unnecessary reports to Code Enforcement.

77. When Mr. Waitkus took control of the maintenance operations, the initial focus was to quickly clean the Property and establish a process for maintaining that cleanliness. To that end, he divided the Property into four quadrants, assigned a maintenance person to each, and directed

the maintenance employees to spend the first hour of their days picking up trash and inspecting the buildings in the quadrant. The quadrants are to be reassigned each week.

78. Mr. Waitkus also spoke directly to the trash truck driver for the city and provided direct contact information in case there were any situations present that would prevent the ability to empty a dumpster. The dumpsters themselves were cleaned and repositioned, and Mr. Waitkus coordinated the removal of bulk furniture and tires. As an example, here are two early before and after pictures of a dumpster area near the maintenance shed:



Before



After



Discarded tires being removed

79. Mr. Waitkus also worked to schedule lawn care work, starting with the areas directly on East Livingston Avenue and near the leasing office, and then moving to the heavily populated areas. The team is working to control grass and weeds and establish an ongoing effort to keep the site presentable.

80. As of approximately 30 days into the receivership, the maintenance staff consisted of five members, including a supervisor, lead technician, two general technicians, and a grounds worker. Each of them worked 40 hours per week, with at least one person on call to cover emergency matters during weekends and off hours. Unfortunately, after it became clear that they would need to engage in hard work at the Property, the maintenance supervisor and a technician quit their employment. Hayes Gibson has been interviewing for replacements, but in the meantime has engaged a temporary staffing agency to provide immediate maintenance assistance.

81. The team has further worked to adequately document the maintenance and work order process. Mr. Waitkus created a new work order form, and he has been personally following up on completed orders to ensure completion and tenant satisfaction. He has also encouraged maintenance personnel to keep a daily log of the work they complete.

iii. Leasing Operations

82. Of course, to continue operations and obtain profitability, the Property Manager must continue to lease units. To that end, they hired a new leasing agent that has been a good asset within the front office.

83. The leasing process, however, is complicated by the various City requirements in this matter and the provisions of the Receiver Order that require the Receiver and his team to ensure compliance with the City code. The City made it known early on after the appointment of

the Receiver that it wanted Code Enforcement to conduct life and safety checks of units prior to re-leasing turned units or bringing rehabilitated units back online.

84. The Receiver, Property Manager, City, and Code Enforcement met to discuss the process for rehabilitation or re-leasing of units. During that meeting it was determined that during the process of bringing a unit back online or turning a unit to a new tenant, the following would occur:

- a. First, during the rehabilitation or turning of the unit, the Property Manager would review if there were any existing code violations at the unit. If so, those code violations would be remedied during the rehabilitation or turn process.
- b. Second, the Property Manager would ensure that all turned units would be capable of passing a life and safety check by the City. That check includes, for instance, working smoke detectors, access to water, working electricity, working heat, and other basic life measures.
- c. Third, once the work was completed, prior to occupation of the unit, Code Enforcement would inspect the unit to ensure it had the appropriate life and safety requirements fulfilled.
- d. Thereafter, the unit could be rented and occupied.

85. During the discussion with the City on this matter, a concern was raised that it would not be feasible to completely renovate each unit during a unit turn, and that if Code Enforcement went beyond the life and safety checks to focus on other code violations during this process, reoccupation of units would be too expensive and the finances of the Property would suffer. The Receiver and the Property Manager were ensured that the focus would be on life and

safety, and although code violations would be noted, they would not necessarily prevent occupancy.

86. At this point, the goal of the Receiver and his team is to have at least twenty tenants move in each month, both through turned units and the process of bringing units online. As to the units that are presently not habitable, the Property Manager is focusing bringing units back online in the population centers at the Property in order to keep people concentrated (and to avoid having one or two tenants within, for example, an eight-unit building).

87. As an ongoing effort to improve leasing at the Property, the Property Manager has been working closely with a group of agencies that are connected through the federal Emergency Rental Assistance (ERA) funds which are available to help eligible tenants avoid evictions. The “ERA Working Group” has met weekly with the Property Manager to identify and provide help to eligible tenants that may be able to receive ERA funds. The Property Manager has committed to providing those agencies with early rent delinquency lists so that tenants who can be assisted can get early help (as opposed to previously when the ERA funds were coming in after evictions were filed).

88. The Property Manager has also been working with the housing attorneys with The Legal Aid Society of Columbus (“LASC”), who represent multiple tenants with rental and eviction issues. Through active communication with LASC attorneys, the Receiver and the Property Manager have been able to address multiple issues before evictions or litigation.

89. As to evictions, Apex Colonial had previously engaged a well-known and respected eviction attorney named Mike Cassone to represent it through evictions. After interviewing Mr. Cassone, the Receiver has filed an application to employ him to provide those same services. The application remains pending.

90. The Property Manager has begun to evaluate certain tenants that may need to be evicted for nonpayment. However, one problem that has been encountered is the unreliability of the rent roll that was retrieved by the Apex Colonial rent management system, and, in particular, the inaccuracy of accounts receivable information. This issue was discovered through work with the ERA working group. It was discovered that one tenant had previously applied for benefits (which are only available once per year) and those benefits had been paid to Apex Colonial in July 2021. However, Apex Colonial's rent roll was not updated to reflect that payment. Thus, it looked like the tenant was seriously delinquent when, a substantial payment had recently been made.

91. As a result of the lack of accuracy of the pre-receivership accounts, the Property Manager has been directed to focus on obtaining payment of rent from the post-receivership time period, beginning on March 1. If tenants pay from that point forward, any remainder owed from the pre-receivership period will be waived or abandoned.

92. Notwithstanding the foregoing, the Property Manager is working to actively evict tenants that have criminal issues and has recently ordered the eviction of seven such tenants.

iv. Inventory

93. In accordance with the Receiver Order and the Local Rules, the Receiver instructed the Property Manager to complete an inventory of the assets of the receivership estate. The Receiver filed the inventory on April 4, 2022, which consisted of the assets within the leasing office.

94. As indicated in the inventory, there were no tools or equipment available for maintenance personnel; they used their own tools. In addition, there were certain supplies and fixtures that were contained in the maintenance shed of questionable value.

95. In addition to the matters contained on the inventory, the receivership estate also owns all removable fixtures in the units, such as stoves, refrigerators and similar appliances. Inventory of those items will be taken as the inspection process is completed.

v. Proof of claim process

96. To ensure that the Property can be sold free and clear of any liens, claims and encumbrances, the Receiver has performed due diligence to identify all parties that may have an interest in the Property. Because that due diligence uncovered several junior liens, the Receiver believed that it would be prudent to establish a proof of claim notice and claim allowance process.

97. To that end, the Receiver filed the *Motion of Receiver to Establish Proof of Claim Process* which remains pending. Through that motion, the Receiver is seeking authority to send out a notice of the receivership to all known creditors and all government agencies, and to also publish a notice in a local publication.

98. Establishing a proof of claim process will assist in providing notice to creditors with potential claims against the Property and ensure that they receive notice of a sale free and clear of their liens. *See* Receiver Order, Section 10(i) (“To the extent the Receiver deems it prudent or necessary to establish a proof of claim process in the future, the Receiver may apply to the Court with a proposed process and bar date.”); *see also* Local Rule 66.05.

vi. Finances and Budgeting

99. Among the responsibilities of the Property Manager are the preparation of a budget for the receivership and the maintenance of receivership books and records. Such books and records are to be summarized and provided to EFM on a quarterly basis.

100. Due to the lack of information turned over from Apex Colonial, the job of the Property Manager in developing a budget has been difficult. Without the benefit of having certain

historical financial information, the Property Manager had to scour the documents that were available to develop a budget.

101. The proposed budget has been provided to EFM for approval. It projects that, without accounting for non-payment by tenants and without legal and Receiver fees, the receivership estate will operate at a loss for the next four months, but will eventually return to profitability. If there are serious delinquency rates or if tenant demand is lower than expected, the actual results will not be as strong. However, if tenants pay and if the Property Manager is able to bring on twenty new tenants each month, the Property operations will quickly return to profitability.

102. Nonetheless, EFM has made two advances to the receivership estate so far in the total amount of \$400,000.00, which funds should be sufficient to carry the receivership through the next sixty days.

vii. Security Services

103. One of the largest expenses for the Property is the employment of security services. Under the Receiver Order, the Court ordered that the Receiver and Property Manager engage security services at the Property within the first month after the Receiver's appointment. Therefore, the Property Manager immediately set out to interview potential security companies for services, including Garver and N Forcers. The Property Manager further spoke with the CPD about having ongoing special duty police presence at the Property.

104. Ultimately, the Property Manager selected and the Receiver approved the hiring of N Forcers to provide security at the Property. Although N Forcers was owed a significant amount from Apex Colonial, it agreed to provide services to the Receiver. The Receiver reported that selection to the City, and N Forcers has been vetted to ensure that they have the proper licensing

and firearms training. N Forcers started on site the week of March 14, 2022, and the CPD began to provide its portion of coverage the following week. The Receiver is in compliance with the security coverage requirements of the Receiver Order.

105. In addition to basic security, the security officers on site assist with identification of (a) inoperable vehicles that need to be removed; (b) new vacancies in units; and (c) signs of break-ins to boarded units.

106. As of this writing, the Receiver is happy to report that there have been no major incidents at the Property.

viii. Utilities

107. As set forth above, upon the initiation of the Receivership, there was a substantial liability to the DPU regarding unpaid water, electric and sewer services. Most concerning, of course, was the substantial unpaid water bill for the Property. The tenants do not pay their own water bills because the units are not separately metered. As a result, the unpaid water bill was an ongoing threat to the health and wellbeing of the tenants at the Property. The City would have shut off the water service for nonpayment much earlier under normal circumstances without a receiver.

108. After being appointed, the Receiver, counsel for the City, the Property Manager, and the DPU conferenced regarding the utility issues. In particular, the Receiver reported that there needed to be an effort made to split the utility bills between the pre-receivership time period (which is a general unsecured claim) and the post-receivership time period (which bills are administrative claims of the receivership estate). DPU is presently working to compile that information.

109. In addition, the Receiver's team is working with DPU to establish the proper naming and accounting of the hundreds of accounts. For instance, there are many accounts for vacant units that are still in the names of old tenants that need to be transferred to the Receiver's

name. There are also accounts still in the name of Apex Colonial and even prior owners of the Property. These records are in the process of being corrected.

110. In the meantime, the Receiver and the City are continuing to work with the DPU to prevent shut offs of utilities for tenants and normalize the utility billing process.

ix. Property tax appeal

111. Approximately one month after the Receiver's appointment, he was alerted to the existence of a pre-receivership property tax appeal that had been filed by the Board of Education of the Columbus City Schools (the "School Board"). The School Board had filed a *Complaint Against the Valuation of Real Property* with the Franklin County Board of Revision (Case No. 2020-900937). The complaint related to tax years 2020, 2021, and 2022. The School Board alleged a far-fetched value for the Property in excess of \$36 million, which, if granted, could result in an increased annual tax liability of approximately \$500,000 per year.

112. Apex Colonial retained the law firm of Siegel Jennings to represent it in the case, and it was successful at the Board of Revision level. However, the School Board appealed that determination to the Ohio Board of Tax Appeals (Case No. 2022-379). If the appeal is not defended, the claim of the Treasurer could retroactively increase by a substantial amount.

113. The Receiver is presently discussing with the Siegel Jennings firm a way for it to be retained to represent the Receiver at the Board of Tax Appeals. The Receiver is also working to structure the sale procedures in a way that accommodates the possibility of an increased valuation after the sale is closed.

x. Code Violations

114. Central to the administration of the receivership estate is the ongoing need to abate the various code violations that are present at the Property. In the initial weeks of the Receivership,

the Receiver, Property Manager (through Mr. Waitkus), and Code Enforcement met on multiple occasions to complete an initial assessment of code violations and to review the tasks that needed to be completed.

115. There are five types of code violations to address. First, there are emergency code violations. Those deal with life and safety issues at the Property and within occupied units. Examples of emergency violations would include non-functioning water or heat, insecure vacant units showing signs of forced entry, non-functioning smoke detectors, or blockage of ingress and egress. The Receiver and his team worked to quickly identify the emergency violations and completed any repairs that were necessary to abate those issues. Since the beginning of the receivership, there have been several new emergency violations, and the Receiver's team has abated them within the required 48-hour response time.

116. Second, there are the unsecured vacant units. The Receiver was required to board all known vacant units within thirty days of appointment. The Receiver's team did so within that timeframe, and they continue to board units in accordance with the plan further set forth below.

117. Third, there are a set of "priority" matters from the code violations that were existing as of the time the Receiver was appointed. The Receiver Order identified these priority matters and directed that they be abated within sixty days. They include the following:

- a. standing water;
- b. water/sewage backups;
- c. unsecure toilets;
- d. bug or rodent infestations;
- e. broken windows; and
- f. broken locks.

118. The Receiver has confirmed with the Property Manager that each of the priority matters has been abated. Code Enforcement will be working to double check compliance in the coming days.

119. Fourth, there are the new code violations issued throughout the receivership. These matters are to be handled in the ordinary course of business, and the Property Manager is giving due priority to ensuring that newly identified matters are quickly worked through. So far, there have been seven new violations that have been issued since the Receiver took over, each of which has been timely abated.

120. Finally, there are the remainder of the code violations that were present as of the date the Receiver was appointed. These violations are being addressed as follows:

- a. If the matter is for an occupied unit, the Receiver' team is addressing the matters on the basis of the severity of the issue. These matters are generally being addressed by the regular maintenance staff for the Property and then Mr. Waitkus is completing his own review before having Code Enforcement confirm compliance.
- b. If the matter is for a vacant unit, whether the violation affects nearby units will determine when the violation is abated. For example, if there is flooding or the presence of pests in a vacant unit which might affect neighboring occupied units, those matters will be addressed immediately. Otherwise, if the violation is isolated to the unit, the unit will be boarded, and the violation will be abated during the repair and reoccupation process for vacant units.
- c. If the matter pertains to the exterior of buildings, it will be prioritized based on severity, weather conditions, materials needed, and skillset needed. Mr.

Waitkus and his team are also addressing all similar problems at the same time (i.e. fix all mortar voids across multiple buildings at one time).

121. The attorneys for the City and the Receiver are working on a plan to update the list of code violations through the inspection process, and further to ensure that the appropriate documentation is being kept to show compliance with those matters.

xi. Unit Inspections

122. The Receiver Order provides that the Receiver and his team are to “complete an inspection and audit of all units and the exterior of the Receivership Property with the purpose of assessing the condition of every unit of the Receivership Property; identifying any unknown emergency or life/safety issues; prioritizing maintenance to be performed to bring the Receivership Property into compliance with City Code; and generally assessing the work needed to maintain, secure, manage, operate, repair, and preserve the Receivership Property[.]” Receiver Order, Section 2(xxv)(d). This inspection task is an enormous undertaking that is requiring a substantial amount of effort and coordination.

123. The Receiver, Property Manager, City, and Code Enforcement have met frequently, and based on the work of Mr. Waitkus, a plan for the inspections has been devised and they are well underway. The goal of the inspections is to (a) obtain accurate information about the condition of all units; (b) take pictures of all units to document the interior conditions; (c) ensure that all occupied units have no life and safety issues; and (d) to create documentation necessary for the sale due diligence process.

124. Inspections are split between occupied units and vacant units. For the vacant units, Mr. Waitkus and a team are progressing through them in the following order: (a) vacant units that are boarded but show signs of unauthorized entry, which units will be cleared by security prior to

the inspection and boarded after; (b) vacant units that are not yet boarded, which units will be boarded after the inspection; and (c) boarded vacant units, which will be re-boarded after.

125. Certain of the vacant units have been “placarded” by the City, which means that no person is authorized to enter the unit without permission. The City has to provide entry letters that grant permission for entry, and Mr. Waitkus has been working with the City to obtain batches of entry letters for each week’s inspections.

126. As to the occupied units, the Property Manager is working to provide appropriate notice to tenants of the intent to enter the units. The Property Manager is presently obtaining quotes from an inspection company that may be able to handle the occupied unit inspections faster while Mr. Waitkus completes the vacant units.

127. As a part of the inspection process, the Property Manager has also engaged in a “key audit” wherein it tested whether it had keys to all units. The Property Manager found that there were dozens of units where the key in the leasing office did not open the lock on the unit, either because a tenant had changed the lock, or because Apex Colonial did and neglected to update the on-site key. The Receiver’s team will be working to update the keys by changing locks where necessary.

128. As the inspections are completed, the information and pictures about each unit are being entered into a software program called InfoTycoon which was developed for this purpose. Using that program will allow multiple parties to obtain access to the information from and results of the inspections.

129. The Property Manager anticipates that the inspections will be completed by mid-May, and the Receiver will provide additional information in his next report.

xii. Building Orders

130. In addition to the regular code violations, there are eight active orders issued by the Building Services section of the City's Department of Building and Zoning Services. These orders pertain to unsafe building conditions as a result of damage or other matters in existence. In this instance, there are multiple building orders related to fire damage at units, resulting in those units being declared unsafe for habitation.

131. Complying with the building orders requires multiple inspections and plans, including the pulling of permits. The Receiver has learned that multiple orders that exist at the Property may have been rectified with work completed at the unit, but no permits were ever pulled, and the required inspections were never completed.

132. The Receiver will continue to work with the City and the Property Manager to rectify these matters and comply with the building services process.

xiii. Sale of Assets

133. Within the Receiver Order, the Receiver was authorized to hire The Robert Weiler Company as a broker to sell the Property (the "Broker"). The Broker was immediately engaged upon appointment of the Receiver and has been working to market the Property for sale.

134. The Broker team spent time at the Property, met with the Property Manager, and toured the Property to become familiar with its condition. The team then developed a package of initial information, including a marketing brochure and offering memorandum, to send to prospective purchasers and post on listing sites. The Property has been advertised in Columbus Business First and through various online networks.

135. The Broker reported that over 15,000 parties opened and reviewed the marketing materials that were sent out. They have entertained over 100 phone calls. In addition, the Broker

has hosted multiple multi-hour tours of the Property, bringing approximately 30 parties through to view the Property. More tours are scheduled.

136. In all, the Broker believes that there is a great deal of interest in the Property and that the Receiver will have competitive bids.

137. In conjunction with the Broker, EFM, and the City, the Receiver decided that it would be most appropriate to develop a set of sale procedures to present to the Court and have approved prior to seeking additional bids on the Property. The sale procedures would include the approval of a standard asset purchase agreement that would be used by any perspective buyer.

138. Rather than repeat the information related to the proposed sale procedures here, the Receiver directs the Court and the parties to the motion for approval of those procedures which is being filed with or near the same time as this report.

139. Despite a call for bids not having been sent, the Receiver has already received an offer for the Property that would be sufficient to pay all known lienholders in full, provided all contingencies are waived. To ensure that the marketing is not affected by disclosure of more information, the Receiver will not put the price in this report, other than to say that the offer was strong.

140. As a part of the sale process, any potential buyer will need to coordinate with the City to discuss the City's concerns regarding the property, as well as the terms of the Permanent Injunction which the Environmental Court indicated runs with the land to any subsequent transferee. The Receiver is working to coordinate those matters.

xiv. Environmental Case Matters

141. Within the Environmental Case, upon the appointment of the Receiver, the Receiver filed a notice indicating that he had been appointed over the Property. The Receiver has

been joined into that case as the real party in interest and has communicated with the Court regarding the status of this matter. The Court has asked that a status report be filed by the Receiver, and the Receiver anticipates filing a copy of this report within the Environmental Case.

142. There is an upcoming status conference and contempt hearing (against Apex Colonial) in late May. The Receiver intends to appear to provide information to the Environmental Court about the status of this case and the receivership proceeding.

xv. Efforts by Apex Colonial to refinance property

143. Apex Colonial has been claiming since the fall of 2021 that it is on the verge of selling the Property or refinancing the EFM loan. Each potential refinancing discussion has been unproductive and fruitless. Apex Colonial's repeated assurances and promises to repay the bank in full have been an ongoing distraction in the case. They have primarily served only to delay and suck momentum from the Receiver's efforts.

144. Initially, the Receiver and EFM were told on or about February 25, 2022, that a refinance was imminent and that money would be paid to EFM within a matter of days. While there were doubts about the ability of Apex Colonial to complete a refinance while there was an ongoing receivership, both EFM and the Receiver provided information to Apex Colonial regarding fees and expenses in the case that had been incurred (and as to EFM, a payoff). Not wanting to incur more fees and expenses, the Receiver held still on the transition for several days, but the supposed refinance date kept moving and did not occur.⁵

145. In mid-March, counsel for Apex Colonial reached out again and sought payoff information from EFM and the Receiver. By that point, unlike the previous attempt, the Receiver and his team had become deeply involved in the day-to-day operations of the Property. The

⁵ This refinance effort has also been an excuse used by Apex Colonial to not produce documents to the Receiver in the name of not wasting time collecting documents if the Receiver was not staying in charge.

Receiver indicated that he would cooperate, but that there were five issues that needed to be addressed:

- a. First, the Receiver does not see a mechanism within the Receiver Order by which he may voluntarily cease operating the Property if EFM accepts a payoff. Rather, the only way the Receiver can cease his work—and the only way the Receiver will cease his work—is through a Court order.
- b. Second, the Receiver laid out that there were multiple ongoing expenses being incurred by the receivership estate that would need to be paid in any refinance scenario, and that the Receiver needed more information on a timeframe for a possible transaction.
- c. Third, the Receiver identified that many operational matters might extend beyond closing due to the lag in obtaining service bills. There would need to be a post-refinancing reconciliation process, perhaps with an escrow account, to ensure those bills are paid.
- d. Fourth, the Receiver indicated that he would not be in a position to release the Property unless the various utility bills were paid. As it is, the Receiver—as the agent of this Court—has taken over as the landlord for the tenants and he has a responsibility to ensure that they have continued utility service.
- e. Finally, the Receiver sought information about how the closing on such a transaction would occur with the receivership still open, and who would be executing, for example, a mortgage to the new lender.

146. Those items, identified by email on March 14, 2022, have not been attended to by Apex Colonial in any satisfactory way.

147. Then again, on or about April 8, 2022, Apex Colonial claimed to have a funding commitment, this time making a specific reference to counsel for its alleged lender. EFM and the Receiver both believe that it is appropriate to at least provide numbers to Apex Colonial as to the receivership obligations, but the Receiver has not wavered from his positions set forth above. Moreover, the City has made clear that it would oppose any effort to terminate the receivership based on a possible refinancing due to the City having its own independent basis for seeking a receiver.

148. The Receiver has substantial doubts as to whether a possible refinance can and could occur, but in the interest of cooperation, he will be providing what information he can at this time. However, the Receiver has not agreed and will not agree to discontinue or pause any other efforts, including the sale process, without a Court order directing him to do so.

III. RECEIVER'S PLAN

The Local Rules require the Receiver to develop and provide to the Court a plan for approval. The rules set forth multiple categories of information that must be included within the plan. The Receiver's Plan is as follows:

A. Liquidation of Assets and other matters – Local Rule 66.06(B)(2), (6), and (7)

149. As set forth above, the Receiver has developed a set of sale procedures to assist in the liquidation of the Property. The Receiver will diligently pursue approval of those sale procedures and work to obtain the highest and best price for the Property.

150. In the meantime, the Receiver has described above the massive amount of work to be completed at the Property that continues to take place.

151. In addition, the Receiver notes that a large portion of the work the Receiver has been completing was based on dates and deadlines set forth in the Receiver Order. To date, the

Receiver is in compliance with all such provisions, except that the deadline for completing the inspections was permitted by EFM and the City to be extended.

B. Anticipated Administrative Costs – Local Rule 66.06(B)(4)

152. The receivership estate will encounter three main categories of administrative costs, as follows: (a) administrative costs for operating the receivership; (b) sale expenses; and (c) Receiver's and professional fees.

153. The operational costs related to the Receivership are being handled primarily by Hayes Gibson, who itself is entitled to a monthly fee. The budget that is under review by EFM has been prepared by Hayes Gibson and it contains projections for all manners of costs, including staffing, materials, insurance, utilities, outside services, and other operational costs.

154. As to the costs of sale, the Receiver believes that the Broker has earned a commission at this point, and further expects there to be costs of sale borne by the Receiver to be paid at closing.

155. The Receiver will have ongoing fees for his services and will further have professional fees, including the undersigned counsel, the attorneys handling the property tax appeal, and the eviction counsel. Fee applications will be filed regularly to disclose and seek approval of all compensation for the Receiver and counsel for the Receiver. The first such fee application is being filed in conjunction with this report.

C. Anticipated Litigation – Local Rule 66.06(B)(8)

156. As to the operations of the receivership itself, the Receiver does not anticipate any litigation (outside the regular filing of evictions).

157. However, based on the ongoing efforts of Apex Colonial to reclaim the Property, the Receiver does anticipate that there will be litigation over the sale process and whether Apex Colonial is able to terminate the receivership through a refinancing.

D. Expected Duration of the Receivership – Local Rule 66.06(B)(5)

158. As a result of the necessary tax filings, the Receiver does not anticipate closing this case until after the end of the year 2022. However, he does anticipate that the Property will be sold and receivership operations will be terminated well before the end of the year.

V. CONCLUSION

The Receiver reports that all matters are in order and moving forward. The Receiver believes that all possible actions that can be taken to maximize the return to the creditors are being taken, and the Receiver will report back to the Court with additional reports from time to time. The Receiver respectfully requests that the Court enter an order approving the above plan and granting such other relief as the Court deems appropriate.

Respectfully submitted,

/s/ James A. Coutinho

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Counsel for Receiver

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 25, 2022, a copy of the foregoing *First Report of Receiver* was submitted to the Court electronically and served on the following registered eFiling participants, **electronically** through the court's eFiling system at the email address registered with the court:

Jonathan Olivito for EFM Transfer Agent LLC
James V Maniace for EFM Transfer Agent LLC
Ryan Thomas for Pierce Carpet Cleaning LLC
Katherine Ferguson for Aron Puretz, Oron Zarum, Apex Colonial OH LLC
Lindsay Nelson for Aron Puretz, Oron Zarum, Apex Colonial OH LLC
Sarah Pomeroy for City of Columbus
Tiara Ross for City of Columbus

Electronic service through the Court's eFiling system is proper pursuant to Section X(C)(1) of the Franklin County Court of Common Pleas Eighth Amended Administrative Order regarding Electronic Filing of Court Documents.

The foregoing was also served by **ordinary U.S. Mail** addressed to the following:

Jason E. Smith
d/b/a N Forcers Security
3004 Barclay Sq. N., Apt. G
Columbus, Ohio 43209

All other parties are in default and not required to be served per Civ.R. 5.5(A).

/s/ James A. Coutinho

James A. Coutinho

(0082430)