



SUPERIOR COURT OF JUSTICE

**COUNSEL SLIP**

COURT FILE NO.: CV-23-00706813-00CL

DATE: October 12th, 2023

REGISTRAR: SARAH HAWLEY

3 – 11:30

NO. ON LIST: AM

TITLE OF PROCEEDING:

**GENESIS MORTGAGE INVESTMENT CORPORATION v.  
1776411 ONTARIO LTD. et al**

BEFORE JUSTICE: **JUSTICE CAVANAGH**

**PARTICIPANT INFORMATION**

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## **ENDORSEMENT OF JUSTICE:**

Genesis Mortgage Investment Corporation (“GMIC”) seeks an order pursuant to subsection 243 (1) of the bankruptcy and insolvency Act and section 101 of the Courts of Justice Act appointing KSV Restructuring Inc. as receiver and manager (the “Receiver”) of certain real and personal property of the Respondents. The application is not opposed.

1776411 Ontario Ltd. (“177”) is the general partner of 1333 Weber Street Kitchener LP (together, the “Debtor”). The Debtor is the developer of a phased four-tower residential condominium development known as “Elevated Condominiums” (the “Project”), which is under construction on the real property legally described in Schedule “A” to the proposed receivership order (the “Real Property”). The real property is owned by 177 and consists of the lands located at 1333 Weber Street East, Kitchener, Ontario. The first phase of the four-phase Project is a 15-story, 177-unit residential development condominium tower (“Phase I”), which is approximately 80% complete.

GMIC is the junior secured lender in a syndicate of secured lenders consisting of itself and two senior secured lenders. As of September 13, 2023, there was approximately \$42,055,404.91 outstanding in respect of the Senior Secured Loan Facility (as defined in the materials), and approximately \$19,598,404.91 outstanding in respect of the Junior Secure Loan Facility (as defined in the materials). In addition, \$2,698,140.29 is outstanding in respect of a letter of credit facility provided by the Senior lenders.

GMIC has the contractual right to appoint a receiver pursuant to the security documents. The senior lenders do not oppose the relief sought.

I have reviewed the application materials and I am satisfied that the requested receivership order should be made. The evidence shows that, at present, the Project is stalled. Trade contractors have left the site. It is unclear if the site is secured. While Phase I of the project is approximately 80% complete, the roof is not watertight, which could lead to significant damage to the Project with winter fast approaching. Insurance for the Project continues to be in place but has not been paid since February 2023. In the circumstances, I am satisfied that is just and convenient to appoint the Receiver.

The evidence shows that an action was commenced by Corfinancial Corp. as plaintiff against CMLS Financial Ltd., Computershare Trust Company of Canada, and GMIC by statement of claim issued on September 28, 2023.

GMIC contends that the action would be stayed under the language in the Model Order given that it is in respect of the Debtor and/or the Property. Counsel for Corfinancial does not agree. Corfinancial does not consent to the addition of language to clarify that the action is stayed.

Counsel will confer about how the action should be treated during the receivership. If necessary, a motion will be brought to determine this issue. Counsel will arrange for a scheduling appointment, if necessary, for approval of a timetable for this motion and to obtain a hearing date.

Order to issue in form of Order signed by me.