



No. S-250121
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, c. C-36**

BETWEEN:

KINGSETT MORTGAGE CORPORATION

PETITIONER

AND:

LUMINA ECLIPSE LIMITED PARTNERSHIP

BETA VIEW HOMES LTD.

LUMINA ECLIPSE GP LTD.

and

D-THIND DEVELOPMENT BETA LTD.

RESPONDENTS

APPLICATION RESPONSE

Application response of: the Attorney General of Canada (the "AGC")

THIS IS A RESPONSE TO the notice of application of KSV Restructuring Inc., filed December 9, 2025, in its capacity as the Court-appointed monitor (in such capacity, the "Monitor" or the "Applicant") of Beta View Homes Ltd. ("Beta View"), Lumina Eclipse GP Ltd. ("Lumina GP"), Lumina Eclipse Limited Partnership ("Lumina LP") and D-Thind Development Beta Ltd. ("D-Thind Beta" and collectively, the "Respondents").

The AGC agrees with the Monitor's estimate that the application will take 90 minutes.

Part 1: ORDERS CONSENTED TO

The AGC consents to the granting of the orders set out in the following paragraphs of Part 1 of the notice of application on the following terms: 4(c).

Part 2: ORDERS OPPOSED

The AGC opposes NONE of the orders set out in Part 1 of the notice of application.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The AGC takes no position on the granting of ALL the orders set out in Part 1 of the notice of application, except for paragraph 4(c).

Part 4: FACTUAL BASIS

1. The AGC agrees with the facts outlined by the Monitor.
2. Canada Revenue Agency ("CRA") is a creditor of three of the Respondents (Beta View, Lumina LP, and D-Third Beta) in the *Companies' Creditors Arrangement Act* proceedings. The AGC requested the Monitor provide the language (paragraph 4(c) of the notice of application) for the latest stay renewal application so that CRA is not stayed from pursuing director's liability assessments against the directors pursuant to the *Excise Tax Act*, RSC 1985, c E-15 ("*ETA*").

Part 5: LEGAL BASIS

CRA Has a Statutory Right to Pursue Director's Liability Against Directors

1. Authority for CRA to pursue and assess director's liability is provided for under subsection 323(1) of the *ETA*. Pursuant to subsection 323(5), there is a two-year limitation period for assessing such liability.

2. A director may appeal a director's liability assessment in the Tax Court of Canada. A due diligence defence is available to a director in such an appeal pursuant to subsection 323(3) of the *ETA*.

CCAA Stay Should Not Prevent CRA From Pursuing Director's Liability

3. The Monitor's stay renewal application appropriately does not seek to prevent CRA from pursuing director's liability against the directors, as there is no justification for an ongoing stay of CRA's pursuit of director's liability.
4. Subsection 11.03(1) of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 ("CCAA") permits the Court, upon application, to grant an order preventing an action against the director of a corporate debtor for pre-CCAA liability until a compromise or arrangement under the CCAA is sanctioned by the Court or refused by the creditors. The purpose of this section is to provide the debtor and directors in a debtor-in-possession CCAA proceeding a chance to proceed to a plan of arrangement that might successfully resolve the potential pre-CCAA claims against the directors, as part of a successful restructuring of the corporate debtor seeking CCAA protection. Such a stay assists the policy objectives of furthering the debtor's restructuring efforts and inducing the directors to remain involved in the restructuring (*Great Basin Gold Ltd. (Re)*, 2015 BCSC 1199 at para 32).
5. Subsection 11.03(1) of the CCAA is not relevant to this secured creditor driven CCAA proceeding, where the directors are no longer in control and the primary secured creditor (Kingsett Mortgage Corporation ("Kingsett")) has stepped in to complete the projects and maximize realizations for the creditors. This is a creditor-driven and liquidating CCAA akin to a receivership focussed on value maximization from completing the construction projects and selling completed units, with no plan of arrangement expected or remedial policy objectives for the debtors themselves (*Great Basin Gold Ltd. (Re)*, 2015 BCSC 1199 at paras 39, 63).

6. Kingsett has recently stepped in as a secured creditor on similar construction projects to take over from an ailing debtor, including the receivership of 6511 Sussex Heights Development Ltd. There is no stay against CRA pursuing director's liability against the directors in that receivership. This CCAA proceeding could similarly have been brought as a receivership. Kingsett's choice of venue should not prevent CRA from pursuing director's liability in the present proceeding, particularly when there is no prejudice to Kingsett or any other creditor.

Part 6: MATERIAL TO BE RELIED ON

1. The pleadings and proceedings herein and such further materials as counsel may advise and this Honourable Court may permit.

The AGC has not filed in this proceeding a document that contains an address for service.


The AGC's ADDRESS FOR SERVICE is:

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Dated: December 12, 2025


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