



**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

COUNSEL SLIP / ENDORSEMENT

COURT FILE NO.: CL-26-00000038-0000 **DATE:** May 20, 2026

REGISTRAR: Diana Macpherson

NO. ON LIST: 4

**TITLE OF PROCEEDING: CAISSE DESJARDINS ONTARIO
CREDIT UNION INC. v. ENGLISH LANE HOMES INC.**

BEFORE: JUSTICE FL MYERS

PARTICIPANT INFORMATION

For Plaintiff, Applicant / Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Jennifer Stam	Counsel for the Applicant	Jennifer.stam@nortonrosefulbright.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Nancy J. Tourgis	Counsel for the Respondent	ntourgis@srtslegal.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
R. Graham Phoenix Shahrazad Hamraz	Counsel for the Receiver, KSV Restructuring Inc.	gphoenix@ln.law shamraz@ln.law

ENDORSEMENT OF JUSTICE FL MYERS:

1. The Receiver moves for approval of a sales process for the development site that is the subject matter of this receivership. The applicant consents and supports the Receiver's recommendation.
2. The developer debtor owes the applicant lender around \$16 million. The developer says that the property was appraised in 2022 for over \$50 million. I do not know if that was an "as is" or "as built" assessment. If there was more than \$30 million in equity value in the land however, it would seem that raising funds to pay the applicant its secured debt would be rather straightforward. So, either the market is now placing a different view on the value of the land or the developer is in no hurry to meet its financial obligations as agreed.
3. In granting the receivership order, Dietrich J. took note of the developer's interest in the equity of redemption and invited the Receiver to consult with the developer.
4. Mr. Kofman advised the court today that he called Ms. Tourgis immediately after court that day and no less than four times in total. He has received no response.
5. The developer did not attend court today either. Ms. Tourgis advises that he seemed to have some problems connecting to the Zoom link although she sent the link that she used successfully.
6. The developer also advises that there is a decision of the TLAB from May, 2024 approving the site for 75 units despite the fact that the current site plan zoning bylaw and site plan agreement speak only to a 63-unit approval. The developer chose not to favour the Receiver and the court with a copy of the alleged decision despite referring to it in his affidavit.
7. It appears that whether dealing with providing meaningful disclosure of documentary evidence in writing, answering telephone calls, or participating in court hearings online, the developer has some issue with communication. Mr. Kofman says that it has been a "struggle" to obtain information from the developer before and after the receivership order was made.

8. Yet in his affidavit, the developer complains that the Receiver has not consulted with him sufficiently. He wants to ensure that potential buyers know about the 75-unit approval. He also has a concern about the Receiver's description of the gross floor area. He describes an available development fee credit and a parkland dedication issues that he views as being of some significant interest to potential buyers. He also wants to ensure that buyers know as well that some underground servicing has already been built.
9. It is important that the developer provide to the Receiver whatever information that he has about the land and the project that may affect its sale price or value. If he has information that he thinks buyers need to price the property fairly, then the best way for him to try to enhance the price is for him to provide the information proactively to the Receiver. He should not stand on ceremony or wait even a minute for another call. He should arm the Receiver with information so that he does not find himself later complaining about the price while still holding onto secret information that could have helped him maximize the sale price.
10. The place for disclosure of such information is in the data room that the Receiver will be providing to support the sale. That is where potential buyers will go to conduct their due diligence reviews to learn about and value the land.
11. I do not agree with Ms. Tourgis's submission that because her client may have an interest in the equity of the land, it has the same interest as that of the applicant. The whole point of the mortgage granted by the developer to the lender was to provide the lender with the first priority interest. It can act and sell the land now despite the fact that the market may be in a trough that could result in far less recovery on equity than might have been predicted in 2022. There could possibly be no recovery for equity if there is too little interest in the site.
12. If the developer wants to control a sale or continue to build-out the project, nothing stops it from refinancing to pay out the creditors in full even while the sales process continues. It is the entry into of an agreement of purchase and sale that may foreclose the developer's interest. So now is the time for it to act if this is its goal.

13. The developer asks that before the Receiver sells the land, it should seek a current appraisal. There is no point in finding out what a valuator thinks the site might be worth when the market can be tested to find what people who are actually interested purchasers will offer to pay in a legally binding way.
14. Ms. Tourgis says that her client shares the Receiver's goal to maximize recovery. That is not quite correct. The Receiver wants to maximize recovery on the site in the short term. It is not required to sit and wait for the market to take an upswing to try to enhance the recovery on equity (if any). The developer, by contrast, has no interest in the sale unless or until the price exceeds its existing debt. Its only interest in seeking an appraisal is to try to establish a value greater than its debt so that there is some equity left for itself. The market will provide that very information.
15. The developer also opines that the proposed timeline for seeking offers of about one month is too tight. He is not an expert witness in receivership sales. What might seem tight to the builder has little to do with the professional marketplace engaged in a formal sales process.
16. Mr. Kofman is a highly experienced and knowledgeable officer of the court. He was appointed Receiver because he is the one who knows how to best engage the relevant marketplace and bring a judicial sales process to fruition. He and Mr. Phoenix note that the timelines proposed provide discretionary authority to the Receiver to extend the set times where appropriate. Mr. Kofman will make the judgment calls of when a buyer seeking an extension is ragging the puck and when a strategic extension may assist Mr. Kofman maximize the price to be extracted from a buyer.
17. I accept Mr. Kofman's business judgment unreservedly.
18. The process proposed includes two weeks to finalize marketing materials. There is no evidentiary support for Ms. Tourgis's submission that any of the issues raised by her client must be referred to in the real estate broker's first teaser document. Otherwise there is ample time for the developer and Ms. Tourgis to share any

information that they have with the Receiver to try to ensure that the information provided to the marketplace is as current and thorough as possible.

19. Mr. Kofman and Mr. Phoenix are open to consultation if the developer decides to communicate with them.
20. The Receiver describes its competitive process for choosing a listing broker. It seems thorough and reasonable to me. No one objected to the retention of JLL as proposed.
21. The Receiver proposes a four-stage marketing process that is designed to meet the dictates of *Soundair*. The process must be open, broadly based, fair, and conducted with integrity. The time for that assessment is at the sale approval stage of course. However, the proposed process tracks the processes typically utilized in receivership sales and that have been broadly recognized as meeting the goals of *Soundair* if implemented adequately. I agree with Mr. Phoenix's submission that this is a "plain vanilla" process.
22. The receiver formulated its recommendation as follows:

4.4 Sale Process Recommendation

1. The Receiver recommends that the Court issue an order approving the Sale Process for the following reasons:
 - a) the Sale Process is a fair, open and transparent process intended to canvass the market broadly on an orderly basis. The terms are consistent with real estate sale processes conducted in the context of several receivership proceedings where KSV has acted as receiver;
 - b) there will be no delay commencing the Sale Process - JLL has already commenced preparing marketing materials and is familiar with the Real Property. This should allow for the process to be conducted on a timely basis, which will assist to reduce costs;
 - c) the duration of the Sale Process is sufficient to allow interested parties to perform diligence and to submit an offer by the offer deadline of June

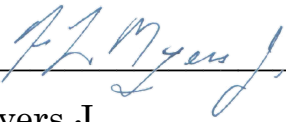
23, 2026. The Sale Process is intended to be flexible based on market feedback at the time and JLL's guidance, and accordingly, the Receiver will have the right to extend or amend timelines, as appropriate;

- d) JLL's team for this assignment is based in Toronto and has experience selling development properties in the GTA, including townhouse development sites. JLL's team also has experience selling real property in insolvency proceedings;
- e) based on the Receiver's experience, JLL's commission rate is consistent with market;
- f) Desjardins consents to the terms of the Sale Process, including the terms of JLL's engagement; and
- g) the Receiver does not intend to terminate the Pre-Construction Agreements until the Sale Process is completed and the intentions of the successful bidder are known.

2. The Endorsement of the Honourable Justice Dietrich dated March 13, 2026 included the following comment in respect of consultation with the Debtor: "*KSV has also confirmed that it will consult with the Debtor in the development of a sales process, for which it intends to return to Court for approval.*" In this regard, the Receiver has contacted the Debtor and its counsel to discuss the Sale Process on several occasions, but the Receiver has not received a reply. The Receiver has also advised the Debtor that it would be soliciting listing proposals from realtors, sent a copy of the proposed Sale Process to the Debtor and separately to the Debtor's counsel on May 11, 2026 and is serving this Motion Record on the Debtor.

3, Based on the foregoing, the Receiver recommends that the Court approve the Sale Process, including the retention of JLL.

23. I accept the Receiver's recommendation as I am required to do absent good grounds. It is also reasonable to approve the contents of the First Report of the Receiver dated May 13, 2026 as asked and I do so as well.
24. Therefore, I grant the order as asked.



FL Myers J.

Justice FL
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