

Court File No. CV-23-00698576-00CL
CV-23-00698395-00CL
CV-23-00698632-00CL
CV-23-00698637-00CL
CV-23-00699067-00CL

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

BETWEEN

KINGSETT MORTGAGE CORPORATION AND DORR CAPITAL CORPORATION

Applicants

- and -

**STATEVIEW HOMES (MINU TOWNS) INC., STATEVIEW HOMES (NAO TOWNS) INC.,
STATEVIEW HOMES (ON THE MARK) INC., TLSFD TAURASI HOLDINGS CORP. AND
STATEVIEW HOMES (HIGH CROWN ESTATES) INC.**

Respondents

**ATRIUM MORTGAGE INVESTMENT CORPORATION AND DORR CAPITAL
CORPORATION**

Applicants

- and -

STATEVIEW HOMES (NAO TOWNS II) INC., DINO TAURASI AND CARLO TAURASI

Respondents

DORR CAPITAL CORPORATION

Applicant

- and -

HIGHVIEW BUILDINGS CORP INC.

Respondent

DORR CAPITAL CORPORATION

Applicant

- and -

STATEVIEW HOMES (BEA TOWNS) INC.

Respondent

MERIDIAN CREDIT UNION LIMITED

Applicant

- and -

STATEVIEW HOMES (ELM & CO) INC.

Respondent

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

**AIDE MEMOIRE OF THE RECEIVER
(CASE CONFERENCE – APRIL 2, 2024)**

April 1, 2024

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Highview and Elm Receiverships)

1. The purpose of this case conference is to schedule a workable and appropriate manner of litigating the various claims asserted by Ms. Mehta, as proposed representative plaintiff of an uncertified class action (the “Proposed Class”), as against the various receivership estates.

1. Background: significant practical issues created by the expanded scope of the Proposed Class’s motion

2. The Receiver now understands that the Proposed Class intends to assert trust claims against the Stateview entities known as Minu Towns, Elm&Co., NAO II, High Crown, and Highview. The Proposed Class also intends to seek orders requiring the Receiver of each entity to conduct tracing and valuation exercises in aid of the Proposed Class’s eventual trust claims.

3. The Proposed Class’s intended claims raise significant practical concerns given that of those five estates, two (Minu and High Crown) have already completed the sale of their real property and distributed all of the sale proceeds pursuant to court orders (the “**Distribution Orders**”), each of which contain provisions substantially in the following form (the “**Free and Clear Provision**”):

THIS COURT ORDERS that notwithstanding anything else contained in this Order, each of the payments and distributions provided for in this Order shall be made free and clear of all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Steele dated May 2, 2023; and (ii) all charges security interests, liens, trusts, or claims evidenced by registrations pursuant to the Personal Property Security Act (Ontario) or any other personal property or real property registry system.

4. The situation is similar in the Highview proceeding, where all funds have been distributed pursuant to the standard Distribution Order save for a \$170,000 holdback – an amount roughly equal to the Proposed Class’s maximum possible recovery net of Tarion reimbursement.

5. A similar issue arises in NAO II, one of the two remaining estates. In that case, Justice Black recently ruled that the Proposed Class’s maximum possible recovery is approximately \$37,000, and His Honour authorized the distribution of all funds in excess of that amount. The distribution is on hold pending the Proposed Class’s appeal of this ruling.

6. The Receiver has serious concerns about the cost and impracticality of the Proposed Class’s intended motion. The Proposed Class is effectively seeking to litigate against a number of insolvent receivership estates that have already distributed funds pursuant to the Free and Clear Provisions which insulate those distributions from further challenge; these claims are clearly a collateral attack on the Distribution Orders

7. Ultimately, the Receiver believes that there is no basis for the relief the Proposed Class is seeking, for the reasons it has briefed previously in connection with the March 5, 2024 return of the motion. Nevertheless, given that the Proposed Class is litigating against insolvent estates (including estates which have already distributed all of its proceeds), the Receiver wishes to address the issue of costs before the motions can proceed.

2. Proposed solution

8. For these reasons, the Receiver intends to bring a motion for security for costs and respectfully submits that this motion should be timetabled and heard before any other step in the proceeding.

9. After the security for costs motion is dealt with, the next issue that should be addressed is whether the Proposed Class is permitted to pursue its motion as against any estates where funds have already been distributed.

10. In other words, this Court should determine whether the Free and Clear Provisions in the existing Distribution Orders are a complete bar to any relief from the class in respect of those receivership entities.

11. In the Receiver's view, it is necessary and appropriate to address this question prior to the return of the Proposed Class's broader motion given the reality that any receivership estates where funds have already been distributed have no practical ability to fund any participation in the class's proposed motion.

12. Once the outcome of the security for costs motion is known, the Receiver will consider whether it intends to proceed voluntarily with tendering valuation evidence or whether it will be opposing the balance of the Proposed Class's motion. The balance of the motion can be scheduled and timetabled at that time.

13. Finally, the receiver notes that there is no urgency to the Proposed Class's motion (and, therefore, time to first address the Receiver's intended motions) given that for three

estates (Highview, Minu and High Crown), the sale of the properties has already occurred and for the other two (Elm & Co. and BEA), there is no prospect of a sale in the near term.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 1st DAY OF APRIL, 2024



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ATRIUM MORTGAGE INVESTMENT CORP et al.
Applicant

STATEVIEW HOMES (NAO TOWNS II) INC. et al.

Defendants

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PROCEEDING COMMENCED AT
TORONTO

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