



**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**COUNSEL SLIP / ENDORSEMENT**

**COURT FILE NO.:** CV-24-00714543-00CL **DATE:** May 11, 2026

**REGISTRAR:** HARRIS, E.

**NO. ON LIST:** 7

**TITLE OF PROCEEDING:** KINGSETT MORTGAGE CORPORATION v. 759 WINSTON CHURCHILL GP INC. ET AL. et al

**BEFORE:** JUSTICE FL MYERS

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant / Moving Party:**

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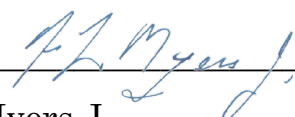
## **ENDORSEMENT OF JUSTICE FL MYERS:**

1. The Receiver moves for approval of the sale of the Southdown property and the Royal Windsor property to special purpose vehicles established by the successful stalking horse bidder Kingsett.
2. The sale process ran as expected. The Receiver retained an experienced real estate broker who listed the properties on MLS. A teaser was sent to almost 1700 prospective buyers.
3. Fourteen interested parties signed confidentiality agreements with the Receiver to gain access to the virtual data room.
4. Two parties submitted non-binding letters of intent by the initial deadline. After discussions, a single bid was submitted for Royal Windsor by a company related to the ultimate principals of the debtors.
5. The Receiver determined that the bid submitted was not a “qualified bid” under the approved bidding procedures.
6. I accept the Receiver’s recommendations that the court approve the sales as proposed for the reasons set out at para. 3.2.4 of its Fourth Report as follows:
  - 1 The Receiver recommends the Court issue the proposed Approval and Vesting Order for the following reasons:
    - a) the process undertaken by the Receiver to market the Subject Property was commercially reasonable and conducted in accordance with the terms of the Sale Process Approval Order;
    - b) Avison Young is a global brokerage that has extensive experience selling development properties in and around the Greater Toronto Area and widely canvassed the market for prospective purchasers;
    - c) KingSett, the senior secured lender to the Sellers, is supportive of the Transaction; and

d) the Receiver is of the view that the Transaction provides for the highest recovery available for the benefit of the Sellers' stakeholders in the circumstances.

7. The sales process meets the tests set out in *Soundair*. The marketing and sales process was fair and robust. It was carried out with integrity. The sale is value-maximizing for the debtor companies and their creditors.
8. The Receiver also proposes distribution to Priority Payables as settled pursuant to the claims process previously approved. That is reasonable as it was the whole point of that process.
9. The Receiver asks to seal the confidential appendices filed to support the approval of the sale. I am satisfied that the brief sealing of the documents to allow the sale to close in a few weeks will cause no identifiable harm to the open courts principle.
10. In the event that the sale does not close and the Receiver needs to remarket the property, disclosure of those documents could be expected to skew the fairness of a subsequent sale process.
11. There is a public interest in protecting the integrity and fairness of asset realization transactions by court-appointed receivers in the interests of all creditors and the debtor. The harm to this public interest of disclosure outweighs any risk of harm to the open courts principle by temporary sealing. The documents will be available either in a few days or after the next marketing process is completed. This brief delay is necessary to protect the principle espoused in *Soundair*.
12. Finally the Receiver advises that in the event that the principals of the debtors bring forward a proposal for the full payout of Kingsett before closing on May 30, 2026, Kingsett and the Receiver have agreed to accept the payout rather than closing the stalking horse transaction.
13. I hesitated in granting the order approving the sale if there was still a piece of the sale process that has yet to conclude. The Receiver's recommendation that there is no better payout than the stalking horse sale could change.

14. Moreover, the proposed buyer has apparently agreed that the Receiver and Kingsett will have unfettered discretion to determine if the proposed buyout is good enough. I was concerned too that the parties are delegating to Kingsett and the purchaser the determination of whether the vesting order will be implemented without recourse to the court.
15. On the whole however, I am satisfied with the process proposed. The extra term allows the debtor to redeem perhaps a little longer than the law might allow. But, I understand why Kingsett would prefer to be paid in full rather than take the properties at their fair market value leaving them a substantial shortfall and possibly more cost to incur.
16. But this is not a new or further sale process. The owner is incentivized to try to refinance. If it ran to court proposing a payout in full prior to closing, Kingsett could say that it was too late because the right of redemption was foreclosed by sale approval. But if Kingsett wanted to take the money, it would not say that. So, I could be faced with a consent order that would have the same outcome as proposed. It does not undermine the sale process for Kingsett to tell the debtor that it wants to be paid in full. No other bidder would have any reason to try to do that. Moreover, the deadline is short as Kingsett needs a few days to be ready to close in any event.
17. Ultimately, should the owner's principals have a dispute with Kingsett about the adequacy of payment proposed, they may try to come to court subject to whatever agreement they have made. At this late stage, it is hard to imagine anything sufficing other than a certified cheque for the total principal, interest, and all receivership and other costs involved. But, I will not prejudge any outcome. Money talks. If anyone is a willing listener remains to be seen.
18. Order signed as asked.

  
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FL Myers J.

Justice FL Myers Digitally signed by Justice FL Myers  
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