ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00714543-00CL **DATE: November 13, 2025**

NO. ON LIST: 6

TITLE OF PROCEEDING: KINGSETT MORTGAGE CORPORATION v. 759 WINSTON CHURCHILL GP INC. ET AL.; 759 WINSTON CHURCHILL L.P.; 688 SOUTHDOWN GP INC.; 688 SOUTHDOWN LP; 2226 ROYAL WINDSOR GP INC.; 2226 ROYAL WINDSOR LP

BEFORE: JUSTICE FL MYERS

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

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For Defendant, Respondent, Responding Party:

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Saneea Tanvir	759 WINSTON CHURCHILL GP INC. ET AL.; 759 WINSTON CHURCHILL L.P.; 688 SOUTHDOWN GP INC.; 688 SOUTHDOWN LP; 2226 ROYAL WINDSOR GP INC.; 2226 ROYAL WINDSOR LP	stanvir@mccarthy.ca
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For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Dave Rosenblat	The Receiver, KSV	drosenblat@osler.com
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ENDORSEMENT OF JUSTICE:

1) The Receiver seeks to approve a sales process with a stalking horse bid for both projects.

2) The Receiver has recently agreed to make a few changes to the proposed process to clarify that bids are sought for each or both projects. The minimum monetary improvement for bids has been removed. The timeline has been extended from what was originally proposed and agreed with the stalking horse bidder. There is no break fee or expense indemnity if a better bid is accepted.

3) These changes all make the potential auction more attractive or available for a competing bidder. It is not unusual for any stalking horse bidder to want to dissuade late third-party bids. I did have a concern about the relatively short time frame initially proposed for bidding for these complicated projects.

4) The Receiver points to the fact that its efforts to find a stalking horse bidder have taken about a year. Prior LOI's were signed and not carried through to fruition by the proposed buyers.

5) The difficulty is that the marketing for stalking horse bidders was conducted outside an approved process. I have no idea how thoroughly the market was canvassed. I know nothing of the terms proposed or the reasons why the prior potential candidates did not reach the goal line. I have no idea if the market value of the property is likely to exceed the amount of the credit bid. But I am asked to approve it as a stalking horse bid rather than just putting the property up for sale in the ordinary course.

6) I am told that stalking horse bids are frequently used. But I am not told why in this case it is preferable. Could the secured creditor not have made a credit bid offer to the Receiver in the ordinary course without using a stalking horse process to attach terms to the ability of the Receiver to receive competitive bids?

7) Now, I am provided with a brief marketing period for two very large, complex projects. Realistically how likely is it that buyers will come forward now as we roll into the holiday season to conduct due diligence to bid the full amount of the secured creditors' debt plus priority claims?

8) In other words, the real marketing process was the search for the stalking horse bidder. That occurred in an opaque manner between secured creditor and Receiver. That is not optimal at all and could attract concerns by those who tend to view transparency as important.

9) I am prepared to approve the process in this case because it was improved due to concerns expressed by other stakeholders and because I doubt that people in the market for projects of this size need a lot of marketing from real estate agents to know about the availability of these sites. I am not satisfied that a floor price is necessary or deal enhancing without evidence to say why this is so. But I am satisfied that a credit bid is appropriate and provides similar stability in any event. See: *Validus Power Corp. et al. and Macquarie Equipment Finance Limited*, 2023 ONSC 6367.

10) The Receiver and the stalking horse bidder both advised that the two restrictive covenants that are of concern to Mr. Hollard's client 7037619 CANADA INC. will be "Permitted Encumbrances." On that basis his client does not oppose the approval of the process order today. It reserves it rights to ensure that its restrictive covenants remain on title in the final vesting order.

11) KENAIDAN is the construction manager on two sites. It requests a wording amendment to the initial order to clarify that the initial stay of proceedings included protecting it from claims that flow through it up to the debtors. The Receiver consents. No one opposes. I agree that the change is fair and reasonable to clarify he intended scope of the stay.

Date: Nov 13, 2025

Frederick L. Myers