



No. S-264225
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

AND

SYMPHONY HOMES (MOONLIGHT SONATA) LIMITED,
1168386 B.C. LTD., 1197030 B.C. LTD., 1197062 B.C. LTD., SYMPHONY HOMES
(WAYBURNE) LTD. and 663466 B.C. LTD.

PETITIONERS

APPLICATION RESPONSE

Application response of : KingSett Mortgage Corporation (the "**Application Respondent**" or "**KingSett**")

THIS IS A RESPONSE TO the Notice of Application of the AlixPartners Restructuring, Inc., in its capacity as court-appointed monitor of the Petitioners (the "**Monitor**") dated September 29, 2026 (the "**Monitor's Application**").

The Application Respondent agrees to the applicant's hearing date of October 5, 2026.

The Application Respondent estimates that the application will take 2 hours.

Part 1 ORDERS CONSENTED TO

The Application Respondent 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: **ALL**

Part 2 ORDERS OPPOSED

The Application Respondent opposes the granting of the orders set out in the following paragraphs of Part 1 of the Notice of Application: **NIL**

Part 3 ORDERS ON WHICH NO POSITION IS TAKEN

The Application Respondent takes no position on the granting of the orders set out in the following paragraphs of Part 1 of the Notice of Application: **NIL**

Part 4 FACTUAL BASIS

1. KingSett adopts and relies on the factual basis and defined terms as set out in Part 2 of the Monitor's Application.
2. KingSett supports the relief sought by the Monitor which includes an order approving an amendment to the Interim Financing Facility and approving increased borrowings under such facility from \$1,000,000 to \$7,500,000.
3. KingSett is the Petitioners' senior secured creditor, and has provided interim financing to the Petitioners in support of their restructuring in these proceedings.
4. On June 26, 2026, this Court granted an amended and restated initial order which, among other things, added Symphony Homes (Wayburne) Ltd. as a petitioner to these proceedings.
5. KingSett entered into an amending agreement dated July 31, 2026 to add Wayburne as a borrower under the Interim Financing Facility. A copy of the amending agreement is attached as Exhibit "E" to Affidavit #3 of Daniel Pollack made October 1, 2026.
6. KingSett supports the Borrowing Increase, and has confirmed with the Monitor that advances under Interim Financing Facility, as amended by the Amended Interim Financing Facility, may also be used, as necessary, to fund Phase 2A of the Project, consisting of 40 rental units.

Part 5 LEGAL BASIS

1. KingSett adopts and relies on the legal basis as set out in Part 3 of the Monitor's Application, and repeats paragraphs 33 and 34 as it relates to the approval of the Amended Interim Financing Facility and the Borrowing Increase.
2. The consideration of increased or amended interim financing availability in CCAA proceedings is governed by Section 11.2 of the CCAA, and the non-exhaustive factors at Section 11.2(4):
 - (a) the period during which the company is expected to be subject to proceedings under the CCAA;
 - (b) how the company's business and financial affairs are to be managed during the proceedings;
 - (c) whether the loan will enhance the prospects of the restructuring;
 - (d) whether the company's management has the confidence of its major creditors;
 - (e) the nature and value of the company's property;
 - (f) whether any creditor would be materially prejudiced as a result of the security or charge; and

- (g) the monitor's report.

Bron Media Corp. (Re), 2023 BCSC 1563 at 16-18;
1057863 B.C. Ltd. (Re), 2020 BCSC 1359 at 34-35;
1057863 B.C. Ltd (Re), 2024 BCSC 1111 at 26.

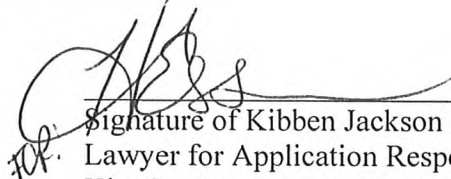
3. The Application Respondent submits that the Borrowing Increase and the Amended Interim Financing Facility are appropriate as:
- (a) Symphony Wayburne should be added as a borrower under the Amended Interim Financing Facility given its status as a Petitioner in the proceedings;
 - (b) the Borrowing Increase is necessary to resume Phase 1 construction, satisfy presale completion requirements, prevent deterioration of existing work and otherwise preserve KingSett's collateral;
 - (c) absent the Borrowing Increase, there is a risk that existing purchase transactions will not close, which could materially impair the value of the Project;
 - (d) as set out in the Monitor's fourth report to the court dated September 29, 2026, the Monitor is of the view that approval of the Borrowing Increase is in the best interests of stakeholders and that creditors will not be prejudiced; and
 - (e) KingSett supports the amount of the Borrowing Increase, which is supported by the Cash Flow Forecast and expected to enhance the value of the Project through the interim Phase 1 work funded by the Borrowing Increase.

Part 6 MATERIAL TO BE RELIED ON

- 1. Affidavit #3 of Daniel Pollack made October 1, 2026.
- 2. Fourth Report of the Monitor dated September 29, 2026.

☒ The Application Respondent has filed in this proceeding a document that contains the Application Respondent's address for service.

Dated: 01-Oct-2026



Signature of Kibben Jackson
Lawyer for Application Respondent,
KingSett Mortgage Corporation

The Solicitors for KingSett Mortgage Corporation are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 550 Burrard Street, Suite 2900, Vancouver, BC V6C 0A3 Telephone: +1 604 631 3131 Facsimile: +1 604 631 3232 E-mail: hesslinger@fasken.com (Reference: Heidi Esslinger/311780.00068)