



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: BK-25-03281116-0032

DATE: November 18, 2025

NO. ON LIST: 1

TITLE OF PROCEEDING: 177 CROSS ARGUS DEVELOPMENT INC.

BEFORE: JUSTICE CAVANAGH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Sara J. Erskine	Counsel to 177 Cross Argus Development Inc.	sara@be-law.ca
Adrienne Zaya (No Appearance)		adrienne.zaya@bc-law.ca
Heather Meredith	Counsel to 915643 Ontario Inc. (1st & 2nd Mortgagee)	hmeredith@mccarthy.ca
Meena Alnajar		malnajar@mccarthy.ca
Derek Ketelaars	Counsel to Aarti Real Estate Enterprises Inc & Mayuri Ventures Inc. (3rd Mortgagee)	derek@sclawpartners.com
Syed Jawad Quader		jawad@sclawpartners.com
Danny M. Nunes	Counsel to the Proposal Trustee	dn@capstonelegal.ca
Adam Zeldin	Proposal Trustee	azeldin@albertgelman.com
Bryan Gelman		bgelman@albertgelman.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE CAVANAGH:

[1] There were two motions and one application before me.

[2] The motion by 177 Cross Argus Development Inc. (“177”) seeking, among other things, an extension of the time for 177 to file a proposal under the Bankruptcy and Insolvency Act, RSC 1985, c B-3, was not pursued and was withdrawn by 177 on consent.

[3] In the motion by 915643 Ontario Inc. (the “Lender”), the Lender sought an order in the proposal proceedings of 177 to, among other things, lift the stay of proceedings and deem the notice of intention to make a proposal (the “NOI”) filed by 177 withdrawn (the “Withdrawal of NOI Order”).

[4] In the application, the Lender sought an order (the “Receivership Appointment Order”) for the appointment of a receiver over the assets, undertakings and properties of 177 and Double Diamond Capital Inc. (“Double Diamond” and, together with 177, the “Debtors”) acquired for or used in relation to a business carried on by the Debtors at the real property with the municipal address 177-185 Cross Avenue and 580 Argus Road, Oakville, ON (the “Real Property”).

[5] At the commencement of the hearing, I was advised that (i) the Debtors, (ii) the Lender, (iii) Aarti Real Estate Enterprises Inc. and Mayuri Ventures Inc. (together, the “Third Mortgagee” and, together with the Debtors and Lenders, the “Parties”); and (iv) Albert Gelman Inc. (“AGI”) in its capacity as proposal trustee and proposed receiver and its counsel, had reached a resolution.

[6] In particular, I was advised that the Parties and AGI each consented to the withdrawal of the NOI and were seeking the Withdrawal of NOI Order today, on consent.

[7] In *Elk Gold Mining Corp. (Re)*, 2024 BCSC 371 (CanLII), Fitzpatrick J., at paras. 33-42, surveyed the applicable jurisprudence and held that the court has jurisdiction to allow a debtor to withdraw an NOI if the circumstances justify that relief. Fitzpatrick J. accepted that there is a functional gap in the BIA and that circumstances may exist which allow the court to consider such relief so as to give effect to the purposes of the BIA. Fitzpatrick J. concluded, in addition, at para. 42, that the court has the jurisdiction to grant an order for the withdrawal of a NOI pursuant to s. 183(1) of the BIA, in the exercise of its statutory jurisdiction toward fulfilling the objectives of the BIA.

[8] 177 has reached a resolution with the Third Mortgagee, which resolves the situation that led to the NOI filing. In addition, the parties have reached a resolution and the Withdrawal of NOI Order is on consent. I am also satisfied that the proposal proceeding is not the appropriate process for addressing the issues faced by 177. Among other things, 915 does not consent to it, there is no prospect of a viable proposal, and 177 has not yet secured financing for the proposal process or its professional fees. 177 has no employees or business to be saved.

[9] I am satisfied in the circumstances that the requested Withdrawal of NOI Order, on consent, should be made.

[10] Order to issue in form of the Withdrawal of NOI Order signed by me today.

[11] In addition, I was advised that the Parties had agreed to the form of Receivership Appointment Order, which would be sought on consent on November 20, 2025 unless the Debtors made certain payments agreed among the Parties by 3 p.m. on November 20, 2025 (the “Initial Payments”).

[12] I scheduled a hearing on November 20, 2025 at 3:30 p.m. before me to hear the application for the Receivership Appointment Order (which counsel reviewed with me today) in the event the Initial Payments are not made as required by the agreement among the Parties.

[13] I was further advised that if the Initial Payments are made by 3 p.m. on November 20, 2025 then the Parties will cancel the November 20, 2025 hearing but will seek a further hearing on November 28, 2025 to consider the Receivership Appointment Order in the event that the Debtor fails to meet certain additional terms (the “Additional Terms”) by that time.

[14] In order to secure the date, I scheduled a further hearing on November 28, 2025 at 11 a.m. to hear the application for the Receivership Appointment Order in the event that the Initial Payments are made as required (such that the Receivership Appointment Order is not granted on November 20, 2025) but the Additional Terms are not met by November 28, 2025 at 11 a.m.

[15] Counsel will advise the Commercial List Court Office in the event either the November 20, 2025 or November 28, 2025 hearings are not required.
