

No. S-263823  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NATIONAL BANK OF CANADA

PETITIONER

AND:

0993006 B.C. LTD., 1014669 B.C. LTD., 670805 B.C. LTD.  
and 0859116 B.C. LTD.

RESPONDENTS

**AFFIDAVIT**

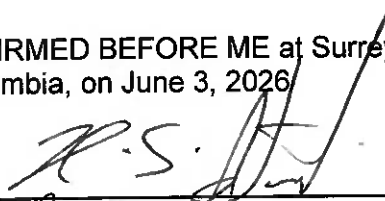
I, Baljit Johal, businessperson, c/o 309 – 3211 152 Street, Surrey, British Columbia, AFFIRM THAT:

1. I am a director of the corporate respondents 0993006 B.C. Ltd., 1014669 B.C. Ltd., 670805 B.C. Ltd. (the "Companies"). As such, I have personal knowledge of the following facts and matters, except where stated to be based on information and belief, in which case I believe them to be true.
2. I make this affidavit to provide the Court with 'on the ground' information regarding construction of the project subject to this proceeding. Specifically, it is of utmost importance to have construction complete by the drop dead date of October 2026 and maintain enforceability of the pre-sale contracts.
3. With regards to the status of the Project, over 80% of critical supplies needed to complete the Project are currently on site and are ready to be installed.
4. Now shown to me and attached as **Exhibit "A"** to this my affidavit is a copy of an internal list of work remaining on the Project as of June 2, 2026.
5. Now shown to me and attached as **Exhibit "B"** to this my affidavit is a copy of the Project timeline with and without the attached calendar, demonstrating the required steps to complete the Project.
6. I have a deep understanding of the construction status and steps required to complete in a timely and efficient manner. The timeline to complete by October 2026 is achievable if Mortise Construction's site supervisor and/or construction manager are retained by the Monitor to remain on-site to assist in coordinating the remaining trades.
7. A brand new project manager would not be able to marshal the trades and would be unfamiliar with the work completed. Despite designs and plans being available on site, any person familiar with construction knows that a brand new general contracting crew will take longer to complete a project without some assistance from the current site supervisor, foreman or construction manager.
8. I am advised by my site supervisor and do verily believe it to be true that one of the proposed new general contractors did a site visit last week and verbally stated their opinion that

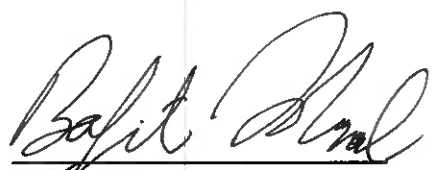
completion will take minimum six months. That is a preposterous estimate and would jeopardise all current pre-sale contracts.

- 9. Intergulf, which I understand is a proposed general contractor, has a true interest in having this project complete within the October 2026 timeline and I strongly suggest Intergulf be retained as the construction manager. Intergulf's interest in completing the construction and keeping the pre-sale contracts on foot arises from Intergulf's potential interest in the next two phases of the overall project. National Bank, Bancorp and the Monitor are all aware of Intergulf's relationship with the project.
- 10. Neither I nor the Companies have any financial interest in Intergulf. I suggest this for the benefit of all stakeholders.
- 11. Further, Mortise Construction, the previous general contractor, has relationships with certain trades and trades have agreed to finish the project while certain amounts remain owing.
- 12. I doubt any trades would agree to complete their scope or return to site without full payment if Mortise is no longer involved. I have received phone calls from various trades stating this position. If new trades are required, construction costs will increase and the construction timeline will not be met. I strongly suggest Mortise remain involved in some capacity so that the current trades return to site and complete their scope.
- 13. Lastly, filing of a new property disclosure statement may also lead to presale issues as discussed in a recent CBC article related to one of the Thind Properties receivership proceedings.
- 14. Now shown to me and attached as **Exhibit "C"** to this my affidavit is a copy of the CBC News article referencing the recent Thind Properties Eclipse development.

AFFIRMED BEFORE ME at Surrey, British Columbia, on June 3, 2026

  
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 Raman S. Atwal  
 A Commissioner for Taking Affidavits  
 For British Columbia

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 Bahit Johal

**RAMAN S. ATWAL**  
*Barrister & Solicitor*  
**ATWAL & ASSOCIATES TRIAL LAWYERS**  
 309 - 3211 152 STREET  
 SURREY, BRITISH COLUMBIA  
 Ph: 604.359.4459

This is Exhibit " A " referred to in the  
Affidavit of Balsit Sohal  
sworn (or affirmed) before me  
this 03 day of JULY 2026.

  
\_\_\_\_\_  
A Commissioner/Notary Public for the  
Province of British Columbia

**NOVA PENDING WORKS**

**Rooftop**

**Roofers**

- Elevator entrance torch on piece
- Whole roof cap flashing

**Framers**

- Treliss material needed, to frame treliss

**Siding**

- About 10 missing pieces for hardie, and treliss structure flashing detailing

**HVAC**

- Cut out for fan at the top of elevator and install (affects hardie completion)

Playground and yoga studio flooring all completed. Only need to put a picnic bench on the rooftop, it is on site and in P1 (mortise work)

**Level 6**

**Punchlist items for floors 2, 3, 4, 5, 6**

- Install final electrical fixtures and breakers
- Grout showers and floors (few missing)
- A couple damaged and missing interior unit doors.
- Order appliances and lock up

Hallways are the major area looking to be wrapped up\*\*

**HVAC**

- Connect copper lines to main branches from exterior machines
- Replace incorrect wiring in each unit thermostat
- Order large maintenance hatch for VRF machine in unit
- Appliance connections

**Electrician**

- Install final fixtures and breakers, and appliances connections
- Need to string all units to the parkade (telus and rogers connections)
- Final fire alarm fixtures and strobes

**Plumber**

- Appliance connections

#### Drywall

- Hallway steel stud framing for ceiling (after HVAC) and board and mud
- Review one for final touch ups but majority already completed.

#### Painter

- Final paint for hallways and review interior units

Order either inspection necessary appliances, or all of them (best to order all when power is operational)

### Level 5

#### HVAC

- Connect copper lines to main branches from exterior machines
- Replace incorrect wiring in each unit thermostat
- Order large maintenance hatch for VRF machine in unit
- Appliance connections

#### Electrician

- Install final fixtures and breakers, and appliances connections
- Need to string all units to the parkade (telus and rogers connections)
- Final fire alarm fixtures and strobes

#### Plumber

- Appliance connections

#### Drywall

- Hallway steel stud framing for ceiling (after HVAC) and board and mud
- Review one for final touch ups but majority already completed.

#### Painter

Final paint for hallways and review interior units

### Level 4

#### HVAC

- Connect copper lines to main branches from exterior machines
- Replace incorrect wiring in each unit thermostat
- Order large maintenance hatch for VRF machine in unit
- Appliance connections

**Finisher**

- Install entry missing doors and deadbolts (need doors from apna)

**Electrician**

- Install final fixtures and breakers, and appliances connections
- Need to string all units to the parkade (telus and rogers connections)
- Final fire alarm fixtures and strobes

**Plumber**

- Appliance connections

**Drywall**

- Hallway steel stud framing for ceiling (after HVAC) and board and mud
- Review one for final touch ups but majority already completed.

**Painter**

Final paint for hallways and review interior units

**Level 3****HVAC**

- Connect copper lines to main branches from exterior machines
- Replace incorrect wiring in each unit thermostat
- Order large maintenance hatch for VRF machine in unit
- Appliance connections

**Cabinets**

- Few missing doors and handles as well as gables

**Finisher**

- Install entry doors that are missing and deadbolts (need doors from apna)

**Electrician**

- Install final fixtures and breakers, and appliances connections
- Need to string all units to the parkade (telus and rogers connections)
- Final fire alarm fixtures and strobes

**Plumber**

- Appliance connections

**Drywall**

- Hallway steel stud framing for ceiling (after HVAC) and board and mud

- Review one for final touch ups but majority already completed.

Painter

Final paint for hallways and review interior units

Level 2

HVAC

- Connect copper lines to main branches from exterior machines
- Replace incorrect wiring in each unit thermostat
- Order large maintenance hatch for VRF machine in unit
- Appliance connections

Cabinets

- Few missing doors and handles as well as gables

Flooring

- Need to self level all floors
- Install laminate (onsite and waiting)

Tiles

- Few shower tiles still pending
- Grouting all floors and showers

Electrician

- Install final fixtures and breakers, and appliances connections
- Need to string all units to the parkade (telus and rogers connections)
- Final fire alarm fixtures and strobes

Plumber

- Appliance connections

Drywall

- Hallway steel stud framing for ceiling (after HVAC) and board and mud
- Amenity drop board mud and tape needed delivery is on site
- Review one for final touch ups but majority already completed.

Painter

Final paint for hallways and review interior units

Level 1

## HVAC

- Connect copper lines to main branches from exterior machines
- Replace incorrect wiring in each unit thermostat
- Order large maintenance hatch for VRF machine in unit and other vent finishing
- Appliance connections

## Cabinets

- Missing doors and handles as well as gables

## Countertops

- Only half floor has been delivered. Still pending other half from supplier

## Flooring

- Need to self level all units
- Install laminate (onsite and waiting)

## Finisher

- Install interior door and casings (when delivered)
- Install door accessories and bathroom accessories

## Tiles

- All shower tiles still pending
- Kitchen backsplash pending after counters
- Grouting all floors and showers

## Electrician

- Install final fixtures and breakers, and appliances connections
- Need to string all units to the parkade (telus and rogers connections)
- Final fire alarm fixtures and strobes

## Plumber

- Appliance connections
- Install fixtures when countertops are provided. All fixtures are on site

## Drywall

- Hallway steel stud framing for ceiling (after HVAC) and board and mud
- Amenity corner unit board mud and tape needed. All other units completed but pending final touch up

## Painter

Final paint for hallways and review interior units

**PARKADE****P1****Electrician**

- Begin rough wiring including for verification equipment
- Energize and order temporary meters or jumpers for electrical room
- String all conduits for rogers and telus
- Order common area fixtures like lights

**HVAC**

- Install CO2 sensors
- Install fans
- Run main branches for cooper through P1 up towards closet on level 1 for each floor
- Duct work for return air running to exterior from mech room and layout
- Exhaust for mech room meet with sprinklers and plumbers about this

**Mortise**

- Completed block work for elevator entrys and any door ways
- Install door panels (waiting from apna)

**Plumber**

- Finish mechanical room connections to exterior
- Install equipment on walls and layout

**Sprinkler**

- Install fire pump and engine in mech room
- Sprinkler heads connections to main line
- Standpipe connections

**Insulation**

- Firestop all through slab penetrations
- Final spray for insulation underslab

**Roofers/Painters**

- Traffic membrane cleaning and installation (all works must be cleared and completed before this)
- Paint any walls and columns as necessary

**P2****Electrician**

- Begin rough wiring including for verification equipment
- String all conduits for rogers and telus
- Order common area fixtures like lights

HVAC

- Install CO2 sensors
- Install fans

Mortise

- Completed block work for elevator entrys and any door ways
- Install door panels (waiting from apna)

Roofers/Painters

- Traffic membrane cleaning and installation (all works must be cleared and completed before this)
- Paint any walls and columns as necessary

P3

Electrician

- Begin rough wiring including for verification equipment
- Energize conduits for sump pumps and drainage sumps
- String all conduits for rogers and telus
- Order common area fixtures like lights

HVAC

- Install CO2 sensors
- Install fans

Mortise

- Completed block work for elevator entrys and any door ways
- Install door panels (waiting from apna)

Plumbers

- Install all pit sumps for storm drainage

Painters

- Paint any walls and columns as necessary
- Seal P3 flooring with regular sealer is approved.

Exterior

- Install all wiring for common area pathway lights

- Grading for sidewalks and fraser highway planter beds
- Concrete in corner unit patio area and remainder of sidewalk
- Forming for steps from from upper level to Phase 3 level
- Grading for roundabout area, are we digging it out and doing stamped concrete or pavers?  
Need curbs redone as well city spec
- Removal of CT Meter sea-can?
- Install final glass and entry way storefront doors
- Fire panel and verification equipment and access control (can be done at same time when level1 interior gets made)
- 

Roofers

- Torch on remainder single layer of parkade exposed on P3

HVAC

- Bring up machine from parkade and place onto pedestal for install before copper
- 

End.

This is Exhibit "B" referred to in the  
Affidavit of Balsit Sohal  
sworn (or affirmed) before me  
this 03 day of June, 2026.

  
A Commissioner/Notary Public for the  
Province of British Columbia







This is Exhibit " C " referred to in the  
Affidavit of Balsit Sobal  
sworn (or affirmed) before me  
this 02 day of June, 2026.

  
\_\_\_\_\_  
A Commissioner/Notary Public for the  
Province of British Columbia

British Columbia · CBC Investigates

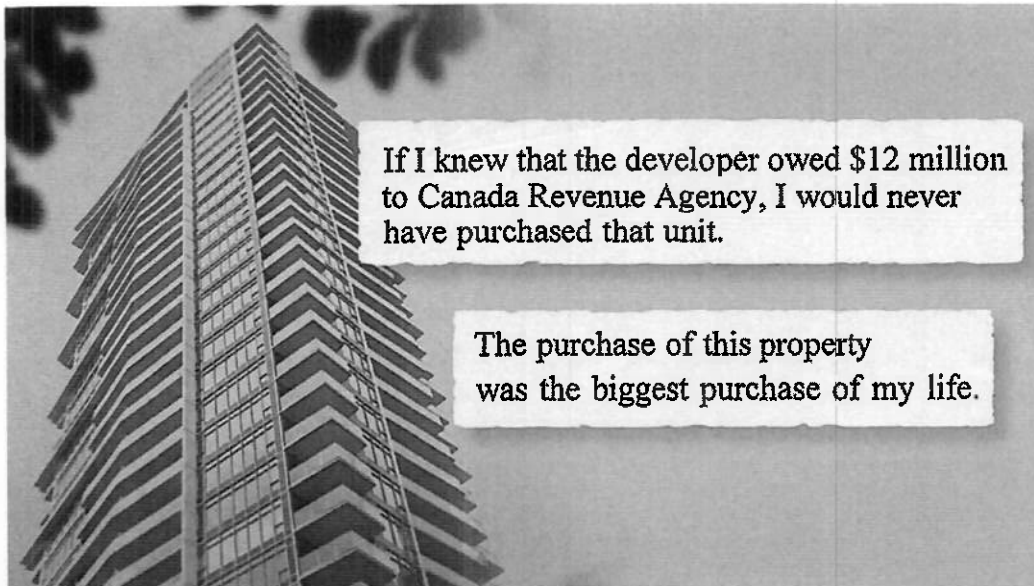
# Dozens of pre-sale purchasers in troubled Lower Mainland condo tower claim contracts invalid

Court-appointed monitor claims units have lost value, setting up fight between provincial and federal laws

Jason Proctor · CBC News · Posted: May 26, 2026 4:00 AM PDT | Last Updated: May 26



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Dozens of purchasers of pre-sale units at Burnaby's Eclipse tower are going to court in a bid to invalidate their contracts. The project was forced into creditor protection in January 2025 amid financial problems. (Nav Rahi/CBC News)

At \$40 a haircut, Mohammadjavad Nadali spent nearly four years saving the \$38,295 he used as a down payment in 2023 for a pre-sale unit at Burnaby's Eclipse condo building.

Had he known then what he has since learned about the developer's troubled finances, the 30-year-old barber claims he never would have bought into the Third Properties development, which was forced into creditor protection in January 2025.

- **CBC INVESTIGATES** [Multimillionaire Vancouver developer jailed for ignoring court orders](#)

In court documents filed last month, Nadali claims allegations of misappropriated funds, a huge tax bill and the suspension of building permits and new home warranty insurance — all of which emerged during insolvency proceedings — would have served as massive red flags.

"If I knew that the developer owed \$12 million to Canada Revenue Agency, I would never have purchased that unit," Nadali says in an affidavit filed in B.C. Supreme Court.

"Knowing any of these facts I would view the developer as not responsible, and I would not purchase from them."

### 'Impact ... will be severe'

Nadali is one of more than three dozen Eclipse pre-sale purchasers asking a B.C. Supreme Court judge to declare their contracts unenforceable for alleged breaches of B.C.'s Real Estate Development Marketing Act (REDMA).

The proceedings threaten to upend a standard creditor protection process by pitting provincial legislation protecting real estate consumers against federal laws designed to give debtors "breathing room" needed to repay creditors.



Thind Properties faced a series of insolvency proceedings in late 2024 and early 2025. Pre-sale purchasers claim they only learned about the problems the developer was facing through those court proceedings. (Ben Nelms/CBC)

In court documents, the monitor appointed to oversee the Eclipse developer's finances claims Nadali and the others are essentially trying to get out of deals that time and the real estate market have proven to be money losers.

KSV Restructuring Inc. says the alleged breaches all occurred before the creditor protection proceedings and notes that the developer's "alleged misuse or misappropriation of certain funds" was "never substantiated."

The company acknowledges that pre-sale purchasers agreed to pay "substantially above what could be achieved for the same units in the current market" but claims allowing them to back out now could have a devastating knock-on effect.

The monitor says a court victory would "encourage further challenges to closings by other pre-sale purchasers, resulting in additional value erosion."

"The marketing of unsold Eclipse units will be, at best, challenging given current market conditions, existing inventory, purchaser financing constraints and the need to preserve market confidence in the Eclipse project," the court filings read.

"The impact on the debtors and their creditors ... will be severe."

### **The fate of pre-sale contracts**

The Eclipse was one of a string of Thind Properties developments forced into court in late 2024 and early 2025 by KingSett Mortgage Corporation, the company owed \$225 million as of last December by firms Thind incorporated to build the Burnaby tower.

The insolvencies captured headlines, with KingSett loan and portfolio management director Daniel Pollack pointing to "uncertainty in the economy and particularly in the real estate market" in an affidavit outlining the developer's tax problems and mortgage defaults.



Construction at the Eclipse condo tower was 'deemed substantially complete' by mid-March, but more than three dozen pre-sale purchasers are asking a B.C. Supreme Court judge to declare their contracts unenforceable. (Nav Rahi/CBC)

In the months since, numerous other condo developments around the Lower Mainland have entered receivership.

With condo prices slumping and the inventory of unsold units in Metro Vancouver doubling from 2024 to 2025, questions about the rights of pre-sale purchasers have come into focus.

In a separate set of proceedings facing another embattled developer — Helen Chan Sun — both Sun and a company that provides deposit insurance claim a bankruptcy order itself could be enough of a change to give pre-sale purchasers the right to rescind.

In an affidavit sworn in 2024 in relation to another Thind project — Surrey's District Northwest — Thind president Daljit Thind claimed he did "not believe the deposits for the pre-sold units are at risk as they were sold at a price that is below current market value."

But the market has since caught up, and according to court documents filed last year — when offered the chance, enough District Northwest pre-sale customers rescinded their contracts to scuttle a plan to sell that development out of receivership.

According to B.C. Assessment, the assessed value of the Eclipse tower fell from \$257 million in July 2024 to \$185 million last July.

Nearly \$70 million of that drop was in the value of the building.

### **'Those facts were not disclosed'**

At the time the Eclipse project went into creditor protection, the 34-storey development was 95 per cent complete and 232 of the tower's 329 units had been pre-sold.

In its legal filings, KSV Restructuring claims the court-appointed monitor has since taken steps to complete the building's construction, reinstating the new home warranty insurance, retaining "critical trades and vendors and filing a strata plan for the Eclipse project."



Burnaby's Eclipse condo project was placed into creditor protection in January 2025. The 34-storey development was 95 per cent complete at the time and 232 of the tower's 329 units were sold. A number of pre-sale purchasers have accused the developer of breaching B.C.'s Real Estate Development Marketing Act. (Nav Rahi/CBC)

Construction was "deemed substantially complete" by mid-March and "an occupancy permit was issued on April 10, 2026."

The monitor went back to court in April to obtain an order allowing for the sale of the Eclipse land and buildings — pursuant to any of the pre-sale agreements.

But lawyers for two groups of pre-sale owners wrote to the monitor in December 2025 and February 2026 claiming their contracts were unenforceable and demanding the return of their deposits.

Last month, both groups filed B.C. Supreme Court applications accusing the developer of breaching B.C.'s Real Estate Development Marketing Act well before insolvency proceedings began by failing to provide purchasers "material facts" about the Eclipse.

"The developer was in dire financial circumstances dating back to at least June 2023, when Canada Revenue Agency (CRA) obtained a judgement against it for approximately \$12 million," one of the applications reads.

"By the fall of 2024, the situation has further deteriorated. In October 2024, warranty coverage for the development was suspended. In November 2024, the City of Burnaby suspended the building permit and construction ceased."

Nadali and the others claim "those facts were not disclosed by the developer in clear breach of the REDMA."

"The REDMA requires a developer to disclose a misrepresentation in a disclosure statement immediately after it becomes aware of it," the court documents claim.

"The developer failed to do so."

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## 'I regret my decision'

The court proceedings concern 32 units worth a combined pre-sale total of more than \$26 million to the developer.

In affidavits filed with the court, three pre-sale purchasers of Eclipse units worth nearly \$600,000 apiece claim they were "shocked" in December 2025 to learn the developer was insolvent.



Townhouse and condo sales have slumped in Metro Vancouver in the past year. The industry has faced a record number of insolvencies. (Darryl Dyck/Canadian Press)

In her affidavit, massage therapist Nazila Ghorbani claims she intended to live with her husband and son at the million-dollar condo she agreed to purchase at the Eclipse in 2023.

She says she would have thought differently about investing had she known about the developer's tax debts and the delays in completion.

"There were lots of units available from other developers," she writes.

"I needed to know with certainty that the development would be completed. I intended to move into the development ... The uncertainty surrounding the project has caused significant disruption to my family's financial and personal planning."

In his affidavit, Masaki (Kevin) Matsumoto says his father loaned him the \$107,085 deposit he put down for the purchase of a unit worth \$713,900.

"My plan was to live in the unit. My purchase of a unit in the Eclipse was my first and only real estate purchase," Matsumoto claims.

"I regret my decision to purchase a unit in the Eclipse. I believe I was significantly misled by the developer and that the overall quality of the development is very poor."

### Provincial versus federal law

In response to the applications, KSV Restructuring accuses the pre-sale purchasers of trying to do an end-run around the federal Companies' Creditors Arrangement Act (CCAA).

The federal government describes the CCAA as "a federal law allowing insolvent corporations that owe their creditors in excess of \$5 million to restructure their business and financial affairs."

"The CCAA has a broad remedial purpose, allowing a company to continue in business while it seeks to develop and obtain the approval of compromises or arrangements with its creditors," a government website dedicated to the legislation explains.



Pre-sale purchasers at Burnaby's Eclipse tower have filed an application in B.C. Supreme Court which pits provincial legislation against federal law. (Ben Nelms/CBC)

"Canadian courts have held that the main purpose of the CCAA is to avoid, where possible, the social and economic consequences of bankruptcy, and to allow a company to carry on business."

Under the terms of the CCAA, KingSett Mortgage Corporation obtained a broad stay of proceedings in January 2025 preventing anyone from pursuing legal action against the Eclipse developers while the monitor works to salvage the creditors' investment.

The monitor claims the CCAA prohibits "conduct that could imperil a restructuring" -- like consumers trying to rely on provincial legislation to address a breach of B.C.'s Real Estate Development Marketing Act.

KSV Restructuring says the pre-sale purchasers waited a year before making their claims, giving them "the benefit of determining whether the real estate market would improve" before asking for their money back.

As part of the proceedings, the monitor has filed a "notice of constitutional question" — alerting both Canada's and B.C.'s attorneys general to the fact that KSV Restructuring intends to argue that the CCAA should take precedence over REDMA.

- **Embattled developer faces court hearing over \$250 million mortgage default claim**
- **Developer's debt woes worsen as more Metro Vancouver condo projects face insolvency**
- **B.C. real estate agent seeks \$800K in commissions for units sold in financially troubled condo project**

That's a concern the pre-sale purchasers address in their application.

The stay of proceedings "did not change the developer's obligation to issue an amended disclosure statement, nor did it negate past breaches of that obligation," the pre-purchasers argue.

"The developer is not lawfully permitted to close contracts that are unenforceable by the developer under provincial law."

Even if they lose, the monitor says, the pre-sale purchasers will receive exactly "what they bargained for – completed units in the [Eclipse]."



