

REEDMAN LAW

August 24, 2025

File No. 4780-1
Reply to: Cody Reedman

BY EMAIL: jwilliams@owenbird.com

Owen Bird Law Corporation
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Dear Counsel,

Re: Our client: KulKon Construction Corp.
Your client: D. Manning & Associates as the Receiver and Manager of Peak Developments Corp et al (the “Receiver” and the “Debtors”)
Re: Kimberley Crossing project (the “Project”)

As you are aware, we are retained by KulKon Construction Corp. in connection with the above matter and in its capacity as a lienholder.

We write in response to the Receivers’ correspondence dated August 21, 2025 (the “**August 21 Letter**”) and to put you and your client on notice of the following matters:

1. Our client’s position in respect of the conduct of the receivership to date and to put on record the concerns raised by our client; and
2. Our instructions to attend at the hearing of your client’s Notice of Application dated August 21, 2025, where we are instructed to request that the hearing be adjourned (with liberty to apply) pending the provision of additional information from your clients.

In respect of point 1, our client has instructed us to convey a number of serious concerns in connection with the conduct of the receivership to date.

Conduct of the Receivership

Our client raises serious concerns regarding the escalating indebtedness of the Debtors under the Receiver’s management, in particular through the continued advancement of loans by the Petitioner.

Under the terms of the receivership order made on May 6, 2025 (the “**Order**”), the Court permitted the Receiver to receive a loan of \$1,000,000 from the Petitioner (the “**Loan**”). The Loan has full priority over all of the Petition Respondents, including our client in its capacity as lienholder.

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Just 6 weeks later, by an order made on June 20th the Loan amount was increased to \$2 million. The present application of the Receiver in these proceedings is to seek a further increase of the Loan amount to \$3.9 million, again with priority for the full amount.

Having undertaken a detailed review of the Receiver's report dated June 20, 2025, and the August 21 Letter, our client finds it impossible to reconcile the expenditure incurred as against the progress of the Project based on the activities as described in those reports. It appears that little substantive construction work has been progressed during this time. Indeed, the August 21 Letter expressly confirms (at paragraph 8) that "*the status of the buildings is substantially the same as it was at June 20.*" This raises significant questions as to how approximately \$2 million funds have already been expended, and on what basis a further \$1.9 million is now being sought.

Furthermore, it would appear that the Receivers' immediate focus is to 'winterize' the Project. This indicates that no further meaningful construction is anticipated in the near future, and that there will be continued delays. Such delays, combined with escalating senior secured debt, will materially impair the residual value available to subordinate creditors, including our client.

Request for information

It is clear that information provided in the August 21 Letter is wholly inadequate for the purposes of assessing the reasonableness and justification for the Receiver's application to approve further funding. We would expect the Court to require additional detail to justify this latest request.

To enable our client (and indeed other interested parties), to properly assess the latest borrowing request from the Receiver and the impact that this will have on their own position, it is imperative that the following information be provided by your client as a matter of priority:

1. With reference to paragraph 9 of the August 21 Letter, a detailed plan outlining the steps to bring the Project to practical completion, to include specific project milestones and estimated total costs to complete the Project.
2. In parallel with the information at point 1 above, an updated valuation of the Project: (i) on an "as-is" basis today; and (ii) as of the anticipated date of practical completion.
3. A full account of *actual* costs incurred and paid to date, with reference to the costs budgets.
4. A full breakdown of the Receiver's professional fees from the date of appointment, which appear to exceed \$550,000, which also includes their site management. This is necessary to understand the Receiver's professional fees associated with their involvement. We would ask that this be done on an itemized basis.
5. An itemized breakdown of the works and costs to winterize the Project, which are stated in the August 21 Letter to be \$728,600.

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6. We will also require all Quantitative Survey certifications, draw requests, and fund uses. This is due to the fact the Project was 85% funded and only 50% completed.
7. Lastly, we request whether there exists any forensic accounting being completed by the Receiver for the funds used in the project. If so, we would request a copy of the final report when available.

In the circumstances, we respectfully request, and would urge, your client to consider giving its express consent to an adjournment of the hearing on Monday, August 25th, pending the provision and review of the above additional information.

Should the Receiver be unwilling to agree to an adjournment, we anticipate that our client will instruct us to oppose the order being sought and to make submissions to the Court accordingly.

We trust that your client will carefully consider its position in light of the above request.

We are available to discuss this matter further at your earliest convenience.

Yours truly,

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per:



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