



FORM 66 (RULES 16-1(2) AND 21-5(14))

Court File No. **NEL-S-H-22450**

No. _____
NELSON REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

0752063 B.C. Ltd.

PETITIONER

AND:

LANDCO VENTURES INC.
DAVID MICHAEL BILINSKI
KAREN ESPERSEN
CANADIAN WESTERN TRUST COMPANY
DEREK HALL
HIS MAJESTY THE KING IN RIGHT OF CANADA

RESPONDENTS

PETITION TO THE COURT

ON NOTICE TO:

Landco Ventures Inc.
c/o Registered Office
Suite 2300, Bentall 5
550 Burrard Street
Vancouver, BC V6C 2B5

Canadian Western Trust Company,
in Trust for Derek Hall
Suite 300-750 Cambie Street
Vancouver, BC
V6B 0A2

David Michael Bilinski
RR #1, S.4, C.4
Edgewood, BC V1G 1J0

Derek Hall
1312 Phoenix Drive
Vernon, BC V1B 3M4

Karen Espersen
RR #1, S.4, C.4
Edgewood, BC V1G 1J0

His Majesty the King in Right of Canada
c/o Department of Justice Canada
British Columbia Regional Office
#900 – 840 Howe Street
Vancouver, BC V6Z 2S9

This proceeding has been started by the petitioner for the relief set out in Part 1 below.

If you intend to respond to this petition, you or your lawyer must:

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner:
 - (i) 2 copies of the filed response to petition, and
 - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner:

- (a) if you reside anywhere within Canada, within 21 days after the date on which a copy of the filed petition was served on you;
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed petition was served on you;
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed petition was served on you; or
- (d) if the time for response has been set by order of the court, within that time.

	The address of the registry is: Nelson Law Courts 320 Ward Street Nelson, BC V1L 1S6
	The address for service of the petitioner is: c/o McMillan Dubo LLP 320 – 301 Victoria Street Kamloops, B.C. V2C 2A3 Fax number address for service (if any) of the petitioner(s): (250) 434-9485 E-mail address for service (if any) of the petitioner(s): N/A
	The name and office address of the petitioner's lawyer is: McMillan Dubo LLP 320 – 301 Victoria Street Kamloops, B.C. V2C 2A3 Phone: (778) 765-1701 Attention: Sherryl A. Dubo

FORM 11 (RULE 4-5(2))
ENDORSEMENT ON ORIGINATING PLEADING OR PETITION
FOR SERVICE OUTSIDE BRITISH COLUMBIA

The Petitioner claims the right to serve this petition on the Respondents outside British Columbia on the ground that the proceeding:

- (a) is brought to enforce, assert, declare or determine proprietary or possessory rights or a security interest in property in British Columbia that is immovable or movable property;
- (b) is brought to interpret, rectify, set aside or enforce any deed, will, contract or other instrument in relation to property in British Columbia that is immovable or movable property; and
- (c) concerns contractual obligations, and the contractual obligations, to a substantial extent, were to be performed in British Columbia and/or by its express terms, the contract is governed by the law of British Columbia,

pursuant to section 10 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28 upon which the Petitioner relies.

CLAIM OF THE PETITIONER

Part 1: ORDER(S) SOUGHT

1. A declaration that a Mortgage and Assignment of Rents (together the “**Mortgage**”) granted to the Petitioner by the Respondents Landco Ventures Inc. as mortgagor and David Michael Bilinski and Karen Espersen as covenantors and registered in the Kamloops Land Title Office on June 21, 2017 under Charges No. CA6082669 and CA6082670 constitutes a first mortgage charge on the following lands and premises situate, lying and being in the Province of British Columbia and being more particularly known and described as:

Parcel Identifier: 005-377-978

West ½ of the Southwest ¼ of Section 13 Township 69 Kootenay District Except (1)

Parcel A (DD 15913) (2) Plan 11920

(the “**Lands**”)

2. A declaration the Mortgage is a valid and enforceable mortgage charging the Lands in priority to any right, title or interest of any of the Respondents in the Lands.
3. A declaration the Mortgage is in default.
4. A summary accounting of the amount of money due and owing to the Petitioner pursuant to the Mortgage and a declaration of the amount of money required to redeem the Lands (the “**Redemption Amount**”).
5. An Order that the last day for redemption be 6 months from the hearing of this Petition or such other redemption period as the Court may decide.
6. An Order that the Petitioner be granted liberty to apply to this Court for a further summary accounting of any amounts due to the Petitioner for interest, taxes, arrears of taxes, insurance premiums, utilities, costs, charges, repairs, expenses or other amounts

outstanding to the Petitioner or incurred by the Petitioner related to the Lands before or after the date of entry or pronouncement of an Order Nisi.

7. The Petitioner recover costs of and in connection with this proceeding, to be assessed upon the Petitioner receiving a Notice to Assess Costs or upon the Petitioner making an application for costs to be assessed.
8. An Order that upon any of the Respondents paying to the solicitor of record for the Petitioner the Redemption Amount together with costs of this proceeding on or before the pronouncement of either Order Absolute of Foreclosure or an Order confirming the sale of the Lands, the Petitioner shall re-convey the Lands, free and clear of all encumbrances in favour of the Petitioner, to the Respondent or Respondents that made payment.
9. An Order that if the Lands are not redeemed, the Petitioner shall be at liberty to apply for an Order Absolute of Foreclosure and upon pronouncement of such an Order, the Respondents and all persons claiming by, through or under them shall stand absolutely debarred and foreclosed of and from all right, title, interest and equity of redemption of, in and to the Lands and that the Petitioner obtain title to the Lands free and clear of all charges, liens and encumbrances of whatever kind or nature, save and except any charges, liens and encumbrances ranking in priority to the Mortgage, and the Petitioner shall recover vacant possession of the Lands.
10. An Order for sale of the Lands and that the Petitioner have exclusive conduct of the sale.
11. An Order for the appointment of a Receiver should such an application be made by the Petitioner.
12. Judgment, jointly and severally, against each of the Respondents Landco Ventures Inc., David Michael Bilinski and Karen Espersen in favour of the Petitioner in the amount of \$227,914.00 as at September 26, 2022 plus interest thereafter at the rate of 9.0% per annum, calculated monthly not in advance, with unpaid accrued interest added to the principal amount and bearing interest at the same rate, together with the Petitioner's costs of and in connection with this proceeding.
 1. The Petitioner be granted a Certificate of Pending Litigation.
 2. The Petitioner obtain such further and other relief as this Honourable Court may order.

Part 2: FACTUAL BASIS

2. The Petitioner, 0752063 B.C. Ltd., is a company duly incorporated in British Columbia, having an address for service in this matter c/o McMillan Dubo LLP, 320 – 301 Victoria Street, Kamloops, B.C.
3. The Respondent mortgagor, Landco Ventures Inc., is the registered owner of the Lands. The Lands consist of agricultural land with a civic address of 9407 Highway #6, Inonoaklin Valley, B.C.
4. At all materials times the Respondents David Michael Bilinski and Karen Espersen were directors of the Respondent mortgagor Landco Ventures Inc.
1. The Respondents, Canadian Western Trust Company and Derek Hall, are the holders of a Mortgage in respect of the Lands, registered in the Kamloops Land Title Office under Charge No. CA6083639 whose interests ranks in priority behind the interest of the Petitioner.
2. The Respondent His Majesty the King in Right of Canada has been named as a Respondent on the basis that there may be tax debt outstanding in respect of the Respondent mortgagor. To the extent the Respondent His Majesty the King in Right of Canada asserts an interest in the Lands, the interests of the Petitioner rank in priority ahead of such interest.

The Mortgage

3. The Mortgage was registered in the Kamloops Land Title Office on June 21, 2017 under Charge Nos. CA6082669 and CA6082670.
4. Pursuant to the Mortgage, the Respondent Landco Ventures Inc. did grant and mortgage to the Petitioner all of its interest in and to the Lands, and the Respondents David Michael Bilinski and Karen Espersen covenanted to pay all the money due under the Mortgage and to perform all of Landco Ventures Inc.'s promises and agreements under the Mortgage, as primary borrowers, jointly and severally with Landco Ventures Inc.
5. The Mortgage secures repayment to the Petitioner of the principal amount of \$200,000 plus interest at the rate of 9.0% per annum, calculated monthly not in advance, with unpaid accrued interest added to the principal amount and bearing interest at the same rate, and costs.
6. As at September 26, 2022, the balance outstanding under the Mortgage is \$227,914.00.

7. On or about March 3, 2021, the Lands were forfeited to Her Majesty the Queen in Right of British Columbia due to unpaid property taxes. The Lands were subsequently reconveyed to the mortgagor on or about August 24, 2022, pursuant to section 40(3) of the *Taxation (Rural Area) Act*.
8. The Mortgage is in default because the Respondents failed to make payments to the Petitioner as and when due, failed to pay property taxes and allowed the Lands to become forfeit. The Mortgage has subsequently matured by its own terms.
9. By virtue of the Mortgage provisions, the full balance of principal and interest thereby secured is now due and payable.
10. The Petitioner has demanded payment of the indebtedness pursuant to the Mortgage, or alternatively the said amounts due, but notwithstanding such demand the Respondents Landco Ventures Inc., Michael Bilinski and Karen Espersen have refused or neglected to pay and the full amount remains due and owing.
11. The Petitioner is entitled to recover judgment against the Respondents Landco Ventures Inc., David Michael Bilinski and Karen Espersen for the amounts due and owing to the Petitioner under the Mortgage together with the Petitioner's costs.
12. A copy of the Mortgage upon which the Petitioner relies is attached hereto as **Schedule "A"**.

Part 3: LEGAL BASIS

1. Rules 10-2, 13-5, 14-1 and 21-7 of the *Civil Rules of Court*.
2. The *Law and Equity Act*, R.S.B.C. 1996, c.253.
3. The Petitioner advanced funds to the Respondent Landco Ventures Inc., which are due and owing but have not been repaid.
4. Payment of the indebtedness to the Petitioner is secured by the Mortgage.
5. The Respondents, David Michael Bilinski and Karen Espersen, executed the Mortgage as covenantors.
6. The Mortgage is in default.

7. The Respondents, Landco Ventures Inc., David Michael Bilinski and Karen Espersen have each have failed to pay the Petitioner despite demand.
8. The Petitioner is entitled to enforce its security and obtain judgment against each of the Respondents Landco Ventures Inc., David Michael Bilinski and Karen Espersen, for the indebtedness as claimed herein.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Jamie Stewart.

The petitioner estimates that the hearing of the petition will take 15 minutes.

Date: Oct. 13, 2022



Signature of Sherryl A. Dubo

☐ petitioner ☒ lawyer for petitioner

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs _____ of Part 1 of this petition

☐ with the following variations and additional terms:

Date: _____

Signature of ☐ Judge ☐ Master

SCHEDULE "A"

FORM_B_V23

KAMLOOPS LAND TITLE OFFICE

LAND TITLE ACT
FORM B (Section 225)

Jun-21-2017 12:32:49.001

CA6082669 CA6082670

MORTGAGE - PART 1 Province of British Columbia

PAGE 1 OF 4 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

**Michael James
Fulton Y58HF2**

Digitally signed by Michael James Fulton
Y58HF2
DN: cn=Michael James Fulton
Y58HF2, o=Lawyer, ou=Verify ID at
www.juricef.com/UKUP.cfm?id=Y58HF2
Date: 2017.06.21 12:23:07 -0700

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Cates Ford Oien Epp

Barristers and Solicitors

#300 - 125 4th Avenue

Kamloops

BC V2C 3N3

Phone: (250) 372-8811

File Ref. No: 17-055(92)

Document Fees: \$143.16

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[legal description]

005-377-978

WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 13 TOWNSHIP 69

KOOTENAY DISTRICT EXCEPT (1) PARCEL A (DD 15913) (2) PLAN 11920

STC? YES ☐

3. BORROWER(S) (MORTGAGOR(S)): (including postal address(es) and postal code(s))

LANDCO VENTURES INC.

#2 - 609 Baker Street

Nelson

BC

Incorporation No

BC1113764

V1L 4J3

4. LENDER(S) (MORTGAGEE(S)): (including occupation(s), postal address(es) and postal code(s))

0752063 B.C. LTD.

c/o #207 - 310 Nicola Street

Kamloops

BC

Incorporation No.

BC0752063

V2C 2P5

5. PAYMENT PROVISIONS:

(a) Principal Amount:

\$200,000.00

(b) Interest Rate:

9.0%

(c) Interest Adjustment

Date:

Y	M	D
17	07	01

(d) Interest Calculation Period:

Monthly, not in advance

(e) Payment Dates:

1st day of each and every month

(f) First Payment

Date:

17	08	01
----	----	----

(g) Amount of each periodic payment:

\$1,500.00

(h) *Interest Act* (Canada) Statement.

The equivalent rate of interest calculated
half yearly not in advance
is **9.170 % per annum.**

(i) Last Payment

Date:

18	07	01
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(j) Assignment of Rents which the
applicant wants registered ?

YES ☒ NO ☐

If YES, page and paragraph number:

Pages 9 - 10, Part 8, Paragraph (2)
(i) of Prescribed Standard Mortgage
Terms

(k) Place of payment:

Postal Address In Item 4

(l) Balance Due

Date:

18	07	01
----	----	----

MORTGAGE - PART 1

PAGE 2 OF 4 PAGES

6. MORTGAGE contains floating charge on land ?
YES ☐ NO ☒
7. MORTGAGE secures a current or running account ?
YES ☐ NO ☒
8. INTEREST MORTGAGED:
Freehold ☒
Other (specify) ☐
9. MORTGAGE TERMS:
Part 2 of this mortgage consists of (select one only):
(a) Prescribed Standard Mortgage Terms ☒
(b) Filed Standard Mortgage Terms ☐ D F Number:
(c) Express Mortgage Terms ☐ (annexed to this mortgage as Part 2)
A selection of (a) or (b) includes any additional or modified terms referred to in Item 10 or in a schedule annexed to this mortgage.
10. ADDITIONAL OR MODIFIED TERMS:
See Schedule

11. PRIOR ENCUMBRANCES PERMITTED BY LENDER:

Right of Way No. 39510D in favour of British Columbia Hydro and Power Authority
Easement No. KT67222
Undersurface Rights No. KW28458
Undersurface Rights No. KW28459

12. EXECUTION(S): This mortgage charges the Borrower's interest in the land mortgaged as security for payment of all money due and performance of all obligations in accordance with the mortgage terms referred to in item 9 and the Borrower(s) and every other signatory agree(s) to be bound by, and acknowledge(s) receipt of a true copy of, those terms.

Officer Signature(s)



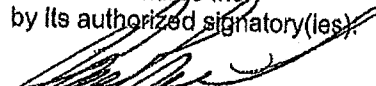
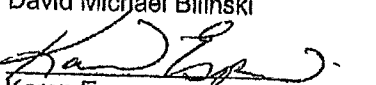
CHELSEA KRAMER
A Notary Public in and for
The Province of British Columbia
#101 5145 26th Street
Vernon, BC V1T 8G4

Execution Date

Y	M	D
17	06	08

Borrower(s) Signature(s)

Landco Ventures Inc.
by its authorized signatory(ies)


David Michael Bilinski
Karen Espersen**OFFICER CERTIFICATION:**

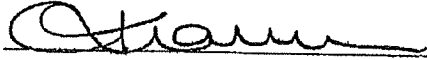
Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

PAGE 3 of 4 pages

Officer Signature(s)



CHELSEA KRAMER
A Notary Public in and for
The Province of British Columbia
#101 5145 26th Street
Vernon, BC V1T 8G4

(as to both signatures)

Execution Date

Y	M	D
17	06	08

Transferor / Borrower / Party Signature(s)



David Michael Bllinski as Covenantor



Karen Espersen as Covenantor

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

LAND TITLE ACT

FORM E

SCHEDULE

Page 4

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL DOCUMENT FORM.

10. ADDITIONAL OR MODIFIED TERMS:

- (A) Witness that in consideration of the sum of TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) of lawful money of Canada now paid by the Mortgagee to the Mortgagor, the receipt of which is hereby acknowledged, the Mortgagor grants and mortgages to the Mortgagee, its heirs, and assigns, forever, all its interest in and to the land.
- (B) Provided this Mortgage to be void on payment of TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) of lawful money of Canada, with interest at NINE PER CENT (9.0%) per annum, calculated monthly, not in advance, from the 1st day of July, 2017 and payable as well after as before maturity as follows:
- The sum of ONE THOUSAND, FIVE HUNDRED DOLLARS (\$1,500.00) interest only shall be paid on the 1st day of August, 2017 and the further sums of ONE THOUSAND, FIVE HUNDRED DOLLARS (\$1,500.00) interest only, shall be paid on the 1st day of each and every consecutive month thereafter up to and including the 1st day of July, 2018, and then on the 1st day of July, 2018, the full principal balance owing, together with interest due and owing shall be fully paid.
- (C) Provided however, that should the Mortgagor sell, assign, hypothecate, or in any way deal with its interest in the within described property, then the entire balance of this mortgage shall become due and payable together with an amount equal to three (3) month's interest on the then unpaid balance.
- (D) The Mortgagor at the request of the Mortgagee, shall provide the Mortgagee, its successors or assigns, with twelve (12) post-dated cheques commencing on the 1st day of August, 2017 and with each cheque being in the amount of \$1,500.00.
- (E) Provided further, the Mortgagor, when not being in default, hereunder, shall have the privilege of prepaying the entire balance of this Mortgage at any time, provided there shall be paid as consideration for the privilege of making such prepayment, an amount equal to three (3) month's interest on the then unpaid balance.
- (F) The Mortgagor is to provide the Mortgagee with confirmation of fire insurance outlining 0752063 B.C. Ltd. as first loss payable.
- (G) In the event that any payment to the Mortgagee shall not be honoured by the Bank, the Mortgagor will then be required to pay an additional \$200.00 for each payment returned.

END OF DOCUMENT

No. _____
NELSON REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

0752063 B.C. Ltd.

PETITIONER

AND:

LANDCO VENTURES INC.
DAVID MICHAEL BILINSKI
KAREN ESPERSEN
CANADIAN WESTERN TRUST COMPANY
DEREK HALL
HER MAJESTY THE QUEEN IN RIGHT OF
CANADA

RESPONDENTS

PETITION TO THE COURT

FILE NO. 3300-106

SAD/lt

MCMILLAN DUBO LLP
320-301 Victoria Street
Kamloops, BC V2C 2A3
Phone: 778-765-1701