

No. NEL-S-H-22450
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, HISMAGESTY THE KING
IN RIGHT OF BRITISH COLUMBIA

RESPONDENTS

APPLICATION RESPONSE

Application response of: , (the "application respondent(s)")

THIS IS A RESPONSE TO the notice of application of the Petitioner filed July 5, 2024.

The application respondent(s) estimate(s) that the application will take 30 minutes

Part 1: ORDERS CONSENTED TO

The application respondent(s) consent(s) to the granting of the orders set out in the following paragraphs of Part 1 of the notice of application on the following terms:

1. NONE

Part 2: ORDERS OPPOSED

The application respondent(s) oppose(s) the granting of the orders set out in paragraphs ALL of Part 1 of the notice of application.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The application respondent(s) take(s) no position on the granting of the orders set out in paragraphs NONE of Part 1 of the notice of application.

Part 4: FACTUAL BASIS

1. As a result of financial difficulties, the Respondents were not able to acquire legal counsel until August 13, 2024.
2. The Offer which the Petitioner seeks to have the court approve, is substantially lower than the appraised value of the Property.
3. The Petitioner has not made sufficient efforts to advertise the Property.
4. There is a real and substantial possibility that the Respondent can redeem the mortgage.
5. The Respondent's have obtained a signed commitment for a \$350,000 loan in relation to the property. This would be sufficient to discharge the amount owed to the Petitioner.
6. The Property is currently used by the Respondents as a farm where they are raising approximately 450 ostriches.
7. Requiring the Respondents to relocate their ostriches as well as their farming operations cannot be completed within the timeframe set out within the offer before the court.
8. There is a second mortgage holder registered on title to this property who will also be harmed by approving an offer so far below the appraised value of the Property.

Part 5: LEGAL BASIS

1. A Mortgagor's right to redeem remains available until the order for sale is approved by the court. If there is a real and substantial possibility that a mortgagor is able to redeem, an order for sale should not be granted.
2. The mortgagee must go about finding a buyer in a businesslike manner and the court must be satisfied that the proposed sale is provident in all the circumstances.
3. Before finding a proposed sale is provident, the court must be satisfied that both the marketing and sales process has been a fair and proper one for all, and that the proposed price reflects the fair market value for the property in question

Part 6: MATERIALS TO BE RELIED ON

1. Affidavit # 1 of Karen Espersen made August 14, 2024.

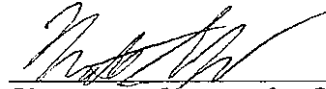
[Check whichever one of the following boxes is correct and complete any required information.]

- ☐ The application respondent has filed in this proceeding a document that contains the application respondent's address for service.
- ☒ The application respondent has not filed in this proceeding a document that contains an address for service. The application respondent's ADDRESS FOR SERVICE is:

2-609 Baker Street Nelson B.C. V1L 4J3 and Matt@kootenaylawyers.com

[Set out the application respondent's address(es) for service in compliance with Rule 4-1 (1) of the Supreme Court Civil Rules and any additional address (es) under Rule 4-1 (2) that the application respondent wishes to include.]

Date: August 14, 2024



Signature of lawyer for Client
Matthew Scheffelmaier