



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
HIS MAJESTY THE KING IN RIGHT OF CANADA**

RESPONDENTS

NOTICE OF APPLICATION

Name of applicant: The Petitioner, 0752063 B.C. Ltd.

To: The Respondents

TAKE NOTICE that an application will be made by the Petitioner to the presiding judge or associate judge at the courthouse at Nelson, British Columbia on **August 15, 2024** at 9:45 a.m. for the order(s) set out in Part 1 below.

The applicant estimates that the application will take 10 minutes.

- ☒ This matter is within the jurisdiction of an associate judge.
- ☐ This matter is not within the jurisdiction of an associate judge.

Part 1: ORDERS SOUGHT

1. See attached form of Order approving the sale of property with a civic address of 9407 Highway #6, Inonoaklin Valley, BC, with a completion date of September 6, 2024

Part 2: FACTUAL BASIS

1. This is a foreclosure proceeding involving agricultural land with a civic address of 9407 Highway #6, Inonoaklin Valley, BC (PID: 005-377-978).
2. The Petitioner was granted an Order Nisi by consent in this proceeding on June 20, 2023 with a redemption period that expired on October 11, 2023. The redemption amount at the time of the Order Nisi was \$244,232.90.

3. The Petitioner was granted an Order for exclusive conduct of sale of the property on November 6, 2023, in this proceeding.
4. This application is for approval of the sale of the property.
5. The property has been marketed for sale by the Petitioner's realtor for over 5 months pursuant to the Order for conduct of sale.
6. The offer before the Court on this application is the only offer received during the Petitioner's listing.
7. An appraisal of the property obtained by the Petitioner indicated a market value of \$440,000 as of January 4, 2024.
8. The property was listed initially for a price of \$450,000. The list price was subsequently reduced April 30, 2024 to \$399,000 and then to \$349,000 on June 13, 2024.
9. An offer to purchase the property for a purchase price of \$325,000 has been received from James David Sloan and Vicky Pearl Sloan and has been accepted by the Petitioner, subject to court approval.
10. The mortgage which is the subject of this proceeding remains in default and has not been paid.

Part 3: LEGAL BASIS

1. Pursuant to the Petitioner's mortgage and the Order for conduct of sale, the Petitioner is authorized to sell the property, subject to court approval.
2. Pursuant to Rules 13-5(4) and 21-7 of the *Rules of Court*, upon application by a party of record, the Court may order a sale of property which is the subject of a foreclosure proceeding.
3. Pursuant to Section 15 of the British Columbia *Law and Equity Act*, the Court may direct a sale of a property in a proceeding by a mortgagee.
4. The property has been properly exposed to the market and the subject offer reasonably reflects the market value for this type of property. It is the Petitioner's submission that the proposed sale is provident and should be approved.

Part 4: MATERIAL TO BE RELIED ON

1. Order Nisi of Foreclosure;
2. Order Made After Application – Conduct of Sale; and
3. Affidavit #1 of A. Brown.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application,

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in this proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed Application Response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: July 5, 2024



Signature of Sherryl A. Dubo
☐ applicant ☒ lawyer for applicant

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs _____ of Part 1 of this notice of application

☐ with the following variations and additional terms:

Date: [dd/mmm/yyyy] .

Signature of ☐ Judge ☐ Master

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ none of the above

IN THE SUPREME COURT OF BRITISH COLUMBIA

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RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE





THURSDAY, THE 15TH DAY
OF AUGUST, 2024

ON THE APPLICATION of the Petitioner coming on for hearing at Nelson, British Columbia on August 15, 2024 and on hearing Sherryl Dubo, counsel for the Petitioner, and no one else appearing although duly served;

THIS COURT ORDERS that:

1. The sale of the lands and premises which are the subject matter of this proceeding, 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”)

to James David Sloan and Vicky Pearl Sloan (the “Purchasers”) as joint tenants for the purchase price of \$325,000, with the date for adjustment, possession and completion to be September 6, 2024, on the terms and conditions of the Contract of Purchase and Sale dated June 17, 2024, be approved. The Petitioner, with the agreement of the Purchasers, is at liberty to extend the dates for adjustment, possession and completion for up to ten (10) days without further order of the Court.

2. The Respondents and any other person who may be in the actual possession of the Lands are directed to deliver up vacant possession to the Lands to the Purchaser, and shall remove all personal property situate in or at the Lands, on or before the completion date. If any

person fails to deliver vacant possession, the Petitioner shall be at liberty to apply for a Writ of Possession under Rule 13-2(13) by desk order and without further Order.

3. Upon filing a certified copy of this Order with the Registrar of Titles of the BC Land Title Office, and subject to the terms of this Order, the Lands and all right, title, interest and equity of redemption of the Petitioner and the Respondents and their respective heirs, executors, administrators and assigns and all other persons claiming by, through or under them, shall be conveyed to and vest in fee simple in the Purchaser but shall be subject to the reservations, provisos, exceptions and conditions expressed in the original grant therefore from the Crown, without further instrument of transfer, free and clear of all encumbrances except:

CHARGE HOLDER	NATURE OF CHARGE	REGISTRATION NO.
British Columbia Hydro and Power Authority	Right of Way	39510D
	Easement	KT67222
	Undersurface Rights	KW28458
	Undersurface Rights	KW28459

4. For the purposes of issuing title as aforesaid and in respect of the Lands, the following charges, liens, encumbrances, caveats, mortgages, judgments and certificates of pending litigation be cancelled in so far as they apply to the Lands:

CHARGE HOLDER	NATURE OF CHARGE	REGISTRATION NO.
0752063 BC Ltd.	Mortgage and Assignment of Rents	CA6082669 and CA6082670
Canadian Western Trust Company in Trust and Derek Hall	Mortgage	CA6083639
0752063 B.C. Ltd.	Certificate of Pending Litigation	CB318144

together with any other charges, liens, encumbrances, caveats, mortgages, judgments or certificates of pending litigation registered against the title to the Lands subsequent to the Petitioner's certificate of pending litigation; and that the Purchaser obtain title to the Lands free and clear of all charges, liens and encumbrances except those set out in paragraph 3 hereof.

5. The solicitor for the Petitioner may approve any Vendor's Statement of Adjustments including but not limited to adjustments for taxes and utilities to the date of adjustment and real estate commission.

6. The solicitor or notary for the Purchaser herein shall pay from the proceeds of sale the amount owing for taxes, penalties, arrears of taxes and interest on arrears of taxes, utilities, arrears of utilities and interest on arrears of utilities in respect of the Lands, and the amount owing for real estate commission in the amount of \$13,256.25, inclusive of GST, and that the solicitor or notary for the Purchaser then pay to McMillan Dubo LLP, solicitors for the Petitioner, the net proceeds of sale.
7. The solicitor for the Petitioner shall distribute the net proceeds of sale herein in the following manner:
 - (a) In payment of Goods and Services Tax due in connection with the sale, if any;
 - (b) In payment of any amounts due in respect of charges established as ranking in priority to the Petitioner, if any;
 - (c) In payment of the amount due to the Petitioner pursuant to its security together with costs and per diem interest to the date of payment plus any protective disbursements incurred by the Petitioner; and
 - (d) The balance, if any, to be paid into Court to the credit of this proceeding and held subject to further Court Order.
9. In compliance with subsection 34(1) of the *Land Title Act*, this Court is satisfied that upon registration of this Order in the BC Land Title Office the Purchaser will hold a good safeholding and marketable title to the Lands.
10. The Petitioner's costs of and in connection with this application are awarded to the Petitioner at Scale A.
11. Any personal property remaining on or in the Lands on the completion date shall be deemed to be abandoned and may be disposed of as the Petitioner sees fit.
12. The signatures of any Respondents appearing at this hearing are hereby dispensed with on the form of order.
13. The parties may apply for such further direction as may be necessary to carry out this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT.

Signature of Sherryl A. Dubo
☐ party ☒ lawyer for the Petitioner

By the Court

Registrar

No. NEL-S-H-22450
NELSON REGISTRY

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RESPONDENTS

**ORDER AFTER APPLICATION
(SALE APPROVAL)**

File no. 3300-106

SAD/lt

MCMILLAN DUBO LLP
#401-121 5th Avenue
Kamloops, BC V2C 0M1
Ph: 778-765-1701

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**NOTICE OF APPLICATION
(SALE APPROVAL)**

FILE NO. 3300-106

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