



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: 0752063 B.C. Ltd.

To: The Respondents

TAKE NOTICE that an application will be made by the Petitioner in person to the presiding judge or master at Nelson, B.C. on **Monday November 6, 2023 at 9:45 a.m.** for the order(s) set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. See attached form of Order for conduct of sale of 9407 Highway #6, Inonoaklin Valley, BC.

Part 2: FACTUAL BASIS

1. This is a foreclosure proceeding involving agricultural property located in Inonoaklin Valley, B.C.
2. On June 20, 2023, Order Nisi was granted to the Petitioner in this proceeding with a redemption amount of \$244,322.90 and a six-month redemption period expiring October 11, 2023. The Order Nisi was granted with the consent of the Respondents Landco Ventures Inc., David Michael Bilinski and Karen Espersen.
3. The Petitioner seeks conduct of sale on the basis that the redemption period has expired without redemption.

4. The full amount required to redeem the property remains outstanding.

Part 3: LEGAL BASIS

1. By the terms of the Petitioner's mortgage security, the Petitioner can sell the property.
2. Rule 13-5 of the BC Supreme Court Civil Rules provides that the Court may order a sale of property which is the subject of a proceeding and give directions for the purpose of effecting a sale.
3. Rule 21-7 provides that the Court may order a sale of property which is the subject of a foreclosure proceeding.
4. Section 15 of the BC *Law & Equity Act* provides that the Court may, in a proceeding by a mortgagee, direct a sale of a property which is the subject of a proceeding.
5. The Petitioner seeks an order for exclusive conduct of the sale of the mortgaged property on the basis that there has been no redemption and the redemption period has expired.

Part 4: MATERIAL TO BE RELIED ON

1. Consent Order Nisi of Foreclosure;
2. Affidavit #1 of Cherelle Arnesen sworn October 23, 2023.

The applicant estimates that the application will take 5 minutes.

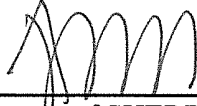
- ☒ This matter is within the jurisdiction of a master.
- ☐ This matter is not within the jurisdiction of a master.

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: October 23, 2023



For: Signature of SHERRYL 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:

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.

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RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE

MONDAY, THE 6TH DAY
OF NOVEMBER 2023

ON THE APPLICATION of the Petitioner coming on for hearing at Nelson, British Columbia on Monday, November 6, 2023 and on hearing Troy Trillo, agent for Sherryl Dubo, counsel for the Petitioner, and no one else although duly served;

THIS COURT ORDERS that:

1. The lands known and described as:

PID: 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")

be offered for sale, by private sale, free and clear of all encumbrances of the parties, together with any other charges, liens, encumbrances, caveats, or certificates of pending litigation registered against the Lands subsequent to the Petitioner's certificate of pending litigation, but subject to the reservations, provisos, exceptions, and conditions expressed in the original grant(s) from the Crown.

2. The Petitioner has exclusive conduct of the said sale and may list the Lands with one or more licensed real estate agents or real estate firms, for sale by way of either general,

exclusive or multiple listing, and further, that the said Petitioner shall be at liberty to pay such real estate agent or firm who may arrange the sale of the Lands commission of not more than five (5%) percent of the gross selling price with respect to such sale from the proceeds of such sale.

3. The Respondents or any person on behalf of the Respondents including any person in possession of the Lands shall permit authorized real estate agents or other agents appointed by the Petitioner to inspect or appraise the Lands and to show the Lands to prospective purchasers between the hours of 9:00 a.m. to 7:00 p.m. on any day of the week, and to post signs on the Lands that the Lands are offered for sale.
4. The Lands be sold at a price not less than that required to pay:
 - (a) the taxes, penalties, arrears of taxes and interest on arrears of taxes owing in respect of the Lands;
 - (b) the costs and expenses of the said sale, including real estate commission; and
 - (c) the costs of the Petitioner with respect to this proceeding and the conduct of the said sale as herein ordered.
5. Any sale be subject to the approval of the court unless otherwise agreed to in writing by all parties.
6. The Petitioner is entitled to its costs of and incidental to this application at Scale A, to be paid from the proceeds of the gross selling price of the Lands.
7. Endorsement of this order by the Respondents appearing on this application is dispensed with.

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

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RESPONDENTS

**ORDER MADE AFTER APPLICATION
(CONDUCT OF SALE)**

File no. 3300-106

SAD/ca

MCMILLAN DUBO LLP
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Kamloops, BC V2C 0M1
Phone: (778) 765-1701

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FILE NO. 3300-106

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