

Court File No. **H-250918**
VANCOUVER REGISTRY



IN THE SUPREME COURT OF BRITISH COLUMBIA

BARRY CHARLES HOLDINGS LTD.
BECISON HOLDING CORPORATION
G.I.H. PROPERTIES LTD.
MCVICAR & COMPANY HOLDINGS INC.
TNL DEVELOPMENTS LTD.
AMAN GILL
PETER CHAPPELL
SANDRA CHAPPELL
TERESA GAUTREAU

PETITIONERS

AND:

27222 LOUGHEED HIGHWAY HOLDINGS LTD.
145 GOLDEN DRIVE LTD.
SKAW PROPERTIES LTD.
WHITEWATER CONCRETE LTD.
WHITEWATER DEVELOPMENTS LTD.
KRYSTLE HOLDINGS LTD.
BASTIAN HOLDINGS LTD.
TRILOGY CONCRETE 2021 LTD.
ROBERT KYLE SMITH
CRAIG ALLEN SMITH
ALL TENANTS OR OCCUPIERS OF THE
SUBJECT LANDS AND PREMISES

RESPONDENTS

PETITION TO THE COURT

ON NOTICE TO:

27222 LOUGHEED HIGHWAY HOLDINGS LTD.
c/o Paul C. Weir Law Corporation
#2 – 107 Kings Road West
North Vancouver, B.C. V7N 2L7

145 GOLDEN DRIVE LTD.
c/o Paul C. Weir Law Corporation
#2 – 107 Kings Road West
North Vancouver, B.C. V7N 2L7

SKAW PROPERTIES LTD.
c/o Paul C. Weir Law Corporation
#2 – 107 Kings Road West
North Vancouver, B.C. V7N 2L7

WHITEWATER CONCRETE LTD.
c/o Paul C. Weir Law Corporation
#2 – 107 Kings Road West
North Vancouver, B.C. V7N 2L7

WHITEWATER DEVELOPMENTS LTD. c/o Paul C. Weir Law Corporation #2 – 107 Kings Road West North Vancouver, B.C. V7N 2L7	KRYSTLE HOLDINGS LTD. c/o Paul C. Weir Law Corporation #2 – 107 Kings Road West North Vancouver, B.C. V7N 2L7
BASTIAN HOLDINGS LTD. c/o Paul C. Weir Law Corporation #2 – 107 Kings Road West North Vancouver, B.C. V7N 2L7	TRILOGY CONCRETE 2021 LTD. c/o Paul C. Weir Law Corporation #2 – 107 Kings Road West North Vancouver, B.C. V7N 2L7
ROBERT KYLE SMITH 644 Alderside Drive Port Moody, B.C. V3H 3A5	CRAIG ALLEN SMITH 1010 Beaumont Drive North Vancouver, B.C. V7R 1P9
ALL TENANTS OR OCCUPIERS OF THE SUBJECT LANDS AND PREMISES 27222 Lougheed Highway Maple Ridge, B.C. V2W 1M4	ALL TENANTS OR OCCUPIERS OF THE SUBJECT LANDS AND PREMISES 145 Golden Drive Coquitlam, B.C. V3K 6T1

The address of the registry is:

Vancouver Law Courts
800 Smithe Street
Vancouver, B.C. V6Z 0C8

The Petitioners estimate that the hearing of the petition will take: 5 minutes.

This matter is NOT an application for judicial review.

This proceeding is brought for the relief set out in Part 1 below, by:

BARRY CHARLES HOLDINGS LTD.,
BECISON HOLDING CORPORATION,
G.I.H. PROPERTIES LTD.,
MCVICAR & COMPANY HOLDINGS INC.,
TNL DEVELOPMENTS LTD.,
AMAN GILL, PETER CHAPPELL,
SANDRA CHAPPELL, and
TERESA GAUTREAU (the Petitioners)
c/o Brian C. Markus Law Corporation
#930 – 777 Hornby Street
Vancouver, B.C. V6Z 1S4

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 Petitioners
 - (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.

FORM 125

**INFORMATIONAL NOTICE FOR
FORECLOSURE PROCEEDINGS**

This is a foreclosure proceeding. You have been served with the enclosed materials because you appear to have an interest in the property described in the petition to the court. Within this proceeding, the court may make orders concerning distribution of sale proceeds that impact you. To ensure that you are informed of any court orders concerning distribution of funds, you must make the court and the Petitioners aware of your contact information. This can be done by filing a response to petition or notifying the Petitioners in writing of your current contact information. If at any stage of this proceeding you wish to take a position on the relief sought in this proceeding, a response to petition and supporting affidavit must be filed and served on the Petitioners within the timelines set out in the Supreme Court Civil Rules.

Time for Response to Petition

A Response to Petition must be filed and served on the Petitioners

- (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.

1. The ADDRESS FOR SERVICE of the Petitioners is:

Brian C. Markus Law Corporation
#930 – 777 Hornby Street,
Vancouver, B.C. V6Z 1S4
Attention: Brian C. Markus
Phone: (604) 623-3335
Fax: (604) 688-9981
Email: bcm@lightspeed.ca

2. The name and office address of the Petitioners' lawyer is:

Brian C. Markus
#930 – 777 Hornby Street,
Vancouver, B.C. V6Z 1S4

FORM 11

**ENDORSEMENT ON ORIGINATING PLEADING OR
PETITION FOR SERVICE OUTSIDE BRITISH COLUMBIA**

The Petitioners claim the right, if necessary, to serve this petition on the Respondents outside of British Columbia on the grounds that this proceeding is brought to enforce a mortgage in relation to property located in British Columbia pursuant to Section 10(a) and 10(c) of the *Court Jurisdiction and Proceedings Transfer Act* and on the grounds that the proceedings concern contractual obligations which were to be performed in British Columbia pursuant to Section 10(e) of the *Court Jurisdiction and Proceedings Transfer Act*.

CLAIM OF THE PETITIONERS

PART 1: ORDERS SOUGHT

1. A DECLARATION that the *inter alia* indenture of a mortgage and assignment of rents made between the Petitioners, BARRY CHARLES HOLDINGS LTD., BECISON HOLDING CORPORATION, G.I.H. PROPERTIES LTD., MCVICAR & COMPANY HOLDINGS INC., TNL DEVELOPMENTS LTD., AMAN GILL, PETER CHAPPELL, SANDRA CHAPPELL, and TERESA GAUTREAU (the “**Petitioners**”), as Mortgagees, and the Respondents, 27222 LOUGHEED HIGHWAY HOLDINGS LTD. and 145 GOLDEN DRIVE LTD. (the “**Owner Respondents**”), as Mortgagors, and SKAW PROPERTIES LTD., WHITEWATER CONCRETE LTD., WHITEWATER DEVELOPMENTS LTD., KRYSTLE HOLDINGS LTD., BASTIAN HOLDINGS LTD., TRILOGY CONCRETE 2021 LTD., 145 GOLDEN DRIVE LTD., 27222 LOUGHEED HIGHWAY HOLDINGS LTD., ROBERT KYLE SMITH, and CRAIG ALLEN SMITH (the “**Covenantors**”), as Covenantors dated February 23, 2024, and filed under numbers CB1182040 and CB1182041, respectively (collectively, the “**Mortgage**”) is a Mortgage charging the following lands:

ALL AND SINGULAR those certain parcels or tracts of land and premises lying and being in the Cities of Maple Ridge and Coquitlam, in the Province of British Columbia, more particularly known and described as:

Civic: 27222 Lougheed Highway, Maple Ridge, B.C. V2W 1M4

PID: 024-337-285

PARCEL 1 DISTRICT LOT 433 GROUP 1 NEW WESTMINSTER DISTRICT PLAN
LMP39524

Civic: 145 Golden Drive, Coquitlam, B.C. V3K 6T1

PID: 023-895-128

LOT 3 DISTRICT LOT 67 GROUP 1 NEW WESTMINSTER DISTRICT PLAN
LMP35071

(collectively, the “**Mortgaged Properties**”)

which ranks in priority to the interests in the Mortgaged Properties of the Respondents and their heirs, executors, administrators, successors, and assigns, and all persons claiming by, through, or under them.

2. The Respondents, the Covenantors, guaranteed the debt of the Mortgagors, the Owner Respondents, by signing the Mortgage as Covenantors, dated February 23, 2024.

3. A DECLARATION that the Mortgage is in default and the whole balance owing under the said Mortgage is now due and payable to the Petitioners.

4. AN ORDER fixing the redemption period for one (1) day or such other time as ordered by the court.

5. A DECLARATION that the Mortgage ranks in priority to the interest of any of the Respondents.

6. A SUMMARY DETERMINATION of the sum due to the Petitioners by virtue of the said Mortgage and of the amount required to redeem the Mortgaged Properties.

7. AN ORDER that in default of any of the Respondents, the Owner Respondents and the Covenantors, paying into Court to the credit of this proceeding at the Vancouver Registry, 800 Smithe Street, Vancouver, British Columbia, the amount found to be due to the Petitioners together with the Petitioners' taxed costs herein, prior to the expiry of the period of redemption, the Respondents, the Owner Respondents and the Covenantors, and their respective heirs, executors, administrators, successors and assigns, and all persons claiming by, through or under them shall be foreclosed of and from all right, title and interest and equity of redemption in and to the said Mortgaged Properties and the Petitioners shall then recover vacant possession of the Mortgaged Properties.

8. JUDGMENT against the Respondent, the Owner Respondents, as Mortgagors, and the Covenantors, as Covenantors, for the amount found to be due and owing as at the date of the Order Nisi plus the assessed costs of the Petitioners with interest accruing thereafter on those amounts pursuant to Sections 6 and 9 of the *Court Order Interest Act*.

9. AN ORDER for all necessary accounts, directions and inquiries and, without limiting the generality of the foregoing, an Order that the Petitioners be at liberty to apply for an Order that there be a FURTHER ACCOUNTING whether by a summary accounting before the court or by a reference to the District Registrar, of any amounts due to the Petitioners for interest, arrears of interest, interest on payments in arrears, taxes, arrears of taxes, insurance premiums, legal costs, charges, expenses or otherwise which are not included within the amounts found to be due and owing as at the date of the Order Nisi whether such amounts accrued owing before or after the date of pronouncement of the Order Nisi and that such amounts be proved by an Affidavit of a representative of the Petitioners.

10. AN ORDER that the Petitioners recover costs in this proceeding and that such costs be determined on an indemnity basis, or on any other scale of costs this Honourable Court may deem appropriate, and that such costs form a part of the amount of money due and owing under the Mortgage and of the amount of money required to redeem the Mortgaged Properties.

11. AN ORDER that in the event that the Mortgaged Properties are vacant or become vacant at any time during the course of this proceeding, the Petitioners or any duly authorized agent of the Petitioners be entitled to enter onto the Mortgaged Properties and into the relevant buildings, and to change the locks in order to preserve and secure the Mortgaged Properties and to do all things reasonably incidental thereto, and that the Petitioners not be deemed to be a mortgagee in possession by virtue thereof.

12. AN ORDER for a CERTIFICATE of PENDING LITIGATION.

13. AN ORDER for POSSESSION of the Mortgaged Properties.

14. AN ORDER FOR THE APPOINTMENT of a RECEIVER or a RECEIVER AND MANAGER, of the rents and profits of the Mortgaged Properties.

15. The Mortgaged Properties be offered for sale by private sale, free and clear of all charges, liens, encumbrances, caveats and certificates of pending litigation of the parties to this proceeding and all other charges, liens, encumbrances, caveats and certificates of pending litigation registered against the said Mortgaged Properties subsequent to the registration of the Petitioners' certificate of pending litigation, but subject to the reservations, provisos, exceptions and conditions expressed in the original grant from the Crown together with all liens, charges and encumbrances that rank in priority to the Petitioners' Mortgage, including lienable amounts due to the Strata Corporation (if any) but exclusive of fines, penalties and interest and legal fees not related to the registration or enforcement of the Strata Corporation's lien, pursuant to Sections 116 and 118 of the *Strata Property Act*, and:

- a. The Petitioners have exclusive conduct of the said sale and be at liberty to list the Mortgaged Properties for sale with one or more duly licensed real estate agents or real estate firms, by way of multiple or exclusive listing and be at liberty to pay to the real estate agents or real estate firms arranging the sale of the Mortgaged Properties the customary commission payable with respect to said sale from the proceeds of such sale, until further Order of this court; and
- b. The Respondents or any other person or persons who may be in actual occupation or possession of the Mortgaged Properties permit real estate agents or other agents appointed by the Petitioners including without limitation, appraisers and property inspectors, to inspect the Mortgaged Properties and to show the Mortgaged Properties to prospective purchasers between the hours of 9:00 A.M. and 8:00 P.M. on any day of the week, except Sundays and Statutory Holidays, without hindrance, interference or interruption by the Respondents; and
- c. The Respondents and their invitees and tenants, if any, and any other person or persons who may be in actual possession or occupation of the Mortgaged Properties without hindrance, interference, or interruption;
- d. The Respondents permit the Petitioners' real estate agent or real estate firm to place a lock box on or about the said Mortgaged Properties without hindrance, interference, or interruption; and

- e. The sale be subject to the approval of this Court by way of Notice of Application as required by the Rules of court;

16. The Petitioners be at liberty to apply to this Court for all necessary and proper directions as to the conduct of the sale and the terms and conditions of any sale.

17. The Respondents, and each of them, and all persons claiming by, through or under them, deliver vacant possession of the Mortgaged Properties to the Petitioners immediately following the grant of a Final Order of Foreclosure in this proceeding.

PART 2: FACTUAL BASIS

1. by the terms of the said Mortgage the Mortgagors, the Owner Respondents, covenanted to pay monthly payments of interest but have failed and refused to do so and are in default of the payments due, and the mortgage has matured;

2. the Petitioners have made demand upon the Owner Respondents, as Mortgagors and the Covenantors, as covenantors, to rectify the defaults above particularized, but the Mortgagors and Covenantors have failed to do so;

3. the Mortgage provides that in the event a default has occurred the Mortgagees may elect to call for payment of the whole Mortgage balance, which the Mortgagees have done;

4. the Mortgage provides that in the event of the Mortgagees taking proceedings to enforce the Mortgage the costs shall be paid by the Mortgagors, the Owner Respondents, and the Covenantors;

5. the amount of money due and owing under the Mortgage, and the amount of money required to redeem the Mortgaged Property is \$3,131,967.95 as of July 10, 2025, plus interest thereon at the rate of 12% per annum, calculated and payable monthly and being a current daily rate of \$1,029.60, plus the assessed costs of the Petitioners of and in connection with this proceeding (collectively the “**Amount Required to Redeem**”);

6. the said balance as to interest does not violate Section 345 of the Criminal Code of Canada;

7. the Respondents, the Owner Respondents and the Covenantors, covenanted to pay the Mortgage debt to the Petitioners and the Petitioners seek judgment against the said Respondents upon their covenants;

8. the properties charged are commercial properties, located in the Cities of Maple Ridge and Coquitlam, in the Province of British Columbia;

9. the interest of the Petitioners in the Mortgaged Properties ranks in priority ahead of any interest of any of the Respondents.

PART 3: LEGAL BASIS

1. On the facts set out in Part 2 above, namely that:
 - a. the Mortgage is valid and enforceable as against the Mortgagors;
 - b. the Mortgagors and the Covenantors are indebted to the Petitioners, with such indebtedness being validly secured by the Mortgage in priority to the interest of the Mortgagors and the Covenantors;
 - c. the Mortgagors and the Covenantors are in default of the terms of the Mortgage; and
 - d. pursuant to the Terms of the Mortgage, the Petitioners are entitled to the relief sought in Part 1 above.
2. The Mortgage is in default. The Petitioners are entitled to an *order nisi* of foreclosure to set a redemption period and further relief, including but not limited to an order for sale or an order absolute of foreclosure, as well as relief ancillary thereto.
3. The Petitioners intend to rely on, *inter alia*, Rules 13-5, 16-1, 20-3 and 21-7 of the *Supreme Court Civil Rules*;
4. Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253 as amended.

PART 4: MATERIAL TO BE RELIED ON

Affidavit #1 of Alan Long made July 22, 2025.

Dated: July 22, 2025


Signature of Heather A. Frydenlund,
Lawyer for the Petitioners

To be completed by the court only:

Order made

- ☐ in the terms requested in paragraphs of Part 1 of this
Petition/Notice of Application
- ☐ with the following variations and additional terms:

.....
.....

Date:
Signature of ☐ Judge ☐ Associate Judge

VANCOUVER REGISTRY
IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BARRY CHARLES HOLDINGS LTD.
BECISION HOLDING CORPORATION
G.I.H. PROPERTIES LTD.
MCVICAR & COMPANY HOLDINGS INC.
TNL DEVELOPMENTS LTD.
AMAN GILL
PETER CHAPPELL
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TERESA GAUTREAU

PETITIONERS

AND:

27222 LOUGHEED HIGHWAY HOLDINGS LTD.
145 GOLDEN DRIVE LTD.
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ROBERT KYLE SMITH
CRAIG ALLEN SMITH
ALL TENANTS OR OCCUPIERS OF THE
SUBJECT LANDS AND PREMISES

RESPONDENTS

PETITION TO THE COURT

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Barrister and Solicitor
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